

Massachusetts Health Connector Appeals Unit

FINAL APPEAL DECISION: PA19690

Appeal Decision: The penalty is overturned in full.

Hearing Issue: Appeal of the 2019 Tax Year Penalty

Hearing Date: October 6, 2020

Decision Date: January 3, 2020

AUTHORITY

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

JURISDICTION

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

HEARING RECORD

The appellant appeared at the hearing which was held by telephone on October 6, 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. At the end of the hearing, the record was left open until October 30, 2020 to give Appellant time to submit additional evidence. At the request of the appellant, Appellant was given until November 27, 2020 to submit the evidence. A document was received on November 27th, and entered into the record on November 30th. The document received has been marked as an exhibit and admitted in evidence. The record is now closed.

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 May 21, 2020
- Exhibit 2: Appeal Case Information from Schedule HC 2019
- Exhibit 3: Notice of Hearing sent to Appellant dated September 3, 2020 for October 6, 2020 hearing
- Exhibit 4: Appellant's 2019 1095-C form

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 21 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 \$26,125 in 2019 (Testimony of Appellant, Exhibit 2).
4. Appellant had the same job throughout 2019. The appellant worked full-time in a large store. She earned \$13.46 an hour (Testimony of Appellant).
5. Appellant was offered and enrolled in a plan through her job. Appellant had a Blue Cross/Blue Shield plan which met the Federal minimal essential coverage standards all of 2019. As of the date of this hearing, Appellant was enrolled in the same plan. The appellant paid \$93 a month for the coverage (Testimony of Appellant, Exhibit 4).

6. Appellant did her own tax return for 2019. She did not understand how to fill out the Schedule HC of the Massachusetts return (Testimony of Appellant).
7. Appellant has been assessed a penalty for all of 2019. Appellant has appealed this assessment (Testimony of Appellant, Exhibits 1 and 2).
8. I take administrative notice of the financial information set forth in Tables 1 through 6 in the DOR 2019 Massachusetts Schedule HC Health Care Instructions and Worksheets. Tables 3 and 4 incorporate affordability and premium schedules adopted by the Board of Directors for the Commonwealth Health Insurance Connector Authority for 2019. Table 2 sets forth income at 300% of the Federal poverty level and Tables 5 and 6 set forth tax penalties in effect for 2019.
9. According to Table 3 of Schedule HC for 2019, the appellant with no dependents claimed with an adjusted gross income of \$26,125 could afford to pay \$91 per month for health insurance. According to Table 4, Appellant, 21 years old and living in Hampden County, could have purchased insurance for \$257 per month for a plan for an individual. Insurance on the individual market was unaffordable for the appellant (Schedule HC for 2019 Tables 3 and 4, Exhibit 2).
10. According to Table 2 of Schedule HC for 2019, Appellant earning less than \$36,420 per year, would have been eligible for the ConnectorCare program based upon income (Table 2 of Schedule HC-2019, and Exhibit 2).
12. Appellant did not incur significant and unexpected increases in essential expenses as a result of domestic violence; the death of a spouse, family member, or partner who shared household expenses; the sudden responsibility for providing full care for an aging parent or other family member; or fire, flood, or other natural or man-made disaster in 2019 (Testimony of Appellant).
12. Appellant did not fall more than thirty days behind in rent payments in 2019 (Testimony of Appellant).
13. Appellant did not receive any shut-off notices for basic utilities in 2019 (Testimony of Appellant).
14. Appellant lived with her grandparents in 2019; Appellant had the following monthly expenses for basic necessities during the year: rent-\$100.00; heat and electricity-\$0.00; telephone and internet-\$194; food and personal care items-\$530; car payment-\$146; car insurance-\$172; gas-\$90; clothing-\$50; health insurance-\$93. In 2019, Appellant had to pay \$50 a month for old credit card debt. She also had to pay \$400 for car repairs during the year. (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 all of 2019. To determine if Appellant's penalty should be waived in whole or in part, we must consider whether affordable insurance which met minimum creditable coverage standards was available to the appellant through employment, through the 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 \$26,125 could afford to pay \$91 per month for health insurance. According to Table 4, Appellant, 21 years old and living in Hampden County, could have purchased insurance for \$257 per month for a plan for an individual. Insurance on the individual market was unaffordable for the appellant (Schedule HC for 2019 Tables 3 and 4, Exhibit 2).

Appellant had health insurance coverage through her job all year. Appellant paid \$93 a month for the coverage which was a Blue Cross/Blue Shield plan. According to Schedule HC, Table 3 for 2019, this coverage was deemed unaffordable for the appellant. In addition, the plan met the Federal minimum essential coverage standards, but it is not clear from the record whether the coverage met the Commonwealth's minimum creditable coverage standards. The appellant was given time to submit proof of coverage and proof that the coverage met the Commonwealth standards. Appellant submitted a 1095-C form which proves that she had coverage and that the coverage met the Federal standards set under the Patient Protection and Affordable Care Act. See Exhibit 4. The Commonwealth standards are more inclusive than the Federal standards, however, so it remains unclear whether the appellant had coverage that met the Commonwealth's standards or not.

Appellant was income-eligible for ConnectorCare coverage. She 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 \$26,125 equals \$214 per month. Coverage through her job cost \$93. 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.

Appellant had no access to affordable health insurance which met the Commonwealth's minimum creditable coverage standards in 2019. Coverage through the individual market was unaffordable; the coverage offered Appellant through her job were unaffordable, and there is no evidence that the coverage met the Commonwealth's standards. In addition, though the coverage offered Appellant through employment was deemed to be unaffordable under the Commonwealth's standards (See Table 3 of Schedule HC for 2019), the coverage was deemed affordable under The Affordable Care Act. Given this, the appellant was ineligible for ConnectorCare coverage which is subsidized under the ACA. There is no evidence in the record that Appellant was eligible for any other government-sponsored coverage.

Since there was no affordable health insurance coverage which met the Commonwealth's minimum creditable coverage standards available to the appellant, her 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 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: PA19805

Appeal Decision: The penalty is overturned in full.

Hearing Issue: Appeal of the 2019 Tax Year Penalty

Hearing Date: November 3, 2020

Decision Date: January 12, 2021

AUTHORITY

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

JURISDICTION

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

HEARING RECORD

The appellant appeared at the hearing which was held by telephone on November 3, 2020. One of the appellant's children also appeared. The appellant requested that the child act as representative and testify for her. The procedures to be followed during the hearing were reviewed with Appellant's representative who was then sworn in. Exhibits were marked and admitted in evidence with no objection from the representative. The representative testified. At the end of the hearing, the record was left open until November 27th to give the appellant time to submit additional evidence. Extra time was given the appellant because of issues relating to the pandemic and the U. S. Postal Service. As of the date of this writing, no additional evidence has been submitted. The record is now closed.

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

- Exhibit 1: Statement of Grounds for Appeal 2019 signed and dated by Appellant on June 25, 2020
- Exhibit 2: Appeal Case Information from Schedule HC 2019
- Exhibit 3: Notice of Hearing sent to Appellant dated October 8, 2020 for November 3, 2020 hearing

FINDINGS OF FACT

The record shows, and I so find:

1. Appellant, who filed a 2019 Massachusetts tax return as a single person with no dependents claimed, was 48 years old in 2019 (Exhibit 2, Testimony of Representative).
2. Appellant resided in Essex County in 2019 (Testimony of Representative, Exhibit 2).
3. Appellant had a Federal Adjusted Income of \$31,065 in 2019 (Testimony of Representative, Exhibit 2).
4. Appellant was unemployed in January, 2019 and started a temporary job in February. Appellant's position became permanent some time in May. As of the date of this hearing, Appellant had the same job (Testimony of Representative).
5. Appellant has health insurance through her job now, but it is unclear when Appellant was offered the coverage (Testimony of Representative)

6. Appellant had no health insurance which met the Commonwealth's minimum creditable coverage standards in 2019. Appellant has been assessed a penalty for all of 2019. Appellant has appealed this assessment (Testimony of Representative, 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 \$31,065 could afford to pay \$129 per month for health insurance. According to Table 4, Appellant, 48 years old and living in Essex County, could have purchased insurance for \$350 per month for a plan for an individual. Insurance on the individual market was unaffordable for the appellant (Schedule HC for 2019 Tables 3 and 4, Exhibit 2).

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

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

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

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

13. Appellant had the following monthly expenses for basic necessities in 2019: rent, including heat and electricity-\$450; telephone-\$80; food-\$400; clothing-unknown; transportation-unknown. Appellant could not afford to own a car and depended upon friends for transportation (Testimony of Representative).

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 all of 2019. The appellant has appealed the assessment. Appellant obtained health insurance which met the Commonwealth's minimum creditable coverage standards some

time in 2020 and had insurance through her job as of the date of this hearing. See Exhibits 1 and 2, and the testimony of the representative which I find to be credible.

To determine if Appellant's penalty should be waived in whole or in part, we must consider whether affordable insurance which met minimum creditable coverage standards was available to the appellant through employment, through the 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 \$31,065 could afford to pay \$129 per month for health insurance. According to Table 4, Appellant, 48 years old and living in Essex County, could have purchased insurance for \$350 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).

Appellant had no access to health insurance through employment in January, 2019 since the appellant was unemployed during that month. Appellant then obtained temporary work until some time in May when the appellant's position became permanent. It is unclear from the record whether the appellant was offered health insurance by her employer. Appellant obtained coverage by some time in 2020 through the job, but there is no evidence in the record when Appellant became eligible for the coverage. The representative did not know when insurance became available to the appellant. See the testimony of the representative which I find to be credible.

Appellant could have had affordable coverage through the ConnectorCare program. Her annual Federal Adjusted Income was \$31,065, less than the income limit for one person (\$36,420). The coverage also would have been available if Appellant had no access to affordable coverage through her job. If Appellant was offered health insurance which met the Commonwealth's standards and that was affordable to her, whether or not she chose to enroll in any offered coverage, she would have been ineligible for ConnectorCare coverage. See 956 CMR 12.00 et.seq.

It is unclear from the record whether the appellant had insurance offered to her through employment, or whether the appellant was eligible for ConnectorCare coverage. Appellant's representative did not know whether Appellant was offered insurance through work in 2019. The representative did testify that the appellant obtained coverage through work in 2020. The record of the hearing was left open, in part, to obtain information about whether Appellant was offered coverage in 2019. No information was received from the appellant. Based upon the record we do have, I determine that the appellant had access to some coverage, either through work or through the ConnectorCare plan. Given this determination, we need to examine if Appellant had a financial hardship such that the cost of purchasing health insurance would have caused her 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 heat and electricity-\$450; telephone-\$80; food-\$400; clothing-unknown; transportation-unknown. Appellant could not afford to own a car and depended upon friends to drive her places. See the testimony of the representative which I find to be credible. We do not know how much Appellant had to spend on personal care items such as shampoo, toothpaste, etc. or how much she had to spend on household items such as paper towels, laundry detergent, and other household cleaning items, or how much the appellant spent on clothing. Appellant had the opportunity to submit additional evidence about these matters, but she did not submit any information. Her representative was unable to answer questions about these things.

Appellant was unemployed in January. Some time in February, Appellant obtained a temporary job. Some time in May, the appellant's position became permanent. The record of this hearing was left open to allow the appellant to submit additional evidence about her monthly expenses for basic necessities and additional evidence about how

much she earned when she had a temporary position and how much when she had a permanent position. The appellant did not submit any evidence about these matters. I can, however, make some assumptions about Appellant's monthly earnings. We know she was unemployed in January. We can assume that she earned less when her position was temporary and more when her position became permanent.

Given that we are unsure what her total expenses were for basic necessities, that we are unsure exactly how much the appellant earned each month, and given the assumptions made about earnings, I determine that the appellant would have experienced a serious deprivation of basic necessities during 2019. Appellant either had no income or an insecure source of income (a temporary job) for the first five months of the year. Appellant's job then became permanent, but her income was still low. Appellant did not even have a consistent mode of transportation. She had to depend upon friends to take her places. I also note that Appellant finally enrolled in a health insurance through work in 2020 and was insured as of the date of this hearing. See 956 CMR 6.08(1)(e), and 956 CMR 6.08(3) which allows the consideration of financial issues raised by the appellant on appeal.

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: 12 Number of Months Assessed: 0

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

NOTIFICATION OF YOUR RIGHT TO APPEAL TO COURT

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

Hearing Officer

Cc: Connector Appeals Unit

Massachusetts Health Connector Appeals Unit

FINAL APPEAL DECISION: PA19-850

Appeal Decision: Appeal Approved

Hearing Issue: Appeal of the 2019 Tax Year Penalty

Hearing Date: November 13, 2020

Decision Date: January 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 November 13, 2020. The Appellant offered testimony under oath or affirmation. At the end of the hearing, the record was left open until December 18, 2020, for the Appellant to submit additional evidence. Additional evidence was received on December 17, 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: 7/13/20 Appeal (3 pages)
- Exhibit 3: 10/14/20 Hearing Notice (2 pages)
- Exhibit 4: 12/16/20 Cover letter for Open Record response (2 pages)
- Exhibit 5: 2019 Form MA 1099-HC (1 page)
- Exhibit 6: 2019 Form 1095-C (1 page)
- Exhibit 7: 2019 Form 1095-C (1 page)
- Exhibit 8: 3/19/19 Retirement Fund Distribution Details from Employer (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 \$36,339. The Appellant turned twenty-nine years old in 2019. (Exhibit 1)
2. The Appellant appealed from the assessment of a twelve-month penalty on his 2019 income tax return, checking off on the appeal form: "During 2019, the expense of purchasing health insurance would have caused him a serious deprivation of food, shelter, clothing or other necessities." (Exhibit 2)

3. The Appellant had health insurance coverage through his employer until the end of January 2019, when he quit his job. This coverage met MCC standards. (Appellant's testimony; Exhibit 5)
4. The Appellant was unemployed from February 2019 through September 2019. (Appellant's testimony)
5. The Appellant did not qualify for unemployment benefits because he had left his job voluntarily, at the end of January 2019. (Appellant's testimony)
6. The Appellant was familiar with the MassHealth process because he had been on MassHealth after graduating from law school in 2018 and not finding a job immediately. (Appellant's testimony)
7. As the Appellant was unable to find a new job, he decided in March 2019 to try to start a new business in order to generate some income. The Appellant was unsuccessful in his start-up effort. (Appellant's testimony)
8. In March 19, 2019, the Appellant took a net distribution of \$7,694.13 from the 401(k) retirement plan that he had through his former employer. (Appellant's testimony; Exhibit 8)
9. The Appellant had no income from February 2019 through September 2019. (Appellant's testimony)
10. In October 2019, the Appellant started a new job at an annual salary of \$90,000. The Appellant had health insurance coverage that met MCC standards through his new employer during the last three months of 2019. (Appellant's testimony; Exhibit 5)
11. The Appellant's 2019 monthly expenses for basic necessities included: rent, \$1,350; utilities, \$125; food, \$600; car insurance, \$60; and, gas, \$50, for a total of \$2,185/monthly, and \$26,220/yearly. (Exhibit 4)
12. According to Table 2 of the 2019 Schedule HC Guidelines, the Appellant qualified for government-subsidized health insurance coverage, since his income was less than \$36,420 for a family size of one.
13. 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 \$151/monthly for health insurance coverage in 2019.
14. 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.

ANALYSIS AND CONCLUSIONS OF LAW

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

As the Appellant had health insurance coverage in January 2019, the Appellant had a three-month grace period, through April 2019, to obtain new coverage, after quitting his job and losing his employer-sponsored coverage. I do not find credible the Appellant's testimony that he applied to MassHealth for health insurance coverage at the end of January 2019, or in February 2019, and never received a response from MassHealth. Because the Appellant had health insurance through MassHealth in 2018, he was familiar with the application process and knew what to expect from MassHealth. Even assuming that he had applied to MassHealth soon after quitting his job, it is implausible that the Appellant would not have followed up with MassHealth, if he had not received any response from MassHealth and really wanted to obtain health insurance coverage in 2019. While the Appellant may have hoped that he would find a new job right away after quitting his job in January 2019, he certainly must have realized by March or April that it might take him much longer than he first thought it would. Moreover, without any income since January 2019 and no prospect of a job in the immediate future, the Appellant's projected income for 2019 at that time would have been low, likely qualifying him for an affordable low-cost plan through MassHealth at least until he found new employment.

Yet, the Appellant made no effort to obtain new coverage in 2019 until he started a new job in the fall and enrolled in the health insurance coverage offered by his new employer for the last three months of 2019.

Therefore, I conclude that the Appellant did not experience financial circumstances from May 2019 through September 2019 such that the cost of purchasing coverage would have caused him a serious deprivation of basic necessities.

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

PENALTY ASSESSED

Number of Months Appealed: 12 Number of Months Assessed: 5

The Connector has notified the Department of Revenue that, pursuant to its decision, you should be assessed a penalty for Tax Year 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: PA19-859

Appeal Decision: Penalty Overturned in Full
Hearing Issue: Appeal of the 2019 Tax Year Penalty
Hearing Date: November 12, 2020
Decision Date: January 14, 2021

AUTHORITY

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

JURISDICTION

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

HEARING RECORD

Appellant appeared at the hearing, which was held by telephone, on November 12, 2020. The procedures to be followed during the hearing were reviewed with Appellant. Appellant was sworn in. Exhibits were marked and admitted in evidence with no objection from Appellant. Appellant testified.

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

- Exhibit 1: Correspondence from the Health Connector, dated October 15, 2020
- Exhibit 2: Appeal Case Information from Schedule HC 2019
- Exhibit 3: Notice of Appeal, dated July 20, 2020
- Exhibit 4: Statement in support of Appeal

FINDINGS OF FACT

The record shows, and I so find:

1. Appellant was 64 years old in 2019. Appellant filed a Massachusetts 2019 tax return as married filing separately with no dependents claimed (Exhibit 2).
2. Appellant resided in Middlesex County, MA in 2019 (Exhibit 2).
3. Appellant had an Adjusted Gross Income of \$57,833 in 2019 (Exhibit 2).
4. Appellant lost a job of thirty eight years in January 2019 (Testimony of Appellant).
5. Appellant was fully disabled and could not find another job (Testimony of Appellant).
6. Appellant earned approximately \$17,000 in 2019, most of which was from accrued vacation from the job (Testimony of Appellant).
7. The majority of Appellant's income for 2019 was from a retirement account and there is only \$30,000 left in the retirement account (Testimony of Appellant).
8. Appellant struggled to pay monthly expenses, which included a mortgage payment of \$2,460, a car payment and car insurance of \$365 and medical expenses of \$167.
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 married filing separately with no dependents with an adjusted gross income of \$57,833 could afford to pay \$385 per month for private insurance. According to Table 4, Appellant, age 64 and living in Middlesex County could have purchased private insurance for \$418 per month.

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

12. According to Table 2 of Schedule HC for 2019, Appellant, earning \$57,833 would not have been income eligible for government subsidized health insurance.

13. Appellant did not have health insurance for twelve months in 2019 (Testimony of Appellant and Exhibit 2).

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

15. Appellant filed a hardship appeal on July 20, 2020 (Exhibit 3)

16. Appellant became eligible for Medicare in 2020 and had health insurance at the time of the hearing (Testimony of Appellant).

ANALYSIS AND CONCLUSIONS OF LAW

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

Appellant 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 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. Also, 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: 12

Number of Months Assessed: 0

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

OR

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

NOTIFICATION OF YOUR RIGHT TO APPEAL TO COURT

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

Massachusetts Health Connector Appeals Unit

FINAL APPEAL DECISION: PA19-860

Appeal Decision: Penalty Overturned in Full
Hearing Issue: Appeal of the 2019 Tax Year Penalty
Hearing Date: November 12, 2020
Decision Date: January 4, 2021

AUTHORITY

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

JURISDICTION

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

HEARING RECORD

Appellant and Appellant Spouse appeared at the hearing, which was held by telephone, on November 12, 2020. The procedures to be followed during the hearing were reviewed with Appellants. Appellants were sworn in. Exhibits were marked and admitted in evidence with no objection from Appellants. Appellant and Appellant spouse testified.

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

- Exhibit 1: Correspondence from the Health Connector, dated October 15, 2020
- Exhibit 2: Appeal Case Information from Schedule HC 2019
- Exhibit 3: Notice of Appeal, dated July 20, 2020
- Exhibit 4: Statement in support of Appeal

FINDINGS OF FACT

The record shows, and I so find:

1. Appellants were 62 and 59 years old in 2019. Appellants filed a Massachusetts 2019 tax return as married filing jointly with one dependent claimed (Exhibit 2).
2. Appellants resided in Norfolk County, MA in 2019 (Exhibit 2).
3. Appellant worked and had employer sponsored health insurance from January through June (Testimony of Appellant).
4. Appellant was laid off beginning in July 2019 and lost the employer sponsored health insurance (Testimony of Appellant).
5. Appellant began a new job in July 2019, but did not work enough hours to qualify for employer sponsored health insurance (Testimony of Appellant).
6. Appellants had an Adjusted Gross Income of \$245,225 in 2019 (Exhibit 2).
7. The majority of Appellants' income was from a retirement plan and was not available to the Appellants in 2019 (Testimony of Appellant).

8. During 2019, Appellant spouse earned about \$36,000 and Appellant earned about \$40,000 (Testimony of Appellant).
9. Following Appellant's job loss in June and reduction in hours in a new job, Appellants struggled to pay their mortgage, utilities, car payments and medical and dental expenses (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 couple filing as married filing jointly with one dependent claimed and with a Federal Adjusted Gross Income of \$245,225 could afford to pay \$1,634 per month for health insurance.
12. According to Table 4 of Schedule HC for 2019, a couple, ages 62 and 59, filing as married filing jointly with one dependent, could have purchased private insurance for \$992 per month.
13. Private health insurance, at a cost of \$992, would be considered to be affordable to Appellants in 2019 (Schedule HC for 2019).
14. Appellant did not have health insurance for six months in 2019 (Testimony of Appellant and Exhibit 2).
15. Appellant has been assessed a penalty for three months for 2019 (Exhibit 2).
16. Appellants filed a hardship appeal on July 20, 2020 (Exhibit 3).
17. Appellant was enrolled in health insurance beginning in January 2020 (Testimony of Appellant).

ANALYSIS AND CONCLUSIONS OF LAW

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

Appellant has been assessed a tax penalty for three months and Appellant spouse has not been assessed a penalty. 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 health insurance, based upon income, so that health insurance was considered available to them. However, although Appellants had a large income on their tax return, that amount was not available to them to spend in 2019. Appellants struggled to pay their necessary expenses after Appellant lost a full-time job and lost the employer sponsored health insurance in June 2019. Appellant obtained health insurance in January 2020 and was insured at the time of the hearing. See 956 CMR 6.08 (1)(e), 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: 3/0

Number of Months Assessed: 0/0

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

OR

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

NOTIFICATION OF YOUR RIGHT TO APPEAL TO COURT

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

Massachusetts Health Connector Appeals Unit

FINAL APPEAL DECISION: PA192019-879

Appeal Decision: Penalty Overturned in Full
Hearing Issue: Appeal of the 2019 Tax Year Penalty
Hearing Date: November 17, 2020
Decision Date: January 5, 2021

AUTHORITY

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

JURISDICTION

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

HEARING RECORD

Appellant appeared at the hearing, which was held by telephone, on November 17, 2020. The procedures to be followed during the hearing were reviewed with Appellant. Appellant was sworn in. Exhibits were marked and admitted in evidence with no objection from Appellant. Appellant testified. At the end of the hearing, the record was left open so that Appellant could submit further information about Appellant's insurance coverage. On or about December 18, 2020, Appellant submitted a document which has been marked as Exhibit 5. The record is now closed.

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

- Exhibit 1: Correspondence from the Health Connector
- Exhibit 2: Appeal Case Information from Schedule HC 2019
- Exhibit 3: Notice of Appeal
- Exhibit 4: Statement of Appellant in support of the Appeal
- Exhibit 5: Documents regarding Appellant's health insurance

FINDINGS OF FACT

The record shows, and I so find:

1. Appellant was 21 years old in 2019. Appellant filed a Massachusetts 2019 tax return as single with no dependents claimed (Exhibit 2).
2. Appellant resided in Massachusetts from January through July 2019 (Exhibit 2 and Testimony of Appellant).
3. Appellant's Adjusted Gross Income for 2019 was \$24,938 (Exhibit 2).
4. Appellant was covered by a parent's employer sponsored health insurance during 2019 (Exhibit 4 and Testimony of Appellant).
5. Appellant's parent's employer was based out of state (Exhibits 4, 5 and Testimony of Appellant).
6. Appellant's parent's health insurance was from a union and covered medical, dental and prescription services (Exhibit 5).

7. Appellant provided proof of enrollment in the parent's plan. However, even though Appellant requested specifics about the plan, the plan did not provide the information about the details of the plan (Exhibits 4 and 5)
8. Appellant had not been aware that the health insurance coverage for 2019 did not meet Massachusetts minimum creditable coverage standards (Testimony of Appellant).
9. Appellant has been assessed a penalty for four months for 2019 (Exhibit 2).
10. Appellant filed an Appeal and a Statement in support of Appeal appealing the assessment of the penalty. The Appeal claimed that Appellant was covered by health insurance through a parent's policy (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 2016, Administrative Bulletin 03-10: Guidance Regarding M.G.L. c. 111M and M.G.L. c. 176Q, as implemented by 956 CMR 6.00, which interprets the 63-day gap in coverage to be three months. The Connector's regulations provide for a waiver of the tax penalty in the case of a financial hardship. See 956 CMR 6.08 (1). 956 CMR 6.08(2)(d) provides that the Connector may also consider the extent to which insurance obtained deviated from or substantially met minimum creditable coverage standards when determining if a penalty should be waived.

During the time that Appellant lived in Massachusetts in 2019, Appellant was covered by a parent's employer sponsored health insurance. The issue to be decided is whether the policy substantially met the Massachusetts minimum creditable coverage standards and whether Appellant's circumstances prevented Appellant from buying other insurance that met the Massachusetts requirements.

Appellant's parent lived and worked outside of Massachusetts and Appellant had insurance coverage through the parent's out of state plan. Appellant was not aware that the insurance did not meet Massachusetts creditable coverage standards. Appellant had difficulty obtaining the information regarding the details of the coverage. See Exhibits 2, 3, 4, 5 and Testimony of Appellant, which I find to be credible.

Given these circumstances, I will waive the penalty for 2019. However, Appellant is advised that this decision is based upon the facts as I have found them for 2019 and should not assume that a similar decision will be made if Appellant lives in Massachusetts and fails to have health insurance that meets Massachusetts standards in the future.

PENALTY ASSESSED

Number of Months Appealed: 4

Number of Months Assessed: 0

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

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: PA19-881

Appeal Decision: Penalty Overturned in Full
Hearing Issue: Appeal of the 2019 Tax Year Penalty
Hearing Date: November 17, 2020
Decision Date: January 8, 2020

AUTHORITY

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

JURISDICTION

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

HEARING RECORD

Appellant appeared at the hearing, which was held by telephone, on November 17, 2020. The procedures to be followed during the hearing were reviewed with Appellant. Appellant was sworn in. Exhibits were marked and admitted in evidence with no objection from Appellant. Appellant testified.

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

- Exhibit 1: Correspondence from the Health Connector, dated October 19, 2020
- Exhibit 2: Appeal Case Information from Schedule HC 2019
- Exhibit 3: Notice of Appeal, dated July 27, 2020

FINDINGS OF FACT

The record shows, and I so find:

1. Appellant turned 20 years old in November 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 \$22,304 in 2019 (Exhibit 2).
4. Appellant did not have access to employer sponsored health insurance in 2019 (Testimony of Appellant).
5. Appellant lived with family members in early 2019 and then moved out to live independently (Testimony of Appellant).
6. Appellant was overwhelmed with the responsibilities of living independently and did not apply for health insurance (Testimony of Appellant).
7. Appellant became unemployed in 2019 and struggled to pay for basic living expenses (Testimony of Appellant).
8. Appellant moved back with family after the job loss in 2019 (Testimony of Appellant).
9. Appellant struggled to pay for basic living expenses in 2019 (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 single with no dependents with an adjusted gross income of \$22,304 could afford to pay \$54 per month for private insurance. According to Table 4, Appellant, aged 20 and living in Worcester County could have purchased private insurance for \$257 per month.
12. Private insurance was not considered to be affordable for Appellant in 2019 (Schedule HC for 2019).
13. Appellant, earning less than \$36,420 would have been income eligible for government subsidized health insurance (Schedule HC for 2019).
14. Appellant did not have health insurance for twelve months in 2019 (Testimony of Appellant and Exhibit 2).
15. Appellant has been assessed a penalty for twelve months for 2019 (Exhibit 2).
16. Appellant filed a hardship appeal on July 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 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 financial hardship. See 956 CMR 6.

Appellant was income eligible for government subsidized health insurance, but did not apply 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 2019, Appellant became unemployed and moved back with family since Appellant struggled to pay for basic expenses when living independently. Purchasing health insurance would have caused a serious deprivation of food, shelter, clothing or other necessities. See Testimony of Appellant, which I find to be credible and 956 CMR 6.08 (1) (e).

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

PENALTY ASSESSED

Number of Months Appealed: 12

Number of Months Assessed: 0

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

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

OR

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

NOTIFICATION OF YOUR RIGHT TO APPEAL TO COURT

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

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 should call the Health Connector at 1 877 623 6765 if Appellant needs information about health insurance.

Massachusetts Health Connector Appeals Unit

FINAL APPEAL DECISION: PA19-882

Appeal Decision: Penalty Overturned in Full

Hearing Issue: Appeal of the 2019 Tax Year Penalty

Hearing Date: November 17, 2020

Decision Date: January 15, 2021

AUTHORITY

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

JURISDICTION

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

HEARING RECORD

Appellant appeared at the hearing, which was held by telephone, on November 17, 2020. The procedures to be followed during the hearing were reviewed with Appellant. Appellant was sworn in. Exhibits were marked and admitted in evidence with no objection from Appellant. Appellant testified.

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

Exhibit 1: Correspondence from the Health Connector dated October 15, 2020

Exhibit 2: Appeal Case Information from Schedule HC 2019

Exhibit 3: Notice of Appeal March 29, 2020

Exhibit 4: Statement of Appellant in support of the Appeal

FINDINGS OF FACT

The record shows, and I so find:

1. Appellant was 56 years old in 2019. Appellant filed a Massachusetts 2019 tax return as Head of Household with one dependent claimed (Exhibit 2).
2. Appellant resided in Worcester County (Exhibit 2 and Testimony of Appellant).
3. Appellant's Adjusted Gross Income for 2019 was \$90,147 (Exhibit 2).
4. From January through October, Appellant was covered by employer sponsored health insurance (Testimony of Appellant).
5. The employer sponsored health insurance from January through October met the federal requirements but did not meet the Massachusetts creditable coverage requirements (Exhibit 4 and Testimony of Appellant).
6. Beginning in November 2019, Appellant was covered by health insurance that met the Massachusetts standards (Exhibit 2 and Testimony of Appellant).
7. Appellant had the following monthly expenses during 2019: rent \$2,899; phone \$250; food \$800; car and apt insurance \$350; gasoline \$150; medical \$200; clothing \$300; alimony \$3,347. Appellant's monthly expenses were \$8,296 per month (Exhibit 4 and Testimony of Appellant).

8. I take administrative notice of the financial information set forth in Tables 1 through 6 in the DOR 2019 Massachusetts Schedule HC Health Care Instructions and Worksheets. Tables 3 and 4 incorporate affordability and premium schedules adopted by the Board of Directors for the Commonwealth Health Insurance Connector Authority for 2019. Table 2 sets forth income at 300% of the Federal poverty level and Tables 5 and 6 set forth tax penalties in effect for 2019.
9. According to Table 3 of Schedule HC for 2019 a person filing as as Head of Household with one dependent with an adjusted gross income of \$90,147 could afford to pay \$601 per month for private insurance. According to Table 4, Appellant, age 56 and living in Worcester County could have purchased private insurance for \$992 per month.
10. Private insurance was not considered to be affordable for Appellant in 2019 (Schedule HC for 2019).
11. According to Table 2 of Schedule HC for 2019, Appellant, earning \$90,147 would not have been income eligible for government subsidized health insurance.
12. Appellant has been assessed a penalty for seven months for 2019 (Exhibit 2).
13. Appellant filed an Appeal and a Statement in support of Appeal appealing the assessment of the penalty. The Appeal claimed that Appellant had health insurance that didn't meet minimum creditable coverage standards because that is what the employer offered and Appellant could not afford to buy other insurance (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 2016, Administrative Bulletin 03-10: Guidance Regarding M.G.L. c. 111M and M.G.L. c. 176Q, as implemented by 956 CMR 6.00, which interprets the 63-day gap in coverage to be three months. The Connector's regulations provide for a waiver of the tax penalty in the case of a financial hardship. See 956 CMR 6.08 (1). 956 CMR 6.08(2)(d) provides that the Connector may also consider the extent to which insurance obtained deviated from or substantially met minimum creditable coverage standards when determining if a penalty should be waived.

For ten months of 2019, Appellant was covered by employer sponsored health insurance that met federal standards but did not meet Massachusetts minimum creditable coverage standards. Appellant's appeal claimed that Appellant could not afford to buy other insurance. Private health insurance was not considered affordable for Appellant. Appellant also did not qualify for subsidized health insurance. See Schedule HC for Healthcare Tables 2,3,4 and Exhibits 2, 3, 4 and Testimony of Appellant, which I find to be credible.

I find that affordable health insurance that met Massachusetts creditable coverage standards was not available to Appellant from January through October 2019. See 956 CMR 6.00. The penalty will be waived.

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: PA19-895

Appeal Decision: Appeal Denied

Hearing Issue: Appeal of the 2019 Tax Year Penalty

Hearing Date: November 20, 2020

Decision Date: January 29, 2021

AUTHORITY

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

JURISDICTION

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

HEARING RECORD

The Appellant and his representative 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 21, 2020, for the Appellant to submit additional evidence. The Appellant submitted additional evidence on November 30, 2020, and again on December 17, 2020; and, the record was closed on December 21, 2020.

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

- Exhibit 1: Appeal Case Information from 2019 Schedule HC (1 page)
- Exhibit 2: 7/27/20 Appeal (5 pages)
- Exhibit 3: 11/2/20 Appeal Representative Form and Cover Letter (3 pages)
- Exhibit 4: 10/20/20 Hearing Notice (2 pages)
- Exhibit 5: 12/1/20 2019 Schedule HC (3 pages)
- Exhibit 6: 12/1/20 2019 Form MA 1099-HC (1 page)
- Exhibit 7: 12/1/20 2019 Massachusetts Tax Return (amended; 11 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 \$44,688. The Appellant turned twenty-four years old in 2019. (Exhibit 1)
2. The Appellant appealed from the assessment of a twelve-month penalty on his 2019 income tax return, checking off 'Other' on the appeal form and stating: "My deeply held personal convictions preclude me from participating in the compulsory health insurance program of the State of Massachusetts.

Accordingly, I, [the Appellant], claim an exemption from participation in the program, on the grounds of religious conviction and conscience-based compunction.” (Exhibit 2)

3. The Appellant did not have health insurance coverage in 2019, due to his religious beliefs causing him to object to all forms of treatment covered by health insurance. (Appellant’s testimony)
4. The Appellant did not seek or receive medical services during 2019. (Appellant’s testimony)
5. The Appellant neglected to claim a religious exemption when he initially filed his 2019 Massachusetts Income Tax Return. (Appellant’s testimony)
6. On December 1, 2020, the Appellant filed an Amended 2019 Massachusetts Tax Return with the Department of Revenue, claiming a religious exemption from the individual mandate to have health insurance coverage. (Appellant’s testimony; Exhibits 5-7)

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.

Although the Appellant had not indicated on his original 2019 state tax return why he had not obtained health insurance coverage in 2019, at hearing the Appellant explained why, stating that he held sincere religious objections to all forms of medical treatment provided by health insurance coverage. I find his testimony credible. As the Appellant, following the hearing, filed an amended 2019 state tax return stating his religious exemption from the individual mandate and that he had not received any medical health care in 2019, I conclude that the Appellant was exempt from purchasing health insurance coverage in 2019 and from the tax penalty under the individual mandate.

Therefore, I conclude that the Appellant has established that he was exempt from the individual mandate to have health insurance coverage in 2019, under 830 CMR 111M.2.1(6)(b)

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

PENALTY ASSESSED

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

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

OR

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

NOTIFICATION OF YOUR RIGHT TO APPEAL TO COURT

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

Hearing Officer

Cc: Connector Appeals Unit

Massachusetts Health Connector Appeals Unit

FINAL APPEAL DECISION: PA19-896

Appeal Decision: Appeal Denied

Hearing Issue: Appeal of the 2019 Tax Year Penalty

Hearing Date: November 20, 2020

Decision Date: January 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 November 20, 2020. The Appellant offered testimony under oath or affirmation. At the end of the hearing, the record was left open until December 4, 2020, for the Appellant to submit additional evidence. The Appellant did not submit any additional evidence, and the record was closed on December 4, 2020.

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

- Exhibit 1: Appeal Case Information from 2019 Schedule HC (1 page)
- Exhibit 2: 7/28/20 Appeal (9 pages)
- Exhibit 3: 10/20/20 Hearing Notice (2 pages)

FINDINGS OF FACT

The record shows, and I so find:

1. The Appellant's filing status for 2019 was Single with no dependents. The Appellant's federal AGI in 2019 was \$73,722. The Appellant turned twenty-seven years old in 2019. (Exhibit 1)
2. The Appellant appealed from the assessment of a twelve-month penalty on his 2019 income tax return, checking off on the appeal form: "During 2019, you purchased health insurance that didn't meet minimum creditable coverage standards because that is what your employer offered, and you felt that your circumstances prevented you from buying other insurance that met the requirements." (Exhibit 2)
3. The Appellant came to Massachusetts in 2013 to attend college as an international student. He graduated in 2017 and first filed a Massachusetts tax return in 2018.
4. The Appellant worked full time for the same employer throughout 2019. His employer did not offer health insurance coverage to employees in 2019. (Appellant's testimony)

5. According to the Appellant, he had contacted a health insurance salesperson by phone in 2019 and asked about getting health insurance coverage in Massachusetts and was told that MCC coverage would cost him a monthly premium of over \$1,000 and that “he could not in good conscience recommend” the coverage. (Appellant’s testimony)
6. In August 2019, the Appellant purchased “a brand of membership in the Association for Better Health,” from a Florida-based company, effective August 16, 2019, through December 15, 2019. (Exhibit 2; Appellant’s testimony)
7. According to Table 2 of the 2019 Schedule HC Guidelines, the Appellant did not qualify for government-subsidized health insurance coverage in 2019, since his income was more than \$36,420 for a family size of one.
8. According to Table 3, Affordability, of the Schedule HC 2019, based on his 2019 AGI and Single with no dependents tax filing status, the Appellant could have afforded to pay up to \$491/monthly for health insurance coverage in 2019.
9. According to Table 4, Premiums, the Appellant could have purchased MCC-compliant health insurance coverage in the private in Massachusetts in 2019 for a monthly premium of \$257.

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.

At hearing, contrary to what he had checked off on his appeal as the basis for his appeal, the Appellant testified that his employer in 2019 did not offer health insurance coverage; that he had tried to get MCC health insurance coverage in the private market in Massachusetts; and, that the insurance agent he spoke with had said that MCC coverage in 2019 would cost him a monthly premium of over \$1,000. As the Appellant could have purchased MCC-compliant health insurance coverage in the private market in 2019 for a monthly premium of \$257 and as the Appellant failed to provide any evidence that any insurance agent had misled him in 2019, I do not find the Appellant’s testimony to be credible. While the Appellant acknowledged at hearing that he could have afforded to pay \$257 for health insurance coverage in 2019, he did not show through testimony or documents that he had made a good faith effort to obtain health insurance coverage in 2019.

Therefore, I conclude that the Appellant has not established that health insurance was not affordable for him in 2019.

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

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: PA19-897

Appeal Decision: Appeal Granted

Hearing Issue: Appeal of the 2019 Tax Year Penalty

Hearing Date: November 20, 2020

Decision Date: January 29, 2021

AUTHORITY

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

JURISDICTION

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

HEARING RECORD

The Appellant appeared at the hearing, which was held by telephone, on November 20, 2020. The Appellant offered testimony under oath or affirmation. At the end of the hearing, the record was left open until December 18, 2020, for the Appellant to submit additional evidence. The Appellant submitted additional evidence on December 4, 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: 7/30/20 Appeal (13 pages)
- Exhibit 3: Zoroastrian Bioethics article (14 pages)
- Exhibit 4: 10/20/20 Hearing Notice (2 pages)
- Exhibit 5: 12/4/20 Cover Letter, for 2019 Amended Massachusetts Tax Return, filed 11/20/20 (42 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 \$54,225. The Appellant turned thirty years old in 2019. (Exhibit 1)
2. The Appellant appealed from the assessment of a twelve-month penalty on his 2019 income tax return, without checking off any of the boxes on the appeal form but stating that he had not had health insurance in 2019 due to his religious beliefs. (Exhibit 2)
3. The Appellant did not have health insurance coverage in 2019, due to his religious beliefs causing him to object to all forms of treatment covered by health insurance. (Appellant's testimony)
4. In late 2018, while recovering from an ankle injury, the Appellant turned for guidance to the religious teachings in books that were part of his family heritage. In doing so, the Appellant adopted the religion

and its belief that health should not be interfered with by the use of painkillers, surgery or other treatments, and that the individual should endure any health ordeal independently. (Appellant’s testimony; Exhibit 3)

5. As a result of his religious studies, the Appellant decided that he would not seek health insurance coverage for 2019. (Appellant’s testimony)
6. The Appellant did not seek or receive medical services during 2019. (Appellant’s testimony)
7. The Appellant neglected to claim a religious exemption when he initially filed his 2019 Massachusetts Income Tax Return. (Appellant’s testimony)
8. On November 20, 2020, the Appellant filed an Amended 2019 Massachusetts Tax Return with the Department of Revenue, claiming a religious exemption from the individual mandate to have health insurance coverage. (Appellant’s testimony; Exhibits 5-7)

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.

Although the Appellant had not indicated on his original 2019 state tax return why he had not obtained health insurance coverage in 2019, at hearing the Appellant explained why, stating that he held sincere religious objections to all forms of medical treatment provided by health insurance coverage. I find his testimony credible. As the Appellant, following the hearing, filed an amended 2019 state tax return stating his religious exemption from the individual mandate and that he had not received any medical health care in 2019, I conclude that the Appellant was exempt from purchasing health insurance coverage in 2019 and from the tax penalty under the individual mandate.

Therefore, I conclude that the Appellant has established that he was exempt from the individual mandate to have health insurance coverage in 2019, under 830 CMR 111M.2.1(6)(b).

Accordingly, the Appellant’s appeal is granted and his twelve-month penalty for 2019 shall be waived in full.

PENALTY ASSESSED

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

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

OR

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

NOTIFICATION OF YOUR RIGHT TO APPEAL TO COURT

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

Hearing Officer

Cc: Connector Appeals Unit

Massachusetts Health Connector Appeals Unit

FINAL APPEAL DECISION: PA19936

Appeal Decision: The penalty is overturned in full.

Hearing Issue: Appeal of the 2019 Tax Year Penalty

Hearing Date: December 4, 2020

Decision Date: January 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 December 4, 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 6, 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 5, 2020 for December 4, 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 48 years old in 2019 (Exhibit 2, Testimony of Appellant).
2. Appellant resided in Barnstable County in 2019 (Testimony of Appellant, Exhibit 2).
3. Appellant had a Federal Adjusted Income of \$30,112 in 2019 (Testimony of Appellant, Exhibit 2).
4. Appellant worked in a hotel all year. Until June, Appellant earned \$13.65 an hour; the rest of the year, Appellant earned \$14.00 an hour. The appellant generally worked 40 hours a week (Testimony of Appellant).
5. Appellant was offered health insurance through employment. The appellant's share of the premium was \$100 every two weeks. Appellant felt she could not afford this and did not enroll in the coverage (Testimony of Appellant).
6. Appellant had ConnectorCare coverage from January through April and then in December, 2019. She still had this coverage as of the date of this hearing (Testimony of Appellant, Exhibits 1 and 2).

7. Appellant has been assessed a penalty for August through November, 2019. Appellant has appealed this assessment, claiming that she was homeless during part of the year and that the cost of purchasing health insurance would have caused a serious deprivation of basic necessities (Exhibits 1 and 2, and Testimony of Appellant).
8. I take administrative notice of the financial information set forth in Tables 1 through 6 in the DOR 2019 Massachusetts Schedule HC Health Care Instructions and Worksheets. Tables 3 and 4 incorporate affordability and premium schedules adopted by the Board of Directors for the Commonwealth Health Insurance Connector Authority for 2019. Table 2 sets forth income at 300% of the Federal poverty level and Tables 5 and 6 set forth tax penalties in effect for 2019.
9. According to Table 3 of Schedule HC for 2019, the appellant with no dependents claimed with an adjusted gross income of \$30,112 could afford to pay \$105 per month for health insurance. According to Table 4, Appellant, 48 years old and living in Barnstable County, could have purchased insurance for \$350 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. Appellant was offered health insurance through employment. Appellant would have had to pay \$100 every two weeks, or \$216 each month ($\$100 \times 26 = \$2,600$. $\$2,600 / 12 = \216). This coverage was not affordable for the appellant (Testimony of Appellant, Table 3 of 2019 Schedule HC).
11. 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).
12. Appellant did not incur significant and unexpected increases in essential expenses as a result of 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).
13. Appellant was homeless from July through November, 2019. One of Appellant's roommates accused the appellant of domestic violence and obtained a temporary restraining order against her. Appellant was not able to return to her apartment until some time in November when the roommate dropped all charges against Appellant. While the appellant was barred from returning to the apartment, the roommate destroyed much of the appellant's personal property. Appellant lost \$7,000 worth of personal property (Testimony of Appellant).
14. While Appellant was homeless, she first lived in a hotel for two weeks. It cost her close to \$500 for the stay. She then lived in a friend's garage until she was able to return to her apartment. While Appellant was homeless, the cost of food and gas for her car doubled. Appellant had legal fees after the temporary restraining order was issued. She had to pay attorney fees and court costs (Testimony of Appellant).
15. In July, 2019, Appellant's internet and telephone were shut-off (Testimony of Appellant).
16. Appellant had the following monthly expenses for basic necessities in 2019: rent including heat and electricity-\$500 when not homeless; telephone-\$60; internet-\$70; food-\$430; food when homeless-\$850; car payment-\$375; car insurance-\$235; gas-\$130; clothing-\$20; prescription drugs-\$50. In 2019, Appellant had to pay \$250 a month for a storage unit and \$100 for back Federal and Massachusetts 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 for a penalty for August through November, 2019. Appellant had coverage January through April and December, 2019. Since the appellant is entitled to a three-month grace period after losing coverage, the penalty for May through July is waived. See Massachusetts General Laws, Chapter 111M, Section 2, and Exhibit 2. The appellant has appealed the assessment. See Exhibit 1 and the testimony of the appellant which I find to be credible.

To determine if Appellant’s penalty should be waived in whole or in part, we must consider whether affordable insurance which met minimum creditable coverage standards was available to the appellant through employment, through the 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 \$30,112 could afford to pay \$105 per month for health insurance. According to Table 4, Appellant, 48 years old and living in Barnstable County, could have purchased insurance for \$350 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).

Appellant had no access to affordable health insurance through employment in 2019. While Appellant was offered health insurance through her job, it was not affordable for her according to Commonwealth guidelines set forth in in Table 3 of the 2019 Schedule HC. The insurance would have cost the appellant \$216 a month. According to Table 3, the appellant could afford only \$105 a month. See the testimony of the appellant which I find to be credible.

Appellant was income-eligible for ConnectorCare coverage. She 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 \$30,112 equals \$247 per month ($\$30,112 \times 9.86\% = \$2,969$. That amount divided by 12 = \$247). Coverage through her job cost \$216. 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.

Appellant had no access to affordable health insurance in 2019. The insurance offered her through her job was unaffordable according to state guidelines (Table 2 of Schedule HC). No affordable insurance was available through the individual market or through the ConnectorCare program. See above. Based upon this alone, Appellant's penalty is waived. See Massachusetts General Laws, Chapter 111M, Section 2.

In addition, Appellant experienced a financial hardship such that the cost of insurance would have been unaffordable to her. She was homeless for a significant part of the year, July through November. The appellant also had telephone and internet service shut off in July. Pursuant to 956 CMR 6.08(1)(a) and (b), being homeless and having basic utilities shut off are considered financial hardships which makes the cost of health insurance unaffordable.

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

Appellant's penalty is waived in its entirety.

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: 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: PA19938

Appeal Decision: The penalty is overturned in full.

Hearing Issue: Appeal of the 2019 Tax Year Penalty

Hearing Date: December 4, 2020

Decision Date: January 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 December 4, 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 7, 2020

Exhibit 2: Appeal Case Information from Schedule HC 2019

Exhibit 3: Notice of Hearing sent to Appellant dated November 5, 2020 for December 4, 2020 hearing

FINDINGS OF FACT

The record shows, and I so find:

1. Appellant, who filed a 2019 Massachusetts tax return as a married person filing separately with no dependents claimed, was 28 years old in 2019. Appellant filed her return as a part-year resident (Exhibit 2, Testimony of Appellant).
2. Appellant resided in another state until mid-June, 2019 when the appellant moved to Middlesex County. Appellant resided with her spouse in the Commonwealth (Testimony of Appellant, Exhibit 2).
3. Appellant had a Federal Adjusted Income of \$29,588 in 2019 (Testimony of Appellant, Exhibit 2).
4. After the appellant moved to the Commonwealth, Appellant got a job as a dental assistant. Appellant remained at this job until mid-November when she left the job. Appellant was then unemployed for several weeks, getting a new job on December 1, 2019. Appellant was employed before she moved to Massachusetts. Appellant earned approximately the same amount throughout the year (Testimony of Appellant).
5. Appellant was offered health insurance through employment, but only after the appellant had been at the job for 90 days. After the 90 days had passed, Appellant's employer informed her that it was changing plans. The appellant left the job when she found out that her employer did not intend to offer her coverage (Testimony of Appellant).

6. Appellant had health insurance before she moved to Massachusetts. When she relocated to the Commonwealth, Appellant had no health insurance from June through December in 2019. Appellant's spouse had health insurance and Appellant obtained coverage under her spouse's plan as of January 1, 2020, the first day she was eligible for the coverage (Exhibits 2, Testimony of Appellant).
7. Appellant has been assessed a penalty for four months in 2019, September through December. 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, who filed her Federal tax return as a married person, filing separately with no dependents claimed with an adjusted gross income of \$29,588, could afford to pay \$103 per month for health insurance. According to Table 4, Appellant, 28 years old and living in Middlesex County, could have purchased insurance for \$257 per month for a plan for an individual. Insurance on the individual market was unaffordable for the appellant (Schedule HC for 2019 Tables 3 and 4, Exhibit 2).
10. According to Table 2 of Schedule HC for 2019, Appellant earning less than \$36,420 per year, would have been eligible for the ConnectorCare program based upon income (Table 2 of Schedule HC-2019, and Exhibit 2).
11. Appellant did not incur significant and unexpected increases in essential expenses as a result of domestic violence; the death of a spouse, family member, or partner who shared household expenses; the sudden responsibility for providing full care for an aging parent or other family member; or fire, flood, or other natural or man-made disaster in 2019 (Testimony of Appellant).
12. Appellant did not fall more than thirty days behind in rent in 2019 (Testimony of Appellant).
13. Appellant did not receive any shut-off notices in 2019 (Testimony of Appellant).
14. Appellant had the following monthly expenses for basic necessities in 2019: rent-\$500; heat and electricity-\$120; telephone-\$65; food-\$510; laundry-\$20; clothing-\$90; car payment-\$180; car insurance-\$85; gas-\$86. Appellant also had \$500 in moving expenses (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 September through December, 2019. Appellant was a part-time resident, having moved to Massachusetts mid-June. Under Massachusetts General Laws, Chapter 111M, Section 2, Appellant was entitled to a three-month grace period after moving to the Commonwealth. The appellant has appealed the assessment. 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, who filed her Federal tax return as a married person, filing separately with no dependents claimed with an adjusted gross income of \$29,588, could afford to pay \$103 per month for health insurance. According to Table 4, Appellant, 28 years old and living in Middlesex County, could have purchased insurance for \$257 per month for a plan for an individual. Insurance on the individual market was unaffordable for the appellant See Schedule HC for 2019, Tables 3 and 4, Exhibit 2.

Appellant had no access to health insurance through employment. Appellant was told that she would be able to enroll in a health insurance plan after she was on the job 90 days. After 90 days, she was informed that the employer was changing plans. When, in mid-November, the appellant realized that the employer did not intend to give her coverage, she left the job. She was then unemployed. By the time she got a new job, she planned to be added to her spouse's plan as of January 1, 2020. See the testimony of the appellant which I find credible.

It is unclear whether Appellant would have been eligible for affordable coverage through the ConnectorCare program. Appellant's Federal Adjusted Income was \$29,588, less than the income limit for one person (\$36,420). However, for most of the months in question, Appellant believed she was being offered coverage through work and would be enrolled after 90 days on the job. See the testimony of the appellant which I find to be credible. It is not clear that Appellant would have been found eligible for ConnectorCare because of the offer of health insurance through employment. In addition, Appellant filed her tax return as a married person separately. Under the Patient Protection and Affordable Care Act, married individuals must file jointly in order to be eligible for an advance premium tax credit. See 26 CFR 1.36B-2(b)(2). The ConnectorCare program is subsidized in part by advance premium tax credits. See also 956 CMR 12.00.

Appellant is not an individual who did not want health insurance or who did not try to obtain health insurance. Appellant had insurance before she moved to the Commonwealth; she obtained coverage through her spouse's plan as soon as she was eligible for coverage. During the months in-between, Appellant thought she was going to be given coverage through her job. In addition, it is unclear that she would have had any affordable coverage available to her. She had no access through the individual market or through employment. It is unclear whether she could have obtained coverage through the ConnectorCare program, given the promise of coverage through employment and her tax filer status. In any case, Appellant had no reason to turn to the Connector for coverage given the promise of coverage through work.

I determine that Appellant's penalty should be waived in full based upon the facts summarized above.

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: 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: PA19-1002

Appeal Decision: Penalty Overturned in Full
Hearing Issue: Appeal of the 2019 Tax Year Penalty
Hearing Date: December 22, 2020
Decision Date: January 27, 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 7, 2020
- Exhibit 4: Statement in Support of Appeal

FINDINGS OF FACT

The record shows, and I so find:

1. Appellant was 22 years old in 2019. Appellant filed a Massachusetts 2019 tax return as single with no dependents claimed (Exhibit 2).
2. Appellant resided in Essex County, MA in 2019 (Exhibit 2).
3. Appellant had an Adjusted Gross Income for 2019 of \$19,283 (Exhibit 2).
4. Appellant worked part time hours during January through May and employer sponsored health insurance was not available (Testimony of Appellant).
5. Appellant was unemployed during June through October (Testimony of Appellant).
6. Appellant struggled to pay the bills for necessities in 2019 (Testimony of Appellant).
7. Appellant had the following monthly expenses during 2019: rent \$400; Utilities \$100; phone \$50; food \$433; supplies \$50; car payment \$300; car insurance \$250; gasoline \$100; car maintenance \$83; student loans \$100. Appellant's monthly expenses were \$1,866.
8. I take administrative notice of the financial information set forth in Tables 1 through 6 in the DOR 2019 Massachusetts Schedule HC Health Care Instructions and Worksheets. Tables 3 and 4 incorporate affordability and premium schedules adopted by the Board of Directors for the Commonwealth Health Insurance Connector

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

9. According to Table 3 of Schedule HC for 2019 a person filing as single with no dependents with an adjusted gross income of \$19,283 could afford to pay \$47 per month for private insurance. According to Table 4, Appellant, 22 years old and living in Essex County could have purchased private insurance for \$257 per month.

10. Private insurance was not considered to be affordable for Appellant in 2019 (Schedule HC for 2019).

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

12. Appellant did not have health insurance for twelve months in 2019 (Testimony of Appellant and Exhibit 2).

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

14. Appellants filed a hardship appeal on August 7, 2020 (Exhibits 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 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.

Appellant was not eligible for employer sponsored health insurance in 2019. According to Tables 2, 3 and 4 of Massachusetts Schedule HC 2019, Appellant would have been income eligible for subsidized health insurance. Since Appellant potentially had access to affordable insurance, we need to consider whether Appellant experienced a financial hardship as defined by 956 CMR 6.08.

Appellant income was unsteady in 2019. Appellant had monthly expenses of \$1,866. Appellant’s monthly income before taxes was \$1,607. Purchasing health insurance would have caused a serious deprivation of food, shelter, clothing or other necessities. See Exhibits 2, 3, 4, Testimony of Appellant, which I find to be credible and 956 CMR 6.08 (1) (e).

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

PENALTY ASSESSED

Number of Months Appealed: 12

Number of Months Assessed: 0

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

OR

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

NOTIFICATION OF YOUR RIGHT TO APPEAL TO COURT

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

ADDENDUM

Appellant is advised that this decision is based upon the facts as I have found them for 2019. Appellant should not assume that a similar decision will be made if Appellant fails to have health insurance in the future. Appellant should contact the Massachusetts Health Connector at 1 877 623-6765 to find out about affordable options for health insurance.

Massachusetts Health Connector Appeals Unit

FINAL APPEAL DECISION: PA19-1003

Appeal Decision: Penalty Overturned in Full
Hearing Issue: Appeal of the 2019 Tax Year Penalty
Hearing Date: December 22, 2020
Decision Date: January 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 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 10, 2020
- Exhibit 4: Statement in Support of Appeal

FINDINGS OF FACT

The record shows, and I so find:

1. Appellant was 27 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 \$49,351 (Exhibit 2).
3. Beginning in August, Appellant separated from a partner and was homeless from August through December 2019 (Testimony of Appellant).
4. From August through December 2019, Appellant stayed with friends and family while homeless (Testimony of Appellant).
5. Appellant was laid off of Appellant's employment in October 2019 (Testimony of Appellant).
6. Appellant struggled to pay for basic necessities in 2019 (Testimony of Appellant).
7. I take administrative notice of the financial information set forth in Tables 1 through 6 in the DOR 2019 Massachusetts Schedule HC Health Care Instructions and Worksheets. Tables 3 and 4 incorporate affordability and premium schedules adopted by the Board of Directors for the Commonwealth Health Insurance Connector Authority for 2019. Table 2 sets forth income at 300% of the Federal poverty level and Tables 5 and 6 set forth tax penalties in effect for 2019.

8. According to Table 3 of Schedule HC for 2019 a person filing as single with no dependents with an adjusted gross income of \$49,351 could afford to pay \$329 per month for private insurance. According to Table 4, Appellant, who was 27 and lived in Suffolk County could have purchased private insurance for a cost of \$257 per month.
9. Private insurance was considered affordable for Appellant in 2019 (Schedule HC for 2019).
10. Appellant did not have health insurance from January through July and October through December of 2019 (Testimony of Appellant and Exhibit 2).
11. Appellant has been assessed a penalty for four months for 2019 (Exhibit 2).
12. Appellant filed an Appeal on August 10, 2020 stating that Appellant had experienced a hardship of being homeless, 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 four months. To determine if the penalty should be waived in whole or in part, we must consider whether affordable insurance was available to Appellant, before we consider whether Appellant suffered a financial hardship such that the purchase of insurance which met minimum creditable coverage standards would have caused Appellant to experience a serious deprivation of basic necessities. See 956 CMR 6.

Private health insurance may have been available to Appellant in 2019. However, due to Appellant experiencing homelessness and the loss of employment, 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: 4

Number of Months Assessed: 0

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

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: PA19-1004

Appeal Decision: Appeal Approved
Hearing Issue: Appeal of the 2019 Tax Year Penalty
Hearing Date: December 22, 2020
Decision Date: January 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 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 Appellant's testimony and the following documents which were admitted in evidence:

Exhibit 1: Notice of Hearing sent to Appellant dated November 16, 2020
Exhibit 2: Tax Information sheet from DOR
Exhibit 3: Notice of Appeal, dated August 14, 2020
Exhibit 4: Documents in Support of Appeal

FINDINGS OF FACT

The record shows, and I so find:

1. Appellant was 40 years old in 2019 and filed a 2019 Massachusetts tax return as single, with no dependents claimed (Exhibit 2).
2. Appellant lived in Middlesex County, MA beginning in June 2019 (Exhibit 2).
3. Appellant's Adjusted Gross Income for 2019 was \$55,517 (Exhibit 2).
4. Appellant lived in another state from January through June (Testimony of Appellant).
6. Appellant moved to Massachusetts in June 2019 (Exhibit 4 and Testimony of Appellant).
7. Appellant began employer sponsored health insurance in Massachusetts in August 2019 and was insured from August through December (Exhibits 2, 3, 4 and Testimony of Appellant).
8. Appellant's health insurance from August through December met Massachusetts minimum creditable coverage standards (Exhibit 2).
9. Appellant received a penalty for four months (Exhibit 2).

10. Appellant filed an appeal on August 14, 2020, stating that Appellant had been covered by health insurance (Exhibits 3 and 4).

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 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 lived outside of Massachusetts until June 2019. Appellant moved to Massachusetts in June 2019 and began health insurance that met Massachusetts standards in August 2019. Appellant’s Massachusetts health insurance coverage began within the three month grace period given to taxpayers to obtain health insurance. See Exhibits 2, 3, and 4 and Testimony of Appellant which I find credible.

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

PENALTY ASSESSED

Number of Months Appealed: 4

Number of Months Assessed: 0

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

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: PA19-1021

Appeal Decision Appeal Denied

Hearing Issue: Appeal of the 2019 Tax Year Penalty

Hearing Date: January 4, 2021

Decision Date: January 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 4, 2021. The procedures to be followed during the hearing were reviewed with the Appellant who was then sworn in. Exhibits were marked and admitted into evidence with no objection from the Appellant.

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

Exhibit 1: Notice of Hearing dated December 9, 2020

Exhibit 2: Appeal Case Information from form Schedule HC

Exhibit 3: Statement of Grounds for Appeal Dated August 11, 2020

FINDINGS OF FACT

The record shows, and I so find:

1. The appellant is thirty-one years old and is single. He lives in Middlesex County, Massachusetts.
2. Appellant works in the restaurant business. The company he worked for did not offer health insurance.
3. Appellant usually has MassHealth.
4. Appellant does have health insurance in 2020 with MassHealth.
5. The Appellant's monthly expenses totaled \$2,330.00, consisting of rent \$1,000.00, heat & light \$150.00, internet & cable \$150.00 cell phone \$90.00, transportation \$400.00, food \$400.00, credit card \$200.00 clothes \$100.00, entertainment \$100.00, toiletries \$20.00, money to sister \$20.00.
6. The Appellant did submit a Statement of Grounds for Appeal-2019 under the grounds for Appeal " During 2019, the expense of purchasing health insurance would have caused a serious deprivation of food, shelter, clothing or other necessities."
7. I take administrative notice of the information set forth in tables 1 through 6 in the Department of Revenue Schedule HC Health Care Instructions and Worksheets (Schedule HC Instructions). Tables 3 & 4 incorporate the affordability schedules adopted by the board of directors of the Commonwealth Health Insurance Connector Authority for 2019. Table 1 sets forth the income eligibility standards for various family sizes at 150% of the federal poverty level and Table 2 sets forth the income eligibility standards for various family sizes at 300 per cent of the federal poverty level, which is the income eligibility standard for the government-subsidized health insurance program. See Mass. G.L. c. 118H, s.3(a)(1). Tables 5 and 6 set forth the tax penalties for 2019.
8. Based on the appellant's federal adjusted gross income and the above referenced tables, I find the appellant would not have been eligible for subsidized health insurance, because Appellant's income of \$52,116.00 was more than \$36,420.00. The monthly premium for health insurance available on the private market in Middlesex County for a 30 year old single person was \$257.00. The tables reflect that Appellant could afford \$347.44. This is less than what the appellant is deemed to afford. (Tables 2, 3 & 4 of the Schedule HC Instructions)

ANALYSIS AND CONCLUSIONS OF LAW

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

The Appellant did submit a Statement of Grounds for Appeal-2019 under the grounds for Appeal “During 2019, the expense of purchasing health insurance would have caused a serious deprivation of food, shelter, clothing or other necessities.”

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

Since Appellant’s 2019 income was more than 150 percent of the FPL, making him potentially subject to an individual mandate penalty, the threshold issue to be addressed is whether creditable health insurance coverage was affordable to him in 2019. In determining affordability, consideration is given first to the amount Appellant is deemed able to afford for health insurance premiums under the Affordability Schedule and second to the cost of health insurance that was available through employer-sponsored plans, government-subsidized programs or on the private insurance market. See 2019 Schedule HC Instructions and Worksheets, *supra*.

Appellant reported a federal AGI of \$52,116.00 in 2019, and Appellant’s filing status was single. EX 2. According to the Affordability Schedule established by the Connector’s board and included in the Instructions and Worksheets of the 2019 Massachusetts Schedule HC, Appellant could afford to pay \$347.44 monthly for health insurance. See 2019 Schedule HC Instructions and Worksheets, *supra* at Table 3. *Id.* at Table 4.

Appellants are subject to the tax penalty unless appellants demonstrate a hardship. 956 Mass. Code Regs. 6.07(1) (2008). To prevail on a hardship appeal, an appellant must establish that “based on all his

circumstances, minimum creditable coverage was not affordable to him[er] because [s]he experienced a hardship.” Id. at 6.08(1).

Appellant usually has MassHealth and did not qualify for this year.

On these facts, I find that Appellant has shown that he was not precluded from purchasing affordable health insurance during 2018. 956 Mass. Code Regs. 6.08(3) (2008). Accordingly, I conclude that he is not exempt from a tax penalty for his non-compliance with the individual mandate.

Accordingly, Appellant’s appeal is **DENIED**, and the 2019 penalty assessed is **UPHELD**.

PENALTY ASSESSED

Number of Months Appealed: ____12____ Number of Months Assessed: ____12____

The Connector has notified the Department of Revenue that, pursuant to its decision, you should be assessed a penalty for Tax Year 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 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: PA19-1022

Appeal Decision Appeal Allowed

Hearing Issue: Appeal of the 2019 Tax Year Penalty

Hearing Date: January 4, 2021

Decision Date: January 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 January 4, 2021. The procedures to be followed during the hearing were reviewed with the Appellant who was then sworn in. Exhibits were marked and admitted into evidence with no objection from the Appellant.

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

- Exhibit 1: Notice of Hearing dated December 9, 2020
- Exhibit 2: Appeal Case Information from form Schedule HC
- Exhibit 3: Statement of Grounds for Appeal
- Exhibit 4: Written Statement of Appeal Dated August 15, 2020

FINDINGS OF FACT

The record shows, and I so find:

1. The appellant is forty-seven old and is single. She lives in Hampshire County, Massachusetts. Appellant works in a health business.
2. Appellant has always paid the penalty for not having health insurance. She does not believe in health insurance. Appellant is a Christian Scientist.
3. Appellant does not have health insurance in 2020.
4. The Appellant's monthly expenses totaled \$3,202.00, consisting of mortgage \$1,274.00, light \$50.00, heat \$150.00, internet & cable \$100.00 cell phone \$100.00, food \$400.00, car payment \$300.00 car insurance \$98.00, car gas \$120.00, credit card \$100.00, clothing \$30.00, entertainment \$50.00, toiletries \$30.00, horse 400.00.
5. The Appellant did submit a Statement of Grounds for Appeal-2019 "Other. During 2019 other circumstances, such as applying the Affordability Tables in Schedule HC to you is inequitable." and under "During 2019, the expense of purchasing health insurance would have caused a serious deprivation of food, shelter, clothing or other necessities" . I will hear her appeal under both these grounds.
6. I take administrative notice of the information set forth in tables 1 through 6 in the Department of Revenue Schedule HC Health Care Instructions and Worksheets (Schedule HC Instructions). Tables 3 & 4 incorporate the affordability schedules adopted by the board of directors of the Commonwealth Health Insurance Connector Authority for 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.
7. Based on the appellant's federal adjusted gross income and the above referenced tables, I find the appellant would not have been eligible for subsidized health insurance, since Appellant's income of 65,349.00 was more than \$36,420.00. The monthly premium for health insurance available on the private market in Hampshire County for a 47 year old single person was \$314.00. The tables reflect that Appellant could afford \$435.66 This is less than what the appellant is deemed to afford. (Tables 2, 3 & 4 of the Schedule HC Instructions)

ANALYSIS AND CONCLUSIONS OF LAW

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

Appellant has always paid the penalty for not having health insurance. She does not believe in health insurance. Appellant is a Christian Scientist.

The Appellant did submit a Statement of Grounds for Appeal-2019 “Other. During 2019 other circumstances, such as applying the Affordability Tables in Schedule HC to you is inequitable.” And under “During 2019, the expense of purchasing health insurance would have caused a serious deprivation of food, shelter, clothing or other necessities” . I will hear her appeal under both these grounds.

The Health Care Reform Act of 2006 requires every adult resident of Massachusetts to obtain and maintain creditable insurance coverage “so long as it is deemed affordable” under the schedule established by the board of the Connector. Mass. Gen. Laws ch. 111M, § 2(a). Massachusetts residents who fail to indicate on their state tax returns that they obtained the mandated creditable coverage are subject to a tax penalty for each month in which that the individual did not have creditable health insurance. *Id.* at § 2(b). However, individuals with incomes up to 150 percent of the Federal Poverty Level (“FPL”) are not subject to any penalty for non-compliance with the individual mandate. See Massachusetts Department of Revenue Technical Information Release (“TIR”) 13-1, available at <http://www.mass.gov/dor/businesses/help-and-resources/legal-library/tirs/tirs-by-years/2013-releases/tir-13-1.html>. For 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 reported a federal AGI of \$65,349.00 in 2019, and Appellant’s filing status was single . EX 2. According to the Affordability Schedule established by the Connector’s board and included in the Instructions and Worksheets of the 2019 Massachusetts Schedule HC, Appellant could afford to pay \$435.66 monthly for health insurance. See 2019 Schedule HC Instructions and Worksheets, *supra* at Table 3. Private insurance would have been available to her from the Premium Tables, at a cost of \$314.00 monthly for coverage. *Id.* at Table 4.

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

Appellant is deemed to afford \$435.66 for health insurance coverage because of her income. Private insurance in the market place was \$314.00 per month, which is less than she could afford. On these facts, I find that Appellant has not shown that she was precluded from purchasing affordable health insurance during 2018. 956 Mass. Code Regs. 6.08(3) (2008). Accordingly, I conclude that she is not exempt from a tax penalty for her non-compliance with the individual mandate.

Accordingly, Appellant’s appeal is **DENIED**, and the 2019 penalty assessed is **UPHELD**.

PENALTY ASSESSED

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

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

If the Appellant wants to claim a religious exemption she must amend her tax return and claim a religious exemption.

Massachusetts Health Connector Appeals Unit

FINAL APPEAL DECISION: PA19-1035

Appeal Decision: Appeal Approved.

Hearing Issue: Appeal of the 2019 Tax Year Penalty

Hearing Date: January 7, 2021

Decision Date: January 12, 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 7, 2021. The procedures to be followed during the hearing were reviewed with the Appellant who was then sworn in. Exhibits were marked and admitted into evidence with no objection from the Appellant. The hearing record consists of the Appellant's testimony and the following documents which were admitted into evidence:

- Exhibit 1: Health Connector Appeals Unit Notice of Hearing dated December 20, 2020.
- Exhibit 2: Appeal Case Information from Schedule HC 2019.
- Exhibit 3: The Statement of Grounds for Appeal signed by the Appellant (undated).

FINDINGS OF FACT

The record shows, and I so find:

1. The Appellant, age 41 in February 2019, filed their Federal Income Tax return as a single person with no dependents claimed (Exhibit 2).
2. The Appellant lived in Suffolk County, MA in 2019 (Exhibit 2).
3. The Appellant's Federal Adjusted Gross Income for 2019 was \$20,155 (Exhibit 2).
4. The Appellant did not have insurance for any months of tax year 2019 (Exhibit 2 and Appellant Testimony).
5. The Appellant has been assessed a twelve-month tax penalty for 2019. The Appellant filed an appeal of the assessment (Exhibits 2, 3).
6. I take administrative notice of the financial information set forth in Tables 1 through 6 in the DOR 2019 Massachusetts Schedule HC Health Care Instructions and Worksheets. Tables 3 and 4

incorporate affordability and premium schedules adopted by the Board of Directors for the Commonwealth Health Insurance Connector Authority for 2019. Table 2 sets forth income at 300% of the Federal poverty level and Tables 5 and 6 set forth tax penalties in effect for 2019.

7. In accordance with Table 3 of Schedule HC for 2019, the Appellant filing the Federal tax return as a single person with no dependents claimed, with an annual adjusted gross income of \$20,155 could afford to pay \$49 per month for health insurance. In accordance with Table 4, the Appellant, age 41, living in Suffolk County, could have purchased private insurance for \$306 per month for a plan (Schedule HC for 2019). Private insurance was not affordable for the Appellant in 2019.
8. The Appellant testified credibly that they did not have access to employer sponsored health insurance in 2019 (Appellant Testimony).
9. The Appellant would have been eligible for ConnectorCare coverage in 2019 because the Appellant's income was less than 300% of the federal poverty level, which was \$36,420 for a household of one in 2019. (See Table 2 of Schedule HC-2019 and 956 CMR 12.04).
10. The Appellant testified that they were homeless for all of tax year 2019 and have been homeless for ten years. The Appellant said that they use a parent's address for contact purposes only. The Appellant explained that their parent lives in elderly housing that does not allow them to have other persons stay with them. If the Appellant stayed with their parent, their parent could be evicted. The Appellant said that they stay with various persons when they can but have to pay for the temporary shelter. The Appellant said that all their money is spent on food and sporadic shelter and the Appellant could not afford to pay for health insurance. The Appellant said that in March 2020 they were able to secure a new job with health insurance. I found the Appellant to be credible (Exhibit 3 and Appellant Testimony).

ANALYSIS AND CONCLUSIONS OF LAW

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

The Appellant did not have health insurance for any months in tax year 2019. The Appellant has been assessed a twelve-month penalty. The Appellant asserts that the penalty should not apply in this case because of financial hardship. To determine if the penalty should be waived in whole or in part, there must be an evaluation of whether affordable insurance which met minimum creditable coverage standards was available to the Appellant through employment, through private insurance, or through a government sponsored program. If affordable insurance was available, it must be determined if such insurance was not affordable to the Appellant because the Appellant experienced a financial hardship as defined in 956 CMR 6.08.

In accordance with Table 3 of Schedule HC for 2019, the Appellant filing the Federal tax return as a single person with no dependents claimed with an adjusted gross income of \$20,155 could afford to pay \$49 per month for health insurance. According to Table 4, the Appellant, age 41, living in Suffolk County, could have purchased a private insurance plan for \$306 per month. See Schedule HC for 2019. Private insurance was not affordable for the Appellant in tax year 2019.

The Appellant did not have access to employer sponsored health insurance in 2019. The Appellant would have been eligible for ConnectorCare coverage based upon the Appellant's income which was less than \$36,420 for their household of one. See Table 2 of Schedule HC 2019 and 956 CMR 12.04 for eligibility criteria. Since affordable insurance was available to the Appellant in 2019, it must be determined whether the Appellant experienced a financial hardship pursuant to 956 CMR 6.08 (1).

The Appellant testified that they were homeless for all of tax year 2019. The Appellant explained that they use their parent's address to receive mail but cannot stay with their parent who lives in subsidized housing without putting the parent's tenancy at risk. The Appellant said that they used the money they earned for sporadic temporary housing with friends and sometimes strangers. The Appellant said that they could not afford health insurance. The Appellant expressed their frustration at being subject to a tax penalty when the government has not done anything to assist them in finding permanent housing. The Appellant has demonstrated that the cost of purchasing health insurance would have caused the Appellant to experience a significant financial hardship. The Appellant's twelve-month penalty is waived. See 956 CMR 6.08(1)(a).

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

PENALTY ASSESSED

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

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

NOTIFICATION OF YOUR RIGHT TO APPEAL TO COURT

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

Cc: Connector Appeals Unit

Massachusetts Health Connector Appeals Unit

FINAL APPEAL DECISION: PA19-1038

Appeal Decision: Appeal Approved.

Hearing Issue: Appeal of the 2019 Tax Year Penalty

Hearing Date: January 7, 2020

Decision Date: January 13, 2020

AUTHORITY

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

JURISDICTION

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

HEARING RECORD

The Appellant appeared at the hearing, which was held by telephone, on January 7, 2021. The procedures to be followed during the hearing were reviewed with the Appellant who was then sworn in. Exhibits were marked and admitted into evidence with no objection from the Appellant. The hearing record consists of the Appellant's testimony and the following documents which were admitted into evidence:

- Exhibit 1: Health Connector Appeals Unit Notice of Hearing dated December 10, 2020.
- Exhibit 2: Appeal Case Information from Schedule HC 2019.
- Exhibit 3: The Statement of Grounds for Appeal signed by the Appellant on August 11, 2020, with attachments.

FINDINGS OF FACT

The record shows, and I so find:

1. The Appellant, age 30 in August 2019, filed their Federal Income Tax return as a single person with no dependents claimed (Exhibit 2).
2. The Appellant lived in Suffolk County, MA in 2019 (Exhibit 2).
3. The Appellant's Federal Adjusted Gross Income for 2019 was \$31,023 (Exhibit 2).
4. The Appellant did not have insurance for any months in tax year 2019 (Exhibit 2 and Appellant Testimony).
5. The Appellant has been assessed a twelve-month tax penalty for 2019. The Appellant filed an appeal of the assessment in August 2020 (Exhibits 2, 3).

6. I take administrative notice of the financial information set forth in Tables 1 through 6 in the DOR 2019 Massachusetts Schedule HC Health Care Instructions and Worksheets. Tables 3 and 4 incorporate affordability and premium schedules adopted by the Board of Directors for the Commonwealth Health Insurance Connector Authority for 2019. Table 2 sets forth income at 300% of the Federal poverty level and Tables 5 and 6 set forth tax penalties in effect for 2019.
7. In accordance with Table 3 of Schedule HC for 2019, the Appellant filing the Federal tax return as a single person with no dependents claimed, with an annual adjusted gross income of \$31,023 could afford to pay \$129 per month for health insurance. In accordance with Table 4, the Appellant, age 30, living in Suffolk County, could have purchased private insurance for \$257 per month (Schedule HC for 2019). Private insurance was not affordable for the Appellant in 2019.
8. The Appellant testified that in tax year 2019 they worked part time and attended University part time. Because of their part time status, the Appellant did not have access to affordable insurance at either place (Appellant Testimony).
9. The Appellant would have been eligible for ConnectorCare coverage in 2019 because the Appellant's income of \$31,023 was less than 300% of the federal poverty level, which was \$36,420 for a household of one in 2019. (See Table 2 of Schedule HC-2019 and 956 CMR 12.04).
10. The Appellant's 2019 monthly expenses included: rent-\$950; utilities -\$100; telephone-\$85; a T-Pass for transportation-\$83 and food-\$380. The Appellant testified that they had to pay the University tuition and a student fee three times per year. The total cost was \$10,940. The Appellant explained that they used a credit card to pay the tuition and fees and made monthly credit card payments. The Appellant's monthly expense for education averaged \$912. The Appellant said that they struggled to meet their living expenses and stay in school and could not afford health insurance in 2019. The Appellant's credible testimony is supported by documents submitted with the Appellant's appeal request (Exhibit 3 and Appellant Testimony).

ANALYSIS AND CONCLUSIONS OF LAW

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

The Appellant did not have health insurance for any months in tax year 2019. The Appellant has been assessed a twelve-month penalty. The Appellant asserts that the penalty should not apply in this case because of financial hardship. To determine if the penalty should be waived in whole or in part, there must be an evaluation of whether affordable insurance which met minimum creditable coverage standards was available to the Appellant through employment, through private insurance, or through a government sponsored program. If affordable insurance was available, it must be determined if such insurance was not affordable to the Appellant because the Appellant experienced a financial hardship as defined in 956 CMR 6.08.

In accordance with Table 3 of Schedule HC for 2019, the Appellant filing the Federal tax return as a single person with no dependents claimed with an adjusted gross income of \$31,023 could afford to pay \$129 per month for health insurance. According to Table 4, the Appellant, age 30, living in Suffolk County, could have purchased a private insurance plan for \$257 per month. See Schedule HC for 2019. Private insurance was not affordable for the Appellant in tax year 2019.

The Appellant did not have access to affordable insurance through their employer or the University in 2019 due to their part time employment and student status. The Appellant would have been eligible for ConnectorCare coverage based upon the Appellant's income which was less than \$36,420 for their household of one. See Table 2 of Schedule HC 2019 and 956 CMR 12.04 for eligibility criteria. Since affordable insurance was available to the Appellant in 2019, it must be determined whether the Appellant experienced a financial hardship pursuant to 956 CMR 6.08 (1).

The Appellant testified that they worked part time and attended University in Boston part time. In addition to their living expenses of \$1,598 the Appellant verified the cost of their education to be \$912 per month in 2019. The Appellant testified credibly that due to their limited income they struggled to meet their living and tuition expenses to be able to finish their education. The Appellant has demonstrated that the cost of purchasing health insurance would have caused the Appellant to experience a significant financial hardship. The Appellant's twelve-month penalty is waived. See 956 CMR 6.08(1)(e).

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

PENALTY ASSESSED

Number of Months Appealed: ____12____ Number of Months Assessed: __0____

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

NOTIFICATION OF YOUR RIGHT TO APPEAL TO COURT

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

Cc: Connector Appeals Unit

Massachusetts Health Connector Appeals Unit

FINAL APPEAL DECISION: PA19-1039

Appeal Decision: Appeal Denied.

Hearing Issue: Appeal of the 2019 Tax Year Penalty

Hearing Date: January 7, 2021

Decision Date: January 12, 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 7, 2021. The procedures to be followed during the hearing were reviewed with the Appellant who was then sworn in. Exhibits were marked and admitted into evidence with no objection from the Appellant. The hearing record consists of the Appellant's testimony and the following documents which were admitted into evidence:

- Exhibit 1: Health Connector Appeals Unit Notice of Hearing dated December 10, 2020.
- Exhibit 2: Appeal Case Information from Schedule HC 2019.
- Exhibit 3: Statement of Grounds for Appeal signed by the Appellant on August 21, 2020, with attachments.

FINDINGS OF FACT

The record shows, and I so find:

1. The Appellant turned 27 years old in September 2019. The Appellant filed their Federal Income Tax return as a single person with no dependents claimed (Exhibit 2).
2. The Appellant lived in Suffolk County, MA in 2019 (Exhibit 2).
3. The Appellant's Federal Adjusted Gross Income for 2019 was \$81,693 (Exhibit 2).
4. The Appellant did not have health insurance for any months in tax year 2019 (Exhibit 2).
5. The Appellant has been assessed a twelve-month tax penalty for 2019. The Appellant filed an appeal of the assessment in August 2020 (Exhibits 2, 3).
6. I take administrative notice of the financial information set forth in Tables 1 through 6 in the DOR 2019 Massachusetts Schedule HC Health Care Instructions and Worksheets. Tables 3 and 4 incorporate affordability and premium schedules adopted by the Board of Directors for the

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

7. In accordance with Table 3 of Schedule HC for 2019, the Appellant filing the Federal tax return as a single person, with no dependents claimed, with an annual adjusted gross income of \$81,693 could afford to pay \$545 per month for health insurance. In accordance with Table 4, the Appellant, age 27, living in Suffolk County, could have purchased private insurance for \$257 per month for a single plan (Schedule HC for 2019). Private insurance was affordable for the Appellant.
8. The Appellant testified that their employer did offer health insurance, but it was not affordable. The Appellant was not sure what the cost was. The Appellant guessed an amount of \$1,000 and said that the employer lacked professionalism (Appellant Testimony).
9. The Appellant's income was greater than 300% of the federal poverty level, which was \$36,420 in 2019. The Appellant was not eligible for ConnectorCare in tax year 2019 (See Table 2 of Schedule HC-2019 and 956 CMR 12.04).
10. The Appellant filed an appeal in August 2020 alleging that purchasing health insurance would have caused them to experience a deprivation of food, clothing, shelter and/or other necessities. The Appellant checked another box indicating unexpected expenses due to domestic violence or other family issues but testified this was a mistake. The Appellant submitted copies of his car insurance and student loan payments, but these were dated in tax year 2020 (Exhibit 3 and Appellant Testimony).
11. The Appellant's 2019 monthly living expenses of \$2,311 included: rent-\$600; car insurance-\$378; gasoline-\$120; food-\$460 and student loans- \$753. The Appellant noted an expense of \$150 per month for a mutual fund. The Appellant also indicated that their parent is retired, and the Appellant gives their parent \$50 weekly (\$216.65) and pays \$100 for their parent's mutual fund. The Appellant's parent does not live with the Appellant (Exhibit 3 and Appellant Testimony).
12. The Appellant testified that they worked two jobs in 2019, was overwhelmed and was too busy to look for health insurance (Appellant Testimony).
13. The Appellant did not fall behind in their rent or utility payments and did not incur any unexpected expenses due to a family emergency or other unexpected natural or human caused disaster (Appellant Testimony).

ANALYSIS AND CONCLUSIONS OF LAW

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

The Appellant did not have health insurance for any months of tax year 2019 and consequently has been assessed a twelve-month penalty. The Appellant submitted a statement of grounds for this appeal on the basis of financial hardship.

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

In accordance with Table 3 of Schedule HC for 2019, the Appellant filing the Federal tax return as a single person with no dependents claimed, with an adjusted gross income of \$81,693 could afford to pay \$545 per month for health insurance. In accordance with Table 4, the Appellant, age 27 living in Suffolk County, could have purchased private insurance for \$257 per month for a plan (Schedule HC for 2019). Private insurance was affordable for the Appellant in 2019.

The Appellant indicated that they did not have access to affordable employer sponsored health insurance in tax year 2019. The Appellant was unsure of the cost for the insurance offered but indicated they believed it to be \$1,000 monthly. There is no evidence to support this estimate. The Appellant's income of \$81,693 was greater than 300% of the federal poverty level, which was \$36,420 in 2019. The Appellant was not eligible for ConnectorCare in tax year 2019 (See Table 2 of Schedule HC-2018 and 956 CMR 12.04). Since affordable insurance was available to the Appellant in 2019, it must be determined whether the Appellant experienced a financial hardship pursuant to 956 CMR 6.08 (1).

The Appellant testified to monthly living expenses including student loan payments totaling \$2,311. In addition, the Appellant indicated that they pay \$150 for a mutual fund and provide a total of \$316.65 in financial support to their retired parent. The Appellant said that they worked two jobs, felt overwhelmed and did not have time to look for health insurance. Given the Appellant's income of \$81,693 and the fact that the Appellant could have purchased private insurance at a cost of \$257 per month, considering all the Appellant's monthly expenditures, the Appellant has failed to demonstrate that the cost of purchasing health insurance for 2019 would have caused the Appellant to experience a serious financial hardship. See 956 CMR 6.08. The Appellant's twelve-month penalty is upheld.

PENALTY ASSESSED

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

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

NOTIFICATION OF YOUR RIGHT TO APPEAL TO COURT

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

Cc: Connector Appeals Unit

Massachusetts Health Connector Appeals Unit

FINAL APPEAL DECISION: PA19-1040

Appeal Decision: Appeal Approved.

Hearing Issue: Appeal of the 2019 Tax Year Penalty

Hearing Date: January 7, 2021

Decision Date: January 12, 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 and their Spouse appeared at the hearing, which was held by telephone, on January 7, 2021. The procedures to be followed during the hearing were reviewed with the parties who were then sworn in. Exhibits were marked and admitted into evidence with no objection from the Appellants. The hearing record consists of the Appellants' testimony and the following documents which were admitted into evidence:

- Exhibit 1: Health Connector Appeals Unit Notice of Hearing dated December 10, 2020.
- Exhibit 2: Appeal Case Information from Schedule HC 2019.
- Exhibit 3: The Statement of Grounds for Appeal signed by the Appellant on August 17, 2020, with attachments.

FINDINGS OF FACT

The record shows, and I so find:

1. The Appellant, age 55 in May 2019, and their Spouse, age 62 in July 2019, filed their Federal Income Tax return as a married couple with no dependents claimed (Exhibit 2).
2. The Appellants lived in Norfolk County, MA in 2019 (Exhibit 2).
3. The Appellants' Federal Adjusted Gross Income for 2019 was \$44,011 (Exhibit 2).
4. The Appellant Spouse is not being assessed a tax penalty for tax year 2019 (Exhibit 2).
5. The Appellant did not have health insurance for any months of tax year 2019 (Exhibit 2 and Appellant Testimony).
6. The Appellant has been assessed a twelve-month tax penalty for 2019. The Appellant filed an appeal of the assessment in August 2020 (Exhibits 2, 3).

7. I take administrative notice of the financial information set forth in Tables 1 through 6 in the DOR 2019 Massachusetts Schedule HC Health Care Instructions and Worksheets. Tables 3 and 4 incorporate affordability and premium schedules adopted by the Board of Directors for the Commonwealth Health Insurance Connector Authority for 2019. Table 2 sets forth income at 300% of the Federal poverty level and Tables 5 and 6 set forth tax penalties in effect for 2019.
8. In accordance with Table 3 of Schedule HC for 2019, the Appellants filing the Federal tax return as a married couple with no dependents claimed, with an annual adjusted gross income of \$44,011 could afford to pay \$270 per month for health insurance. In accordance with Table 4, the Appellants, with one household member age 62, living in Norfolk County, could have purchased private insurance for \$836 per month for a plan (Schedule HC for 2019). Private insurance was not affordable for the Appellant in 2019.
9. The Appellant testified credibly that they did not have access to employer sponsored health insurance in tax year 2019. The Appellant would have been eligible for ConnectorCare coverage in 2019 because the Appellants' income was less than 300% of the federal poverty level, which was \$49,380 for a household of two in 2019. (See Table 2 of Schedule HC-2019 and 956 CMR
10. The Appellant testified that they were unemployed for the months of January through late March and July through December in tax year 2019. The Appellant explained that they were laid off and the unemployment compensation income was not enough to cover expenses and afford health insurance (Appellant Testimony).
11. The Appellant Spouse testified that they are disabled and unable to work. The Spouse said that \$9,975 of the couple's annual income for 2019 was disability income (Spouse Testimony).
12. The Appellants' 2019 monthly expenses of \$2,924 included: mortgage, taxes, and insurance- \$1,325; heat-\$134; electricity-\$120; telephone-\$177; food-\$867; car insurance-\$109 and gasoline-\$217. The Appellant had medical expenses of \$3,364 for treatment received in February 2019. The Appellants were unable to pay this bill and the account was referred to a Collection Agency. The Appellant said that because their employment was sporadic in tax year 2019, they had to conserve their money to be able to meet their expenses during the months they did not have full time work. I found the Appellant and Spouse to be credible (Exhibit 3, Appellant Testimony and Spouse Testimony).

ANALYSIS AND CONCLUSIONS OF LAW

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

The Appellants filed their 2019 tax return as a married couple with no dependents claimed. The Appellant Spouse has not been assessed a penalty for tax year 2019. The Appellant did not have health insurance for any months of tax year 2019 and consequently has been assessed a twelve-month tax penalty. The Appellant and their Spouse assert that the penalty should not apply in this case because of financial hardship. To determine if the penalty should be waived in whole or in part, there must be an evaluation of whether affordable insurance which met minimum creditable coverage standards was available to the Appellant through employment, through private insurance, or through a government sponsored program. If affordable insurance was available, it must be determined if such insurance was not affordable to the Appellant because the Appellant experienced a financial hardship as defined in 956 CMR 6.08.

In accordance with Table 3 of Schedule HC for 2019, the Appellants filing the Federal tax return as a married couple with no dependents claimed with an adjusted gross income of \$44,011 could afford to pay \$270 per month for health insurance. According to Table 4, the Appellants, with one person age 62, living in Norfolk County, could have purchased a private insurance plan for \$836 per month. See Schedule HC for 2019. Private insurance was not affordable for the Appellants in tax year 2019.

The Appellant did not have access to employer sponsored health insurance in 2019. The Appellant would have been eligible for ConnectorCare coverage based upon the Appellants' income which was less than \$49,380 for their household of two. See Table 2 of Schedule HC 2019 and 956 CMR 12.04 for eligibility criteria. Since affordable insurance was available to the Appellant in 2019, it must be determined whether the Appellant experienced a financial hardship pursuant to 956 CMR 6.08 (1).

The Appellant testified that for the periods of January through March and July through December they were unemployed. The Appellant's unemployment compensation was significantly less than their earned income had been. The Appellant Spouse is disabled and unable to work. The Appellants had substantial expenses for their mortgage, utilities, food, and transportation. The Appellant explained that they had to conserve their income to be able to meet their living expenses during the months they were unemployed. The Appellant incurred medical expenses of \$3,363.96 in February 2019 and the account was sent to a collection agency since the Appellants had been unable to pay the bill with limited income. The Appellant has demonstrated that purchasing health insurance would have caused them to experience a significant financial hardship in tax year 2019. The Appellant's twelve-month penalty is waived. See 956 CMR 6.08(1)(e).

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

PENALTY ASSESSED

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

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

NOTIFICATION OF YOUR RIGHT TO APPEAL TO COURT

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

Cc: Connector Appeals Unit

Massachusetts Health Connector Appeals Unit

FINAL APPEAL DECISION: PA19-1069

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

Hearing Issue: Appeal of the 2019 Tax Year Penalty

Hearing Date: January 14, 2021

Decision Date: January 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 14, 2021. The procedures to be followed during the hearing were reviewed with the Appellant who was then sworn in. Exhibits were marked and admitted into evidence with no objection from the Appellant. The hearing record consists of the Appellant's testimony and the following documents which were admitted into evidence:

- Exhibit 1: Health Connector Appeals Unit Notice of Hearing dated December 15, 2020.
- Exhibit 2: Appeal Case Information from Schedule HC 2019.
- Exhibit 3: The Appellant's request to vacate a prior dismissal of this matter dated September 4, 2020., with attachments.

FINDINGS OF FACT

The record shows, and I so find:

1. The Appellant turned 27 years old in December 2019. The Appellant filed their Federal Income Tax return as a single person with no dependents claimed (Exhibit 2).
2. The Appellant lived in Suffolk County, MA in 2019 (Exhibit 2).
3. The Appellant's Federal Adjusted Gross Income for 2019 was \$59,159 (Exhibit 2).
4. The Appellant did not have health insurance for any months of tax year 2019 (Exhibit 2).
5. The Appellant has been assessed a twelve-month tax penalty for 2019. The Appellant filed an appeal of the assessment in September 2020 (Exhibits 2, 3).

6. I take administrative notice of the financial information set forth in Tables 1 through 6 in the DOR 2019 Massachusetts Schedule HC Health Care Instructions and Worksheets. Tables 3 and 4 incorporate affordability and premium schedules adopted by the Board of Directors for the Commonwealth Health Insurance Connector Authority for 2019. Table 2 sets forth income at 300% of the Federal poverty level and Tables 5 and 6 set forth tax penalties in effect for 2019.
7. In accordance with Table 3 of Schedule HC for 2019, the Appellant filing the Federal tax return as a single person, with no dependents claimed, with an annual adjusted gross income of \$59,159 could afford to pay \$394 per month for health insurance. In accordance with Table 4, the Appellant, age 27, living in Suffolk County, could have purchased private insurance for \$257 per month for a single plan (Schedule HC for 2019). Private insurance was affordable for the Appellant.
8. The Appellant was not financially eligible for ConnectorCare in tax year 2019 because their income of \$59,159 exceeded 300% of the federal poverty level which was \$36,420 for a household of one (See Table 2 of Schedule HC-2019 and 956 CMR 12.04).
9. The Appellant testified that they were hired by their present employer in January 2019. The Appellant said that they completed the paperwork to be enrolled in the company's health insurance program in January. The Appellant said that they received an E-mail from the Health and Benefit Sales Consultant for the company on January 28, 2019 stating that the paperwork had been sent to Tufts for processing and the Consultant would email the Appellant once it was complete. The Appellant said that based on this they believed they were insured. The Appellant argues that it was the company's fault that they were not insured, and the Appellant should not be assessed a penalty (Exhibit 3 and Appellant Testimony).
10. The Appellant was asked if they had followed up when they did not receive a confirmation e-mail. The Appellant said that they thought they were insured. I did not find this credible given the fact that the Appellant would have been issued insurance cards if properly insured. The Appellant testified that they have been insured since January 2020 and pay \$117.66 bi-weekly for their health insurance. The Appellant was asked why they did not see from their 2019 wage stubs that no money was being withheld from their wages for health insurance and the Appellant testified that they were not checking their wage stubs. I did not find this testimony credible.

ANALYSIS AND CONCLUSIONS OF LAW

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

The Appellant did not have health insurance for any months in tax year 2019. The Appellant has consequently been assessed a twelve-month penalty. The Appellant submitted a statement of grounds for this appeal citing circumstances other than financial hardship as the basis for their appeal.

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

In accordance with Table 3 of Schedule HC for 2019, the Appellant filing the Federal tax return as a single person with no dependents claimed, with an adjusted gross income of \$59,159 could afford to pay \$394 per month for health insurance. In accordance with Table 4, the Appellant, age 27, living in Suffolk County, could have purchased private insurance for \$257 per month for a plan (Schedule HC for 2019). Private insurance was affordable for the Appellant in 2019.

Appellant's income of \$59,159 was greater than 300% of the federal poverty level, which was \$36,420 in 2019. The Appellant was not eligible for ConnectorCare in tax year 2019 (See Table 2 of Schedule HC-2018 and 956 CMR 12.04). Since affordable insurance was available to the Appellant in 2019, it must be determined whether the Appellant experienced a financial hardship pursuant to 956 CMR 6.08 (1).

The Appellant began employment with their current employer in January 2019. The Appellant attempted to enroll in the company's health insurance program in January 2019 and in fact received an e-mail from the Health and Benefit Sales Consultant on January 28, 2019 informing the Appellant that their paperwork had been forwarded to Tufts for processing and the Sales Consultant would send the Appellant a follow up email when this was completed. The Appellant was not enrolled until January 2020.

While the Appellant states that they took the steps necessary to enroll in their employer sponsored health insurance in January 2019 it is also correct to state that the Appellant failed to follow up to ensure that they had in fact been enrolled. The Appellant may be excused for not having health insurance for the first four months of tax year 2019. The Appellant was on notice that something had gone wrong with their attempted enrollment by March of tax year 2019. The Appellant would not have received any insurance cards and the Appellant should have noticed that no health insurance premium payment was being deducted from their bi-weekly pay. I did not find the Appellant's testimony that they never checked their wage stubs to be credible.

Given the Appellant's attempt to obtain insurance and the possible mistake of their employer, the Appellant may be excused from having health insurance for the period of January through April in tax year 2019. The penalty for the period of January through April is waived. Given that no insurance cards were issued, and no money was being deducted to pay a monthly premium, the Appellant was on notice by April 2019 that they did not have health insurance. Affordable insurance was available to the Appellant in the private market. Under these facts, the Appellant has failed to demonstrate that they should not be subject to a tax penalty for failing to have health insurance for the period of May through December in tax year 2019. 956.CMR 6.08.

PENALTY ASSESSED

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

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

NOTIFICATION OF YOUR RIGHT TO APPEAL TO COURT

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

Cc: Connector Appeals Unit

Massachusetts Health Connector Appeals Unit

FINAL APPEAL DECISION: PA19-1070

Appeal Decision: Appeal Approved.

Hearing Issue: Appeal of the 2019 Tax Year Penalty

Hearing Date: January 14, 2020

Decision Date: January 20, 2020

AUTHORITY

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

JURISDICTION

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

HEARING RECORD

The Appellant appeared at the hearing, which was held telephonically on January 14, 2021. The Appellant appointed a relative to act as their Authorized Representative for the hearing. The procedures to be followed during the hearing were reviewed with the Representative who was then sworn in. Exhibits were marked and admitted into evidence with no objection from the Representative. The hearing record consists of the Representative's testimony and the following documents which were admitted into evidence:

- Exhibit 1: Health Connector Appeals Unit Notice of Hearing dated December 15, 2020.
- Exhibit 2: Appeal Case Information from Schedule HC 2019.
- Exhibit 3: The Appellant's request to vacate a prior dismissal of this case dated September 8, 2020, with attachments.

FINDINGS OF FACT

The record shows, and I so find:

1. The Appellant age 28 in August 2019, filed their 2019 Federal Income Tax return as a single person with no dependents claimed (Exhibit 2).
2. The Appellant was a resident of Plymouth county in 2019 (Exhibit 2).
3. According to the information on the Appellant's Schedule HC 2019, the Appellant did not have health insurance that met Massachusetts Minimum Creditable Coverage (MCC) standards for any months of tax year 2019 (Exhibit 2).
4. The Appellant has been assessed a twelve-month tax penalty. The Appellant filed an appeal of the assessment in September 2020 (Exhibits 2, 3).
5. The Appellant's Federal Adjusted Gross Income for 2019 was \$35,732 (Exhibit 2).

6. The Appellant’s Representative testified that the Appellant had MassHealth for almost all of tax year 2019. The Representative explained that the Appellant has a friend that does their taxes for them and the friend must not have submitted the proper paperwork. The Representative said that the Appellant’s MassHealth was stopped due to their income and the Appellant switched to other insurance for tax year 2020 (Representative Testimony).
7. The Appellant submitted thirty-one pages of documents with their Appeal request on September 8, 2020. The documents confirm that the Appellant had MassHealth Care Plus coverage for the months of January through November in tax year 2019 (Exhibit 3).

ANALYSIS AND CONCLUSIONS OF LAW

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

According to the information in the Appellant’s Schedule HC 2019, the Appellant did not have health insurance for any months of tax year 2019. Consequently, the Appellant was assessed a twelve-month penalty. The Appellant filed an appeal of the penalty in September 2020. The Appellant submitted thirty-one pages of documents verifying that they had MassHealth Care Plus health insurance for the period of January through November in tax year 2019. Given the three-month grace period noted above and the fact that the Appellant had MassHealth for eleven months of tax year 2019, the Appellant should not be subject to a tax penalty for failing to have health insurance in tax year 2019.

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

PENALTY ASSESSED

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

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

NOTIFICATION OF YOUR RIGHT TO APPEAL TO COURT

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

Cc: Connector Appeals Unit

Massachusetts Health Connector Appeals Unit

FINAL APPEAL DECISION: PA19-1071

Appeal Decision: Appeal Approved.

Hearing Issue: Appeal of the 2019 Tax Year Penalty

Hearing Date: January 14, 2021

Decision Date: January 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 and their Spouse appeared at the hearing, which was held by telephone, on January 14, 2021. The procedures to be followed during the hearing were reviewed with the parties who were then sworn in. Exhibits were marked and admitted into evidence with no objection from the Appellants. The hearing record consists of the Appellants' testimony and the following documents which were admitted into evidence:

- Exhibit 1: Health Connector Appeals Unit Notice of Hearing dated December 15, 2020.
- Exhibit 2: Appeal Case Information from Schedule HC 2019.
- Exhibit 3: The Statement of Grounds for Appeal signed by the Appellants on September 3, 2020, with attachments.

FINDINGS OF FACT

The record shows, and I so find:

1. The Appellant Primary taxpayer, age 24 in July 2019, and their Spouse, age 26 in June 2019, filed their Federal Income Tax return as a married couple with no dependents claimed (Exhibit 2).
2. The Appellants lived in Suffolk County, MA in 2019 (Spouse Testimony).
3. The Appellants' Federal Adjusted Gross Income for 2019 was \$100,752 (Exhibit 2).
4. The Appellant Primary taxpayer is not being assessed a tax penalty for tax year 2019. The Appellant had employer sponsored health insurance in tax year 2019 (Exhibit 2 and Appellant Testimony).
5. The Appellant Spouse did not have health insurance for any months of tax year 2019 (Exhibit 2 and Appellant Testimony).

6. The Appellant Spouse has been assessed a twelve-month tax penalty for 2019. The Appellants filed an appeal of the assessment in September 2020 (Exhibits 2, 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. In accordance with Table 3 of Schedule HC for 2019, the Appellants filing the Federal tax return as a married couple with no dependents claimed, with an annual adjusted gross income of \$100,752 could afford to pay \$672 per month for health insurance. In accordance with Table 4, the Appellants, with one household member age 26, living in Suffolk County, could have purchased private insurance for \$514 per month for a plan (Schedule HC for 2019). Private insurance was affordable for the Appellants in 2019.
9. The Appellant testified that they were not married until May of tax year 2019. The Appellant said that they did not attempt to add their Spouse to their employer sponsored health insurance because their Spouse is a professional athlete and health insurance is a routine part of their contract of employment. The Appellant explained that their Spouse is not a US citizen and was present in Massachusetts under an O1 Visa, which is an Extraordinary Talent Visa. The Spouse was employed by a professional Athletic Association beginning in August 2018 and was having money deducted from their paycheck for a contractual health insurance policy. On March 15, 2019, the Spouse was notified that due to an administrative error, they were not enrolled in the Association's health plan. The Association issued a check in the amount of \$3,505.77 which represented the amount of money that had been withheld from the Spouse's paychecks to pay for the health insurance. In April, the Association informed the Appellant that they were being laid off effective May 31, 2019. The Spouse was unemployed from June through August. In August, the Spouse obtained employment with another Association and was informed that their contract included a "comprehensive health care benefit package." The Spouse attempted to follow up and was informed that they had not been enrolled prior to tax year 2020. The Appellant's credible testimony is supported by documentation submitted with their appeal request, including a letter from the Association and a copy of the reimbursement check issued to the Spouse (Exhibit 3 and Appellant Testimony).
10. The Appellant and their Spouse thought that the Spouse was not eligible for other health insurance in Massachusetts under the O1Visa status and thought they had to wait until their noncitizen status changed to legal permanent resident. The Spouse's status was changed and in 2020 the Spouse purchased health insurance (Exhibit 3 and Testimony of Appellant and Spouse).

ANALYSIS AND CONCLUSIONS OF LAW

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

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

The Appellants filed their 2019 tax return as a married couple with no dependents claimed. The Appellant has not been assessed a penalty for tax year 2019. The Appellant Spouse did not have health insurance for any months of tax year 2019 and consequently has been assessed a twelve-month tax penalty. The Appellant and their Spouse assert that the penalty should not apply in this case because of circumstances other than financial hardship. To determine if the penalty should be waived in whole or in part, there must be an evaluation of whether affordable insurance which met minimum creditable coverage standards was available to the Appellant through employment, through private insurance, or through a government sponsored program. If affordable insurance was available, it must be determined if such insurance was not affordable to the Appellant because the Appellant experienced a financial hardship as defined in 956 CMR 6.08.

In accordance with Table 3 of Schedule HC for 2019, the Appellants filing the Federal tax return as a married couple with no dependents claimed with an adjusted gross income of \$100,752 could afford to pay \$672 per month for health insurance. According to Table 4, the Appellants, with one person age 26, living in Suffolk County, could have purchased a private insurance plan for \$514 per month. See Schedule HC for 2019. Private insurance was affordable for the Appellants in tax year 2019.

The Appellant Spouse is not a US citizen. For tax year 2019 the Spouse was legally present in Massachusetts under an O1 Visa, which is an Extraordinary Talent Visa. The Spouse was employed as a professional athlete and for the period of January through March 15, 2019 believed that they were insured under the terms of their employment contract. An error had been made and the Spouse’s employer refunded the Spouse \$3,508.77 which represented the amount of money that had been withheld from the Spouse’s paycheck for health insurance premiums. The Spouse was unemployed and looking for a job for the period of June through August. The Spouse was hired by another professional association in August. The terms of the contract offered the Spouse a “comprehensive health care benefit package.” The Appellant explained that this is the industry standard for the Spouse’s profession. Again, due to an administrative mix up the Spouse was not successfully enrolled. The Appellant and their Spouse were not aware that the Spouse could purchase health insurance in Massachusetts prior to obtaining legal permanent resident status 45 CFR § 155.305(a). Once the Spouse’s status changed, the Spouse purchased private health insurance in May 2020 to avoid future problems. Under these circumstances, the Spouse’s twelve-month penalty is waived. See 956 CMR 6.08(3).

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

PENALTY ASSESSED

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

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

NOTIFICATION OF YOUR RIGHT TO APPEAL TO COURT

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

Cc: Connector Appeals Unit

Massachusetts Health Connector Appeals Unit

FINAL APPEAL DECISION: PA19-1073

Appeal Decision: Penalty Overturned in Full

Hearing Issue: Appeal of the 2019 Tax Year Penalty

Hearing Date: January 15, 2021

Decision Date: January 21, 2020

AUTHORITY

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

JURISDICTION

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

HEARING RECORD

The appellants, husband and wife, appeared at the hearing which was held by telephone on January 15, 2021, and testified under oath. The hearing record consists of their testimony and the following documents which were admitted into evidence without their 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 appellants, husband and wife, are both 30 years-old and have two children. They resided in Bristol County, MA in 2019. They did not have health insurance in 2019. (Testimony, Ex. 2)
2. The appellants last had health insurance in 2017 for the whole year through the Health Connector. They bought a house that year and were inundated with upkeep expenses which prevented them from obtaining insurance in 2018. They were assessed a penalty for not having insurance which they paid in full. (Testimony)
3. The appellants were employed in 2019 and both employers offered health insurance. The wife was unable to access information about whether her children would lose their access to subsidized insurance and missed the employer's open enrollment period. The husband is employed on a seasonal basis and his health insurance continues during his three-month layoff period. Upon his return to work, he is required

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

to pay back the cost of the insurance during the layoff. He did not feel that he would be in a position to pay back that amount and did not enroll in his employer's plan. (Testimony)

4. The appellant husband's mother moved into the appellants' house in 2019 and she watched their children. This increased the amount of time she and the children spent indoors and strained their electricity usage, particularly during the summer months. The added usage caused the system to malfunction and they incurred a \$500.00 repair bill. (Testimony)
5. The appellants received numerous shutoff notices for their electricity during 2019, and with one exception, they were able to make partial payments each month to avoid termination of their service. However, in the summer of 2019, National Grid notified them that their service would be terminated on September 11, 2019, if they were unable to pay their overdue balance of \$701.25. They could not pay that amount and their service was terminated for a day. They were able to make a partial payment of \$100.00 to get their service restored and subsequently entered into a plan to pay \$63.00/month towards the balance. They made all required payments until they defaulted for the month of December and were notified on December 11, 2019, that full payment of \$724.76 was due in order to avoid termination of their service. They avoided a shutoff by making a partial payment. (Testimony, Ex. 1)
6. The appellants had health insurance continuously in 2020, first through the husband's employer and later in the year through the wife's employer. (Testimony)
7. The appellants reported an adjusted gross income of \$104,875.00 on their jointly filed 2019 federal tax return, and reported that they were married with three 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 appellants submitted a statement of grounds for appeal (Ex. 1) claiming that the individual mandate did not apply to them during 2019 because they received a shut-off notice, were shut off, or were refused delivery of essential utilities.

The appellants did not have insurance from January through December. According to M.G.L. c. 111M, s. 2, residents are permitted a 63-day gap between periods of coverage without facing a tax penalty; for Tax Year 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 appellants were uninsured for the entire year, they each were assessed and are appealing a penalty of twelve months.

The appellants testified credibly that they purchased a home in 2017 and were inundated with upkeep expenses which made the purchase of health insurance in 2018 unaffordable. They testified that they were assessed a

penalty for not having insurance for that year which they paid in full. They testified that although they were both employed and eligible for employer health insurance in 2019, neither of them purchased insurance. They testified that they received numerous shutoff notices for their electricity in 2019, and with one exception, they were able to avoid termination by making a partial payment. They testified that in the summer of 2019, National Grid notified them that their service would be terminated in September if they were unable to pay the outstanding balance of approximately \$701.25. They testified that their service was terminated for a day and it was only restored after they made a payment of \$100.00. They testified that they entered into a payment plan which required them to pay \$63.00/month towards the balance. They testified that they defaulted once on the agreement and were able to avoid a shutoff of their service by making a partial payment on the account. Finally, they testified that they were both enrolled in employer health insurance throughout 2020.

The appellants may not be subject to a penalty for failing to get health insurance for the months in question if they can show that they experienced a hardship during 2019. 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, death of a family member, or sudden responsibility for providing care for a family member, or fire, flood or natural disaster. In addition, the appellants' tax penalty for 2019 could be waived if they experienced financial circumstances such that the expense of purchasing health insurance would have caused them to experience a serious deprivation of food, shelter, clothing or other necessities. See 956 CMR 6.08.

The appellants' testimony regarding the shutoff of their electricity was corroborated by a notice from National Grid indicating that their service would be terminated on September 11, 2019 unless they paid \$701.25 by that date. Moreover, they offered credible testimony that their electricity was terminated for one day and they paid \$100.00 for restoration of their service, after which they entered into a payment plan for the rest of the year. Accordingly, it is concluded that the appellants established through substantial and credible evidence that they experienced a financial hardship within the meaning of 956 CMR 6.08(1)(b) as a result of which they should not be subject to a penalty.

Based upon the foregoing, the appellants' request for a waiver from the penalty is **granted** for the months for which they were assessed. The determination that the appellants are eligible for a hardship waiver is with respect to 2019, only and is based upon the extent of information submitted by them in this appeal.

PENALTY ASSESSED

Number of Months Appealed: (husband) 12

Number of Months Assessed: 0

Number of Months Appealed: (wife) 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: PA19-1075

Appeal Decision: Penalty Overturned in Full

Hearing Issue: Appeal of the 2019 Tax Year Penalty

Hearing Date: January 15, 2021

Decision Date: January 22, 2020

AUTHORITY

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

JURISDICTION

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

HEARING RECORD

The appellant appeared at the hearing which was held by telephone on January 15, 2021, with her husband, and they both testified under oath. The hearing record consists of their testimony and the following documents which were admitted into evidence without objection:

- Ex. 1—Statement of Grounds for Appeal—2019
- Ex. 2—Final Appeal Decision in PA18-1113 dated April 8, 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 59-years-old and is married. She resided in Essex County, MA in 2019. She had health insurance from September through December, 2019. (Testimony, Ex. 3)
2. The appellant got married on August 19, 2019. Her husband had employer provided health insurance throughout 2019. Following their marriage, he enrolled the appellant in his plan from September through December. (Testimony, Ex. 3)
3. The appellant has been employed on a part-time basis for several years at a daycare center where no health insurance is offered to employees. She did not have health insurance in 2018 and was assessed a twelve-month penalty which she appealed. Following a hearing, the hearing officer determined that the appellant could not afford to purchase health insurance during 2018 and waived the penalty. (Testimony, Ex 2)

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

4. The appellant moved into her then-fiancee's home at the end of 2018. He paid for most or all of the household expenses and the appellant paid for her own personal expenses. (Testimony)
5. The appellant investigated health insurance options for 2019 and determined that the cost was unaffordable. (Testimony)
6. The appellant was enrolled in health insurance in 2020. (Testimony, Ex. 1)
7. The appellant reported an adjusted gross income of \$134,410.00 on her jointly filed 2019 federal tax return, and reported that she was married no dependents. Of that amount, the appellant estimated that she earned approximately \$24,000.00. (Testimony, Ex. 3)
8. In 2019, the appellant and her husband had regular monthly expenses of \$4157.00 for rent (\$1200.00), heat (\$150.00), electricity (\$60.00), cable/internet service (\$100.00), cellphones (\$280.00), automobile loan for two vehicles (\$800.00), automobile insurance for two vehicles (\$287.00), gasoline (\$240.00) and food (\$1040.00). In addition, the appellant's husband paid \$1000.00/month for alimony and the following amounts for his sons: college tuition (\$8076.00), rent for off-campus housing (\$2850.00) and cognitive therapy sessions (\$790.00).

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 for "other" reasons.

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

The appellant testified credibly that she got married in August, 2019, and was enrolled in her husband's employer provided health insurance from September through December. She testified that she has been working for a daycare center for several years on a part-time basis and the employer does not offer health insurance. She testified that she investigated health insurance options for 2019 and determined that the cost was unaffordable. Finally, she testified that she moved into her then-fiancee's home at the end of 2018, and that he paid for the household expenses while she took care of her personal expenses.

Although the appellant filed a joint tax return for 2019, she was single until her marriage in September. For purposes of this analysis, instead of using her joint income of \$134,410.00, the income which should be used to determine whether insurance was affordable is that which she earned prior to her marriage. While she did not produce a tax document indicating her total earnings, she estimated that her gross income for 2019 was approximately \$24,000.00 or \$2000.00/month. This income is less than 300% of the federal poverty level (FPL), which for 2019 was \$36,420.00 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 \$18,211.00 and \$24,280.00 is deemed to be able to afford a monthly premium of \$58.00 (2.90% of \$24,000.00/12). Table 4 of the Premium Schedule indicates that a 58-year-old individual (the appellant's age in 2019) in Essex County (where the appellant resided in 2019) could have purchased private health insurance for \$418.00 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 from January through August when the appellant did not have health insurance, she 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 \$58.00 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 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 after she moved into her then fiancée's house at the end of 2018, he paid the household expenses identified in Finding No. 7 and she paid for her personal expenses, none of which she broke down separately. With a regular monthly pre-tax income of approximately \$2000.00, a subsidized insurance premium of \$58.00/month seems more than manageable, particularly since she had no responsibility for any of the large recurring household expenses. Accordingly, it does not appear on its face that the payment of \$58.00 for health insurance would have caused an undue hardship.

Based on the foregoing, it is concluded that the appellant could have afforded subsidized 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. The appellant enrolled in her husband's health insurance immediately after she got married and remained insured throughout 2020, thereby demonstrating that the mandate to obtain insurance was not lost on her. However, she is advised not to rely on a similar extension of leniency should she be assessed and appeal a penalty for not having health insurance in the future.

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: 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.

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: PA19-1103

Appeal Decision Appeal Allowed

Hearing Issue: Appeal of the 2019 Tax Year Penalty

Hearing Date: January 25, 2021

Decision Date: January 28, 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 25, 2021. The procedures to be followed during the hearing were reviewed with the Appellant who was then sworn in. Exhibits were marked and admitted into evidence with no objection from the Appellant.

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

- Exhibit 1: Notice of Hearing dated December 21, 2020
- Exhibit 2: Appeal Case Information from form Schedule HC
- Exhibit 3: Statement of Grounds for Appeal dated September 11, 2020
- Exhibit 4: Written Statement of Appeal

FINDINGS OF FACT

The record shows, and I so find:

1. The appellant is thirty years old and is single. She lives in Essex County, Massachusetts. Appellant works in the restaurant business.
2. Appellant had a job in 2019 but made less than half of the money she made in 2018. She is now laid off from her job. Appellant had the health Connector for a brief period in 2019 but was dismissed from coverage and could not obtain the coverage even though she called the Health Connector.
3. Appellant did have health insurance in 2020 for one-half of the year. Appellant has health insurance for 2021.
4. The Appellant's monthly expenses totaled \$1,580.00, consisting of rent \$400.00, food \$200.00, car payment \$300.00 car insurance \$160.00, car gas \$120.00, credit card \$40.00, clothing \$20.00, entertainment \$100.00, toiletries \$50.00, subscriptions \$30.00 life insurance \$25.00, parking \$100.00.
5. The Appellant did submit a Statement of Grounds for Appeal-2019 "During 2019, the expense of purchasing health insurance would have caused a serious deprivation of food, shelter, clothing or other necessities" .
6. I take administrative notice of the information set forth in tables 1 through 6 in the Department of Revenue Schedule HC Health Care Instructions and Worksheets (Schedule HC Instructions). Tables 3 & 4 incorporate the affordability schedules adopted by the board of directors of the Commonwealth Health Insurance Connector Authority for 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.
7. Based on the appellant's federal adjusted gross income and the above referenced tables, I find the appellant may have been eligible for subsidized health insurance, since Appellant's income of \$26,546.00 was less than \$36,420.00. The monthly premium for health insurance available on the private market in Essex County for a 29 year old single person was \$257.00. The tables reflect that Appellant could afford \$92.91 This is more than what the appellant is deemed to afford. (Tables 2, 3 & 4 of the Schedule HC Instructions)

ANALYSIS AND CONCLUSIONS OF LAW

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

Appellant had a job in 2019 but made less than half of the money she made in 2018.. She is now laid off from her job. Appellant had the health Connector for a brief period in 2019 but was dismissed from coverage and could not obtain the coverage even though she called the Health Connector.

The Appellant did submit a Statement of Grounds for Appeal-2019 “During 2019, the expense of purchasing health insurance would have caused a serious deprivation of food, shelter, clothing or other necessities” . .

The Health Care Reform Act of 2006 requires every adult resident of Massachusetts to obtain and maintain creditable insurance coverage “so long as it is deemed affordable” under the schedule established by the board of the Connector. Mass. Gen. Laws ch. 111M, § 2(a). Massachusetts residents who fail to indicate on their state tax returns that they obtained the mandated creditable coverage are subject to a tax penalty for each month in which that the individual did not have creditable health insurance. *Id.* at § 2(b). However, individuals with incomes up to 150 percent of the Federal Poverty Level (“FPL”) are not subject to any penalty for non-compliance with the individual mandate. See Massachusetts Department of Revenue Technical Information Release (“TIR”) 13-1, available at <http://www.mass.gov/dor/businesses/help-and-resources/legal-library/tirs/tirs-by-years/2013-releases/tir-13-1.html>. For 2019, 150 percent of the FPL was \$18,210.00 for a single person . *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 reported a federal AGI of \$26,546.00 in 2019, and Appellant’s filing status was single . EX 2. According to the Affordability Schedule established by the Connector’s board and included in the Instructions and Worksheets of the 2019 Massachusetts Schedule HC, Appellant could afford to pay \$92.91 monthly for health insurance. See 2019 Schedule HC Instructions and Worksheets, *supra* at Table 3. Private insurance would have been available to her from the Premium Tables, at a cost of 257.00 monthly for coverage. *Id.* at Table 4.

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

Appellant is deemed to afford \$92.91 for health insurance coverage because of her income. Private insurance in the market place was \$257.00 per month, which is more than she could afford. On these facts, I find that Appellant has shown that she was precluded from purchasing affordable health insurance during 2018. 956 Mass. Code Regs. 6.08(3) (2008). Accordingly, I conclude that she is exempt from a tax penalty for her non-compliance with the individual mandate.

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

PENALTY ASSESSED

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

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

OR

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

NOTIFICATION OF YOUR RIGHT TO APPEAL TO COURT

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

Hearing Officer

Cc: Connector Appeals Unit

Massachusetts Health Connector Appeals Unit

FINAL APPEAL DECISION: PA19-1105

Appeal Decision Appeal Approved

Hearing Issue: Appeal of the 2019 Tax Year Penalty

Hearing Date: January 25, 2021

Decision Date: January 28, 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 25, 2021. The procedures to be followed during the hearing were reviewed with the Appellant who was then sworn in. Exhibits were marked and admitted into evidence with no objection from the Appellant.

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

- Exhibit 1: Notice of Hearing dated December 21, 2020
- Exhibit 2: Appeal Case Information from form Schedule HC
- Exhibit 3: Statement of Grounds for Appeal Dated September 25, 2020
- Exhibit 4: Written Statement of Appeal Dated September 25, 2020

FINDINGS OF FACT

The record shows, and I so find:

1. The appellant is sixty-three old and is single. He lives in Middlesex County, Massachusetts.
2. Appellant work in the retail business. The company he worked for did not offer health insurance..
3. Appellant has had a great deal of difficulty since 2008. He lost his job and did not obtain another job until 2011. He has worked in his current business for a few years. The company he was working for went bankrupt in 2018. His income for 2018 was \$7,600.00. He could not afford insurance in 2019 even through subsidized insurance from the Health Connector.
4. Appellant does have health insurance in 2021 but did not have health insurance in 2019 & 2020.
5. The Appellant's monthly expenses totaled \$3,028.00, consisting of rent \$1,315.00, heat & light \$150.00, internet and cable \$161.00, cell phone \$86.00, car insurance \$101.00, car gas \$100.00 food 500.00, credit card \$300.00 entertainment \$60.00, toiletries \$20.00 clothing \$25.00, dues \$30.00, workers compensation \$25.00.
6. The Appellant did submit a Statement of Grounds for Appeal-2019 under the grounds for Appeal but should have under , " During 2019, the expense of purchasing health insurance would have caused a serious deprivation of food, shelter, clothing or other necessities." And "Other. During 2019 other circumstances, such as: applying the Affordability Tables in Schedule HC to you is inequitable" I will hear Appellant's appeal under both grounds. "
7. I take administrative notice of the information set forth in tables 1 through 6 in the Department of Revenue Schedule HC Health Care Instructions and Worksheets (Schedule HC Instructions). Tables 3 & 4 incorporate the affordability schedules adopted by the board of directors of the Commonwealth Health Insurance Connector Authority for 2019. Table 1 sets forth the income eligibility standards for various family sizes at 150% of the federal poverty level and Table 2 sets forth the income eligibility standards for various family sizes at 300 per cent of the federal poverty level, which is the income eligibility standard for the government-subsidized health insurance program. See Mass. G.L. c. 118H, s.3(a)(1). Tables 5 and 6 set forth the tax penalties for 2019.
8. Based on the appellant's federal adjusted gross income and the above referenced tables, I find the appellant may have been eligible for subsidized health insurance,because Appellant's income of \$25,552.00 was less than \$36,420.00. The monthly premium for

health insurance available on the private market in Middlesex County for a 62 year old single person was \$418.00. The tables reflect that Appellant could afford \$89.43. This is more than what the appellant is deemed to afford. (Tables 2, 3 & 4 of the Schedule HC Instructions)

ANALYSIS AND CONCLUSIONS OF LAW

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

The Appellant did submit a Statement of Grounds for Appeal-2019 under the grounds for Appeal but should have under , “ During 2019, the expense of purchasing health insurance would have caused a serious deprivation of food, shelter, clothing or other necessities.” And “Other. During 2019 other circumstances, such as: applying the Affordability Tables in Schedule HC to you is inequitable” I will hear Appellant’s appeal under both grounds. “

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

Since Appellant’s 2019 income was more than 150 percent of the FPL, making him potentially subject to an individual mandate penalty, the threshold issue to be addressed is whether creditable health insurance coverage was affordable to him in 2019. In determining affordability, consideration is given first to the amount Appellant is deemed able to afford for health insurance premiums under the Affordability Schedule and second to the cost of health insurance that was available through employer-sponsored plans, government-subsidized programs or on the private insurance market. See 2019 Schedule HC Instructions and Worksheets, *supra*.

Appellant reported a federal AGI of \$25,552.00 in 2019, and Appellant's filing status was single. EX 2. According to the Affordability Schedule established by the Connector's board and included in the Instructions and Worksheets of the 2019 Massachusetts Schedule HC, Appellant could afford to pay \$89.43 monthly for health insurance. See 2019 Schedule HC Instructions and Worksheets, *supra* at Table 3. Private insurance would have been available to him from the Premium Tables, at a cost of \$418.00 monthly for coverage with zero dependents *Id.* at Table 4.

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

Appellant has had a great deal of difficulty since 2008. He lost his job and did not obtain another job until 2011. He has worked in his current business for a few years. The company he was working for went bankrupt in 2018. His income for 2018 was \$7,600.00. He could not afford insurance in 2019 even through subsidized insurance from the Health Connector.

Appellant is deemed to afford \$89.43 for health insurance coverage because of his income. Private insurance in the market place was \$418.00 per month, which is more than he could afford. Appellant has health insurance for 2021.

On these facts, I find that Appellant has shown that he was precluded from purchasing affordable health insurance during 2018. 956 Mass. Code Regs. 6.08(3) (2008). Accordingly, I conclude that he is exempt from a tax penalty for his non-compliance with the individual mandate.

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

PENALTY ASSESSED

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

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

OR

If the number of months assessed is zero (0) because your penalty has been overturned, the Connector has notified the Department of Revenue that you should NOT be assessed a penalty for Tax Year 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 PA 19-958

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

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

Hearing Date: December 11, 2020

Decision Date: January 26, 2021

AUTHORITY

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

JURISDICTION

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

HEARING RECORD

Appellant Wife (“Appellant”) appeared at the hearing, which was held by telephone on December 11, 2020. The procedures to be followed during the hearing were reviewed with Appellant, who was sworn in. Exhibits were marked and admitted into evidence without objection. The hearing record consists of the Appellant’s testimony, and the following documents, which were admitted into evidence:

- Exhibit 1: HC Appeals Unit Notice of Hearing dated November 6, 2020.
- Exhibit 2: Appeal Case Information from Schedule HC.
- Exhibit 3: Statement of Grounds for Appeal dated August 7, 2020.
- Exhibit 4: Copy of Notice to Quit dated March 1, 2019.
- Exhibit 5: Copy of Notice to Quit dated June 1, 2019.

FINDINGS OF FACT

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

1. Appellant Wife turned 28 years old, Appellant Husband turned 27 years old, and both resided in Plymouth County in 2019. (Exhibit 2).
2. Appellants filed their 2019 Federal Income Tax return as married filing jointly, with no dependents claimed, reporting an Adjusted Gross Income of \$78,638. (Exhibit 2).

3. Appellant Wife had health insurance for the entirety of 2019 through her school as part of her tuition cost. (Exhibit 2; Appellant Testimony).
4. Appellant Husband was uninsured in 2019. (Exhibit 2; Appellant Testimony).
5. Appellant Husband had access to employer-sponsored health insurance in 2019. (Appellant Testimony).
6. Appellants received Notices to Quit from their landlord in March and June of 2019. (Exhibits 4 and 5).

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

ANALYSIS AND CONCLUSIONS OF LAW

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

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

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

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

According to Schedule HC for 2019 Table 2, I find that Appellants' 2019 Adjusted Gross Income of \$78,638 made them ineligible for Connector Care (eligibility for government-subsidized health insurance is based on income being no more than 300% of the Federal Poverty Level, which in 2019 was \$49,380 for a family of two). See 2019 Schedule HC Instructions and Worksheets, *supra*, at Table 2.

Appellant testified that Appellant Husband had access to employer sponsored health insurance in 2019. (Appellant Testimony). Appellant is uncertain regarding the monthly cost for this insurance in 2019, testifying that she believes it was approximately \$700 per month, which Appellants deemed unaffordable. (Appellant Testimony). Appellant testified that in 2019 she was a student and health insurance was included as part of her paid school tuition. (Appellant Testimony). Accordingly, I find that Appellant Husband was obligated to purchase through his employer solely an individual, rather than a family health insurance plan in 2019 for significantly less than the cost of a family plan. I find that Appellant Husband had access to affordable employer sponsored health insurance in 2019.

Based on Schedule HC for 2019 Table 4, it would have cost Appellants, ages 28 and 27 and living in Plymouth County, \$514 per month to purchase a family plan on the private insurance market. Based on the Affordability Schedule, Appellants, filing the Federal tax return as married filing jointly, with no dependents, with an annual Adjusted Gross Income of \$78,638, could afford to pay \$524 monthly for a family plan. See 2019 Schedule HC Instructions and Worksheets, *supra*, at Table 3. Based on these Tables, I conclude that private insurance was affordable for Appellants in 2019. See 2019 Schedule HC Instructions and Worksheets, Tables 3 and 4.

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

Appellant testified that she and her husband fell behind on rent payments for more than thirty days in 2019, receiving two Notices to Quit from their landlord in March and June, 2019. (Appellant Testimony). Appellants submit copies of these notices in support of their appeal. (Exhibits 4 and 5). Based on Appellant's credible testimony regarding their difficulty paying rent on time, and the supporting documents submitted, I find that Appellants have sufficiently demonstrated that the cost of purchasing health insurance in 2019 would have caused them to experience a serious deprivation of food, shelter or other necessities. See 956 C.M.R. 6.08.

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

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

PENALTY ASSESSED

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

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

NOTIFICATION OF YOUR RIGHT TO APPEAL TO COURT

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

Hearing Officer

Cc: Connector Appeals Unit

Massachusetts Health Connector Appeals Unit
Final Appeal Decision PA 19-960

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

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

Hearing Date: December 11, 2020

Decision Date: January 26, 2021

AUTHORITY

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

JURISDICTION

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

HEARING RECORD

Appellant appeared at the hearing, which was held by telephone on December 11, 2020. The procedures to be followed during the hearing were reviewed with Appellant, who was sworn in. Exhibits were marked and admitted into evidence without objection. The hearing record consists of the Appellant's testimony, and the following documents, which were admitted into evidence:

- Exhibit 1: HC Appeals Unit Notice of Hearing dated November 6, 2020.
- Exhibit 2: Appeal Case Information from Schedule HC.
- Exhibit 3: Statement of Grounds for Appeal dated July 8, 2020.
- Exhibit 4: Appellant's letter in support of this Appeal dated August 9, 2020.
- Exhibit 5: Utility provider shutoff notice dated June 27, 2019.
- Exhibit 6: Utility provider shutoff notice dated August 16, 2019.
- Exhibit 7: Utility provider shutoff notice dated September 17, 2019.
- Exhibit 8: Utility provider shutoff notice dated October 9, 2019.

FINDINGS OF FACT

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

1. Appellant turned 37 years old and resided in Middlesex County in 2019. (Exhibit 2).
2. Appellant filed her 2019 Federal Income Tax return as single, with no dependents claimed, reporting an Adjusted Gross Income of \$44,875. (Exhibit 2).

3. Appellant had health insurance April through November of 2019. (Appellant Testimony).
4. Appellant received shutoff notices from her utility providers in June, August, September and October of 2019. (Exhibits 5-8).

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

ANALYSIS AND CONCLUSIONS OF LAW

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

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

Pursuant to the Connector’s Administrative Bulletin 03-10, applying M.G.L. c. 111M, §2(b), taxpayers are given a three-month grace period for any lapse in coverage to allow the taxpayer to obtain health insurance coverage or to make the transition between health insurance policies. Because Appellant had health insurance for a portion of 2019, she is entitled to a three-month grace period. (Exhibit 4; Appellant Testimony). However, Appellant’s Appeal Case Information from Schedule HC indicates Appellant was uninsured for the entirety of 2019, and she is appealing a twelve-month tax penalty for 2019. (Exhibit 2).

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

According to Schedule HC for 2019 Table 2, I find that Appellant’s 2019 Adjusted Gross Income of \$44,875 made her ineligible for Connector Care (eligibility for government-subsidized health insurance is based on income being no more than 300% of the Federal Poverty Level, which in 2019 was \$36,420 for an individual). *See* 2019 Schedule HC Instructions and Worksheets, *supra*, at Table 2.

Appellant testified that in January of 2019 she began working for an employer offering health insurance after a probationary period concluding in March of 2019. (Appellant Testimony). Despite Appeal Case Information from Schedule HC showing that she was uninsured for the entire year, Appellant testified that she obtained this employer sponsored health insurance beginning in April, 2019. (Exhibits 2 and 4; Appellant Testimony). Appellant testified that she lost health insurance again in November of 2019 when she was laid off from her position with this employer. (Exhibit 4; Appellant Testimony).

Based on Appellant's credible testimony, I find that Appellant was covered through employer sponsored health insurance from April through November of 2019, warranting waiver of three penalty months. See Connector's Administrative Bulletin 03-10, applying M.G.L. c. 111M, §2(b).

Based on Schedule HC for 2019 Table 4, it would have cost Appellant, age 37 and living in Middlesex County, \$286 per month to purchase an individual plan on the private insurance market. Based on the Affordability Schedule, Appellant, filing the Federal tax return as single, with no dependents, with an annual Adjusted Gross Income of \$44,875, could afford to pay \$284 monthly for a single plan. See 2019 Schedule HC Instructions and Worksheets, *supra*, at Table 3. Based on these Tables, I conclude that private insurance was affordable for Appellant in 2019. See 2019 Schedule HC Instructions and Worksheets, Tables 3 and 4.

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

Appellant testified that between June and October of 2019 she received multiple shutoff notices from two separate utility providers. (Exhibit 4; Appellant Testimony). Appellant has submitted copies of these notices in support of her appeal. (Exhibits 5-8). Based on Appellant's credible testimony regarding her financial difficulty paying for her utilities, and the supporting documents submitted, I find that Appellant has sufficiently demonstrated that the cost of purchasing health insurance in 2019 would have caused her to experience a serious deprivation of food, shelter or other necessities. See 956 C.M.R. 6.08.

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

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

PENALTY ASSESSED

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

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

NOTIFICATION OF YOUR RIGHT TO APPEAL TO COURT

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

Hearing Officer

Cc: Connector Appeals Unit

Massachusetts Health Connector Appeals Unit
Final Appeal Decision PA 19-961

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

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

Hearing Date: December 11, 2020

Decision Date: January 26, 2021

AUTHORITY

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

JURISDICTION

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

HEARING RECORD

Appellant appeared at the hearing, which was held by telephone on December 11, 2020. The procedures to be followed during the hearing were reviewed with Appellant, who was sworn in. Exhibits were marked and admitted into evidence without objection. The hearing record consists of the Appellant's testimony, and the following documents, which were admitted into evidence:

- Exhibit 1: HC Appeals Unit Notice of Hearing dated November 6, 2020.
- Exhibit 2: Appeal Case Information from Schedule HC.
- Exhibit 3: Statement of Grounds for Appeal dated July 8, 2020.
- Exhibit 4: Appellant's letter in support of this Appeal.
- Exhibit 5: Appellant's 2019 Federal Tax Return Religious Exemption checked off.
- Exhibit 6: USPS Receipt.
- Exhibit 7: Copy of bank check dated May 5, 2019.
- Exhibit 8: Copy of money order dated October 1, 2019.
- Exhibit 9: Utility bill dated August 16, 2019.
- Exhibit 10: Utility payment receipt dated August 12, 2019.
- Exhibit 11: Unreadable document.
- Exhibit 12: Utility bill dated September 14, 2019.
- Exhibit 13: Payment receipt dated September 24, 2019.
- Exhibit 14: Payment receipt dated September 24, 2019.
- Exhibit 15: Second letter from Appellant in support of this Appeal dated August 9, 2020.

FINDINGS OF FACT

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

1. Appellant turned 62 years old and resided in Essex County in 2019. (Exhibit 2).
2. Appellant filed her 2019 Federal Income Tax return as single, with no dependents claimed, reporting an Adjusted Gross Income of \$30,151. (Exhibit 2).
3. Appellant did not have health insurance in 2019. (Exhibit 2).

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

ANALYSIS AND CONCLUSIONS OF LAW

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

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

Pursuant to the Connector’s Administrative Bulletin 03-10, applying M.G.L. c. 111M, §2(b), taxpayers are given a three-month grace period for any lapse in coverage to allow the taxpayer to obtain health insurance coverage or to make the transition between health insurance policies. Because Appellant had no health insurance in 2019, the three-month grace period is inapplicable, and she is appealing a twelve-month tax penalty for 2019. (Exhibit 2).

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

According to Schedule HC for 2019 Table 2, I find that Appellant's 2019 Adjusted Gross Income of \$30,151 made her eligible for Connector Care (eligibility for government-subsidized health insurance is based on income being no more than 300% of the Federal Poverty Level, which in 2019 was \$36,420 for an individual). See 2019 Schedule HC Instructions and Worksheets, *supra*, at Table 2.

Based on Schedule HC for 2019 Table 4, it would have cost Appellant, age 62 and living in Essex County, \$418 per month to purchase an individual plan on the private insurance market. Based on the Affordability Schedule, Appellant, filing the Federal tax return as single, with no dependents, with an annual Adjusted Gross Income of \$30,151, could afford to pay \$105 monthly for a single plan. See 2019 Schedule HC Instructions and Worksheets, *supra*, at Table 3. Based on these Tables, I conclude that private insurance was not affordable for Appellant in 2019. See 2019 Schedule HC Instructions and Worksheets, Tables 3 and 4.

Appellant testified that in 2019 she was working for an employer offering health insurance for \$60 per week, which Appellant could not afford. (Appellant Testimony). Appellant testified that even though she contacted the Health Connector in 2019, she did not know that in 2019 she was eligible for subsidized Connector Care based on her income. (Appellant Testimony).

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

Appellant claims the following approximate monthly expenses in 2019: rent - \$995; electric - \$100; phone - \$143; transportation to work - \$80; food - \$400. (Appellant Testimony). Appellant's monthly expenses for basic necessities in 2019 totaled \$1,718, while her monthly income after taxes would have been approximately \$1,800, leaving her with almost no discretionary funds. (Exhibit 2; Appellant Testimony). Accordingly, I find that Appellant has sufficiently demonstrated that the expense of purchasing health insurance would have caused her a serious deprivation of food, shelter or other necessities, constituting a financial hardship within the meaning of the statute. See 956 C.M.R. 6.08.

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

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

PENALTY ASSESSED

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

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

NOTIFICATION OF YOUR RIGHT TO APPEAL TO COURT

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

Hearing Officer

Cc: Connector Appeals Unit

Massachusetts Health Connector Appeals Unit
Final Appeal Decision PA 19-962

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

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

Hearing Date: December 11, 2020

Decision Date: January 29, 2021

AUTHORITY

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

JURISDICTION

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

HEARING RECORD

Appellant appeared at the hearing, which was held by telephone on December 11, 2020. The procedures to be followed during the hearing were reviewed with Appellant, who was sworn in. Exhibits were marked and admitted into evidence without objection. The hearing record consists of the Appellant's testimony, and the following documents, which were admitted into evidence:

- Exhibit 1: HC Appeals Unit Notice of Hearing dated November 6, 2020.
- Exhibit 2: Appeal Case Information from Schedule HC.
- Exhibit 3: Statement of Grounds for Appeal dated July 25, 2020.
- Exhibit 4: Status letter from Appellant's college dated August 5, 2020.
- Exhibit 5: Front and back of Appellant's insurance card.
- Exhibit 6: Appellant's Tuition and Enrollment Certificate.

FINDINGS OF FACT

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

1. Appellant turned 31 years old and resided in Middlesex County in 2019. (Exhibit 2).
2. Appellant filed her 2019 Federal Income Tax return as single, with no dependents claimed, reporting an Adjusted Gross Income of \$34,860. (Exhibit 2).

3. Appellant had employer-sponsored health insurance from January through August 2019. (Exhibit 2; Appellant Testimony).
4. Appellant was enrolled as a full-time student in Canada beginning in September of 2019. (Exhibits 4 and 6; Appellant Testimony).
5. Appellant had health insurance through her college beginning in September 2019. (Exhibits 4-6; Appellant Testimony).

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

ANALYSIS AND CONCLUSIONS OF LAW

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

In support of her appeal, Appellant claims that she had health insurance for the entirety of 2019, through her employer from January through August, and through her school from September through December. (Exhibits 3-6; Appellant Testimony).

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

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

Appellant testified that from January through August of 2019 she was enrolled in her employer’s health insurance plan, with this insurance plan ending on September 1st, when Appellant began attending school full-time in Canada. (Appellant Testimony). As part of her tuition cost, Appellant was enrolled in a

private health insurance plan through her school. (Exhibits 4-6; Appellant Testimony). Appellant testified that her school's insurance plan is comparable to plans offered to students attending college in the United States, in that she has access to preventative care and is able to see her choice of in-network providers. (Appellant Testimony).

Based on Appellant's credible testimony, as well as the documents submitted in support of her appeal, I find that in 2019 Appellant was enrolled in employer-sponsored health insurance from January through August, and enrolled in a health insurance plan meeting minimum creditable coverage through her school from September through December of 2019. (Exhibits 4-6; Appellant Testimony).

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

PENALTY ASSESSED

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

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

NOTIFICATION OF YOUR RIGHT TO APPEAL TO COURT

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

Hearing Officer

Cc: Connector Appeals Unit

Massachusetts Health Connector Appeals Unit
Final Appeal Decision PA 19-963

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

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

Hearing Date: December 11, 2020

Decision Date: January 29, 2021

AUTHORITY

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

JURISDICTION

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

HEARING RECORD

Appellant appeared at the hearing, which was held by telephone on December 11, 2020. The procedures to be followed during the hearing were reviewed with Appellant, who was sworn in. Exhibits were marked and admitted into evidence without objection. The hearing record consists of the Appellant's testimony, and the following documents, which were admitted into evidence:

- Exhibit 1: HC Appeals Unit Notice of Hearing dated November 6, 2020.
- Exhibit 2: Appeal Case Information from Schedule HC.
- Exhibit 3: Statement of Grounds for Appeal dated August 9, 2020.
- Exhibit 4: Appellant's letter in support of this Appeal dated August 9, 2020.
- Exhibit 5: Appellant's 2018 IRS Form 1095-B.
- Exhibit 6: Appellant's 2019 IRS Form 1095-B.
- Exhibit 7: Appellant's 2019 IRS Form 1095-A.
- Exhibit 8: Hospital bill dated October 21, 2019.
- Exhibit 9: Hospital bill dated January 30, 2020.

FINDINGS OF FACT

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

1. Appellant turned 34 years old and resided in Middlesex County in 2019. (Exhibit 2).

2. Appellant filed her 2019 Federal Income Tax return as single, with no dependents claimed, reporting an Adjusted Gross Income of \$32,375. (Exhibit 2).
3. Appellant had health insurance from January through August of 2019, and then again in November and December of 2019. (Exhibits 2, 4, 6-7; Appellant Testimony).

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

ANALYSIS AND CONCLUSIONS OF LAW

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

In support of her appeal, Appellant claims that in 2019 she was a graduate student and had health insurance through her college from January through August of 2019, when she was dropped from coverage without her knowledge. (Exhibits 4 and 6; Appellant Testimony). After discovering in October of 2019 that she no longer had health insurance, Appellant obtained coverage through the Health Connector for November and December of 2019. (Exhibits 4 and 7; Appellant Testimony).

Pursuant to the Connector’s Administrative Bulletin 03-10, applying M.G.L. c. 111M, §2(b), taxpayers are given a three-month grace period for any lapse in coverage to allow the taxpayer to obtain health insurance coverage or to make the transition between health insurance policies. Because Appellant had health insurance for a portion of 2019, she is entitled to a three-month grace period. Appellant’s Appeal Case Information from Schedule HC indicates that Appellant had no coverage from January through August of 2019, and she is appealing a seven-month tax penalty for 2019. (Exhibit 2).

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

According to Schedule HC for 2019 Table 2, I find that Appellant's 2019 Adjusted Gross Income of \$32,375 made her eligible for Connector Care (eligibility for government-subsidized health insurance is based on income being no more than 300% of the Federal Poverty Level, which in 2019 was \$36,420 for an individual). *See* 2019 Schedule HC Instructions and Worksheets, *supra*, at Table 2.

Based on Schedule HC for 2019 Table 4, it would have cost Appellant, age 34 and living in Middlesex County, \$279 per month to purchase an individual plan on the private insurance market. Based on the Affordability Schedule, Appellant, filing the Federal tax return as single, with no dependents, with an annual Adjusted Gross Income of \$32,375, could afford to pay \$135 monthly for a single plan. *See* 2019 Schedule HC Instructions and Worksheets, *supra*, at Table 3. Based on these Tables, I conclude that private insurance was not affordable for Appellant in 2019. *See* 2019 Schedule HC Instructions and Worksheets, Tables 3 and 4.

Appellant testified that in 2019 she was enrolled in graduate school and had health insurance coverage through her school from January through August of 2019. (Exhibits 4 and 6; Appellant Testimony). Appellant credibly testified that the college representative with whom she spoke never informed her that she'd become ineligible for the school health insurance if she dropped a class from her schedule. (Exhibit 4; Appellant Testimony). Appellant dropped the class, and first learned she no longer had health insurance coverage in October of 2019 after seeking treatment at an emergency room. (Exhibit 4; Appellant Testimony). Appellant testified that she immediately contacted the Health Connector and enrolled in coverage for November and December of 2019. (Exhibit 7; Appellant Testimony). According to Schedule HC for 2019 Table 2, Appellant's 2019 income made her eligible for Connector Care; Appellant credibly testified however, that after an income verification, she qualified solely for an unsubsidized plan. (Exhibit 7; Appellant Testimony). Appellant ended up paying her emergency room medical bills out of pocket. (Exhibits 4 and 8-9; Appellant Testimony).

Based on Appellant's credible testimony and supporting documents, I find that Appellant had health insurance coverage through her college from January through August of 2019, notwithstanding Appeal Case Information from Schedule HC showing Appellant without coverage for this same time period. (Exhibits 2 and 6-7; Appellant Testimony). Accordingly, Appellant is entitled to a three-month grace period. *See* Connector's Administrative Bulletin 03-10, applying M.G.L. c. 111M, §2(b). Appellant obtained health insurance through the Connector in November of 2019, and I conclude that she is entitled to an additional three-month grace period, which waives any remaining penalty months.

Accordingly, Appellant's appeal is **GRANTED** and Appellant's seven-month 2019 Tax Penalty is **OVERTURNED**.

PENALTY ASSESSED

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

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

NOTIFICATION OF YOUR RIGHT TO APPEAL TO COURT

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

Hearing Officer

Cc: Connector Appeals Unit

FINAL APPEAL DECISION: PA19-1024

Appeal Decision: The penalty is overturned.

Hearing Issue: Appeal of the 2019 Tax Year Penalty

Hearing Date: January 5, 2021

Decision Date: January 20, 2020

AUTHORITY

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

JURISDICTION

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

HEARING RECORD

The Appellant appeared at the hearing, which was held by telephone on January 5, 2021. The procedures to be followed during the hearing were reviewed with the Appellant who was then sworn in. Exhibits were marked and admitted in evidence with no objection from the Appellant. The Appellant testified.

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

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

FINDINGS OF FACT

The record shows, and I so find:

1. Appellant, who filed a 2019 Massachusetts tax return filed single with a family size of 1, was age 41 in 2019, lived in Barnstable County, and had zero (0) dependents. (Exhibit 1).
2. Appellant's Federal Adjusted Gross Income for 2019 was \$25,071. (Exhibit 1).
3. Appellant had insurance until January 2019 but could no longer afford it. (Exhibit 1, Appellant's Testimony).
4. Appellant was self-employed and worked in various jobs cleaning properties. (Appellant's Testimony)
5. Appellant previously had MassHealth and Connector before his insurance stopped in January 2019. (Appellant Testimony).

6. Appellant did not investigate insurance through the Connector because he did not believe he could afford it. (Appellant Testimony).
7. Appellant has been severely affected by Covid in 2020, has been unable to obtain work, and has not been able to obtain unemployment. (Appellant Testimony).
8. Appellant has been assessed a tax penalty for eight (8) months in 2019. The Appellant has appealed this assessment (Exhibits 1, 2).
9. Appellant had the following average monthly living expenses in 2019: Rent: \$700, Utilities and Phone: \$300, Car Insurance \$67, Food: \$200, Gas “a few hundred a year”, and a store credit card which was a “few hundred a year,” totaling: \$1,267. (Appellant’s Testimony).
10. Appellant did not receive any eviction or shutoff notices from the utility companies. (Appellant’s Testimony).
11. According to Table 3 Appellant could have afforded \$87.74 per month for health insurance in 2019. According to Table 4 Appellant could have purchased insurance for \$306.00 per month.
12. In addition to the foregoing, I take administrative notice of the 2019 Schedule HC Instructions and Worksheets, available at <http://www.mass.gov.dor/docs/dor/health-care/2019>, and in particular, Tables 1-6 which, as discussed below, include the Affordability Schedule and other financial information used in making 2019 individual mandate tax penalty determinations.

ANALYSIS AND CONCLUSIONS OF LAW

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

The Appellant submitted a statement of grounds for appeal (Ex. 2) with the appeal, claiming that the individual mandate did not apply to him during 2019 because: Other, that during 2019 applying the Affordability Tables in Schedule HC “A.G.I. lower than threshold amount.” He also adduced testimony that he experienced financial circumstances such that the expense of purchasing health insurance would have caused him to experience a serious deprivation of food, shelter, clothing or other necessities and that during 2019. See 956 CMR 6.08. The Appellant did not have insurance from February through December. (See Exhibit 1).

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

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

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

The evidence provided by the Appellant established that his income for 2019, \$25,071.00 was less than 300% of the federal poverty level, which for 2019 was \$36,420.00 for a single person. According to Table 3 of Schedule HC for 2019, the Appellant had an adjusted gross income of \$25,071 in 2019 and could have afforded \$87.75 per month. According to Table 4, Appellant, age 41 and living in Barnstable County during the time he was being penalized for not having insurance, could have purchased insurance for \$306.00 per month. Individual coverage was not affordable through the individual market for the Appellant in 2019 (Schedule HC for 2019).

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

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

The Appellant had the following average monthly living expenses in 2019: Rent: \$700, Utilities and phone: \$300, Car Insurance \$67, Food: \$200, Gas: "a few hundred a year", and a store credit card which was a "few hundred a year". totaling: \$ 1,267. (Appellant's Testimony).

The evidence presented by the Appellant in this case is sufficient to establish that he experienced a financial hardship as defined by law so as to waive his penalty for the months in question. Given the Appellant not employed during the months he was being penalized and has been unable to work because of Covid, he did not have adequate income to pay his monthly expenses of \$1, 267, and was unable to afford the cost of purchasing public sponsored insurance for \$87.74 per month. Given the Appellant is currently not employed and is being affected by Covid, this would have caused the Appellant to experience a serious deprivation of food, shelter clothing, or other necessities. (Exhibit 2(a), Appellant

Testimony). The evidence presented by the Appellant in this case is sufficient to establish that he experienced a financial hardship within the meaning of 956 CMR 6.08(1) (e), (3).

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

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

NOTIFICATION OF YOUR RIGHT TO APPEAL TO COURT

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

Cc: Connector Appeals Unit

Hearing Officer

ADDENDUM

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

FINAL APPEAL DECISION: PA19-1026

Appeal Decision: The penalty is overturned in full.
Hearing Issue: Appeal of the 2019 Tax Year Penalty
Hearing Date: January 5, 2021
Decision Date: January 30, 2021

AUTHORITY

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

JURISDICTION

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

HEARING RECORD

The Appellant appeared at the hearing, which was held by telephone on January 5, 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: Statement of Grounds for Appeal 2019. (1 PP).
- Exhibit 2(a): Appellant's correspondence with 2019 1095-A and 1095-B (3 pages).
- Exhibit 3: Health Connector's Notice of Hearing dated 12/9/2020 (2 PP).

The Record was left open until January 29, 2021 for the Appellant to submit additional documentation including: Proof of Employer Insurance.

FINDINGS OF FACT

The record shows, and I so find:

1. The Appellant, who filed a 2019 Massachusetts tax return reported she was single with zero dependents was age 25 in 2019 and lived in Middlesex County. (Exhibit 1, Testimony of Appellant).
2. The Appellant testified she had Employer Sponsored Insurance ("ESI") from January 2019 until October.
3. The Appellant testified she paid a premium of approximately \$60 a week for ESI. (Appellant Testimony).

4. The Appellant testified that she was also enrolled in Connectorcare from April 2019 through December 2019. (Appellant Testimony, Exhibit 2(a)).
5. The Appellant submitted a 1095-B reflecting that she did have Employer Sponsored Insurance (“ESI”) from May 2019 through December 2019. (Exhibit 2 (a). Testimony of Appellant).
6. The Appellant’s Federal Adjusted Gross Income for 2019 was \$45,890 (Exhibit 1).
7. The Appellant has been assessed a tax penalty for twelve (12) months in 2019. (Exhibit 1).
8. The Appellant stated that she was unable to upload proof of insurance with her electronic tax filing. (Exhibit 2(a), Testimony).
9. The Appellant testified she obtained new employment and has ESI. (Appellant’s Testimony).
10. In addition to the foregoing, I take administrative notice of the 2019 Schedule HC Instructions and Worksheets, available at <http://www.mass.gov/dor/docs/dor/health-care/2019>, and in particular, Tables 1-6 which, as discussed below, include the Affordability Schedule and other financial information used in making 2019 individual mandate tax penalty determinations.

ANALYSIS AND CONCLUSIONS OF LAW

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

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 she did have health insurance from April 2019 and for the remainder of 2019 through the Connector and ESI (Testimony, Exhibit 2(a)). The Appellant testified she thought she was insured through her employer from January 2019 through October although she only had ESI commencing in May 2019. (Exhibit 2 (a)).

Notwithstanding the foregoing, and based upon the facts summarized above, I determine that the Appellant is not subject to a penalty where the three (3) month grace period is applied for the months of January-March 2019 when she did not have health insurance, and where the Appellant provided credible

and substantial evidence that she was covered for the remainder of the year. In addition, the mandate has not been lost on the Appellant as she continues to be insured.

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.

FINAL APPEAL DECISION: PA19-1027

Appeal Decision: The penalty is overturned.

Hearing Issue: Appeal of the 2019 Tax Year Penalty

Hearing Date: January 5, 2021

Decision Date: January 30, 2021

AUTHORITY

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

JURISDICTION

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

HEARING RECORD

The Appellant appeared at the hearing, which was held by telephone on January 5, 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: Statement of Grounds for Appeal 2019 dated August 15, 2020 (2 PP).
- Exhibit 3: Health Connector's Notice of Hearing dated 12/9/2020 (2 PP).

The Record was left open until January 29, 2021 for the Appellant to submit additional documentation including:

- Exhibit 4: Employer information regarding Employer Sponsored Insurance ("ESI") received on January 27, 2021. (1 page).

FINDINGS OF FACT

The record shows, and I so find:

1. Appellants, who filed a 2019 Massachusetts tax return reported they were married, filing joint, had 2 dependents in 2019, lived in Bristol County, and had a family size of 4. (Exhibit 1, Testimony of Appellant).
2. Appellant worked full time and was enrolled in an employer sponsored insurance in 2019. (Exhibit 4, Testimony of Appellant).

3. Appellant testified his employer had merged and that the employer's health insurance plan coverage changed in 2019. (Appellant Testimony).
4. The Appellant paid a few hundred dollars a month for the plan. (Testimony of Appellant).
5. The Appellant was enrolled in ESI beginning on January 1, 2019. (Exhibit 4).
6. The Appellants family coverage premium was \$283.69 every two weeks. (Exhibit 4).
7. Appellant testified that he was informed by the Employer in 2020 that it had recently learned the plan does not meet the meet minimal credible coverage ("MCC") standards for Massachusetts residents. (Testimony of Appellant, Exhibit 4).
8. The Employer indicated the plan meets all of the necessary coverage requirements, except it does not provide maternity benefits to dependent children. (Testimony of Appellant).
9. Appellant's Federal Adjusted Gross Income for 2019 was \$150,324 (Exhibit 1).
10. Appellant has been assessed a tax penalty for twelve (12) months in 2019. The Appellant has appealed this assessment (Exhibits 1, 2).
11. According to Table 3 Appellant could have afforded \$ 1,002.16 per month for health insurance in 2019. According to Table 4 Appellant could have purchased insurance for \$855 per month.
12. In addition to the foregoing, I take administrative notice of the 2019 Schedule HC Instructions and Worksheets, available at <http://www.mass.gov/dor/docs/dor/health-care/2019>, and in particular, Tables 1-6 which, as discussed below, include the Affordability Schedule and other financial information used in making 2019 individual mandate tax penalty determinations.

ANALYSIS AND CONCLUSIONS OF LAW

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

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

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

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

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

The evidence provided by the Appellant established that their income for 2019, \$150,324, was more than 300% of the federal poverty level, which for 2019 was \$36,420 for an individual with a family size of one (1). According to Table 3 of Schedule HC for 2019, the Appellant had an adjusted gross income of \$150,324 in 2019 and could have afforded \$1,002.16 per month. According to Table 4, Appellant, ages 47 and 49 and living in Bristol County during the time they was being penalized for not having insurance, could have purchased insurance for \$855.00 per month. Individual coverage was affordable through the individual market for the Appellant in 2019 (Schedule HC for 2019).

The next issue to consider is whether the Appellant had access to affordable employer health insurance ("ESI"). The Appellant credibly testified that health insurance was offered through his employer, but that same did not meet minimal credible coverage, as he was informed by his employer in 2020. (Appellant Testimony). The Appellant's testimony that the ESI premium was a few hundred dollars a month was corroborated by documentation from his employer which referenced that the Appellants family coverage premium was \$283.69 every two weeks. I find credible the Appellant's testimony that he found out in April 2020 from his employer that did not meet minimum credible standards because the policy does not provide maternity benefits to dependent children. (Appellant's Testimony). See 956 CMR 12.05 and 45 CFR section 155.305 (f)(1)(ii)(B). Pursuant to 26 IRC section 36B and 45 CFR section 155.305(f), applicants are eligible for an Advanced Premium Tax Credit (APTC) if they meet qualifying income levels and other eligibility requirements. Massachusetts residents may also be eligible for additional state premium assistance through the Health Connector's ConnectorCare program if: a) their household income does not exceed 300 percent of the Federal Poverty Level (FPL) and b) they are eligible for an APTC. 956 CMR 12.09(1). An applicant who has access to other qualifying health insurance, including insurance through an employer, will be blocked from eligibility for an APTC if the coverage is affordable and meets minimum value standards, as those terms are defined by the law. See 26 CFR section 1.36B-2(c)(3). Coverage for plan year 2019 is considered to be affordable if the employee's contribution for an individual plan is 9.86 percent or less of the employee's projected household modified adjusted income (MAGI). In this case, the Appellant had an adjusted gross income of \$150,324 in 2019 and the ESI premium was less 9.86% of \$14,821/12, or \$1,235 per month. However, although the ESI was affordable, as referenced above, the coverage is not considered to meet minimum value standards.

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

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

The Appellant's penalty is, therefore, waived.

PENALTY ASSESSED

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

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

NOTIFICATION OF YOUR RIGHT TO APPEAL TO COURT

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

Cc: Connector Appeals Unit

Hearing Officer

ADDENDUM

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

FINAL APPEAL DECISION: PA19-1090

Appeal Decision: The penalty is overturned in full.
Hearing Issue: Appeal of the 2019 Tax Year Penalty
Hearing Date: January 21, 2021
Decision Date: January 29, 2021

AUTHORITY

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

JURISDICTION

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

HEARING RECORD

The Appellant appeared at the hearing, which was held by telephone on 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: Statement of Grounds for Appeal 2019 Signed by Appellant on 9/9/2020. (2 PP).
- Exhibit 3: Health Connector's Notice of Hearing dated 12/21/2020 (2 PP).

FINDINGS OF FACT

The record shows, and I so find:

1. Appellant, who filed a 2019 Massachusetts tax return reported she was single, was age 41 in 2019, lived in Suffolk County, and had filed taxes as single with one dependent, with a family size of 2. (Exhibit 1, Testimony of Appellant).
2. Appellant worked full time at hospital and was paid earnings of approximately \$45,000. (Testimony of Appellant).
3. Appellant testified that her full time Employer offered health insurance at with the employee premium of approximately \$20/ per bi-weekly pay period, but she could not afford it. (Testimony of Appellant).
4. Appellant testified she did not purchase her Employer Sponsored Insurance("ESI) because it did not provide coverage for certain optometrist procedures for which the Appellant needed. (Appellant Testimony).

5. Appellant looked into obtaining insurance through the Connector and obtained insurance from June-April 2019 but could not afford the \$126/month premium. (Exhibit 1, Testimony of Appellant).
6. Appellant was unable to afford Connectorcare because she was paying credit card and loans. (Testimony of Appellant).
7. Appellant's Federal Adjusted Gross Income for 2019 was \$49,059 (Exhibit 1).
8. Appellant has been assessed a tax penalty for three (3) months in 2019. The Appellant has appealed this assessment (Exhibits 1, 2).
9. Appellant had the following monthly expenses for basic necessities in 2019: Rent: \$1,300.00, Utilities: \$60, Internet: \$87, Cell Phone \$100, Food \$600, Gas: \$ 80, Care Insurance: \$220, Incidentals \$300, Credit Cards: \$600, Student Loans \$189, totaling \$3,536. (Appellant Testimony).
10. Appellant testified her Bi-Weekly net take home pay was approximately \$1,400. (Appellant Testimony).
11. According to Table 3 Appellant could have afforded \$300.49 per month for health insurance in 2019. According to Table 4 Appellant could have purchased insurance for \$768.00 per month.
12. In addition to the foregoing, I take administrative notice of the 2019 Schedule HC Instructions and Worksheets, available at <http://www.mass.gov.dor/docs/dor/health-care/2019>, and in particular, Tables 1-6 which, as discussed below, include the Affordability Schedule and other financial information used in making 2019 individual mandate tax penalty determinations.

ANALYSIS AND CONCLUSIONS OF LAW

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

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

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

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

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

The evidence provided by the Appellant established that her income for 2019, \$49,059.00, was less than 300% of the federal poverty level, which for 2019 was \$49,380 for an individual with a family size of two (2). According to Table 3 of Schedule HC for 2019, the Appellant had an adjusted gross income of \$49,059 in 2019 and could have afforded \$300.49 per month. According to Table 4, Appellant, age 41 and living in Suffolk County during the time she was being penalized for not having insurance, could have purchased insurance for \$768.00 per month. Individual coverage was not affordable through the individual market for the Appellant in 2019 (Schedule HC for 2019).

The next issue to consider is whether the appellant had access to affordable employer health insurance ("ESI"). The Appellant credibly testified that health insurance was offered through her employer, but she did not purchase ESI because it did not provide coverage for certain essential optometrist procedures for which the Appellant needed. The Appellant did not provide any additional testimony on what other coverage existed or whether the coverage met minimum creditable coverage standards. The Appellant could have afforded the \$20/ per bi-weekly pay period premium for ESI. An applicant who has access to other qualifying health insurance, including insurance through an employer, will be blocked from eligibility for an APTC if the coverage is affordable and meets minimum value standards, as those terms are defined by the law. See 26 CFR section 1.36B-2(c)(3). Coverage for plan year 2019 is considered to be affordable if the employee's contribution for an individual plan is 9.86 percent or less of the employee's projected household modified adjusted income (MAGI). Where the Appellant testified the coverage did not include necessary procedures and she was able to qualify for ConnectorCare, I find that the coverage did not meet minimum creditable coverage value standards if it has an actuarial value of at least 60 percent.

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

The Appellant testified credibly that she had the following monthly expenses for basic necessities in 2019: Rent: \$1,300.00, Utilities: \$60, Internet: \$87, Cell Phone \$100, Food \$600, Gas: \$ 80, Care Insurance: \$220, Incidentals \$300, Credit Cards: \$600, Student Loans \$189, totaling \$ 3,536.

Based upon the facts summarized above, I determine that the cost of purchasing health insurance would have caused the Appellant to experience a serious deprivation of basic necessities. The Appellant credibly testified that she could not afford \$300.49 per month and that the ESI did not meet minimum creditable coverage, to wit: for medically necessary optometrist procedures for which she needed. I find that her basic monthly expenses of \$3,536 were subsumed in her annual gross adjusted earnings of \$49,059, and her monthly net take home pay of approximately \$3,033. It is concluded that the Appellant established through substantial and credible evidence that she experienced a financial hardship within the meaning of 956 CMR 6.08(1), (e), and (3) which allows consideration of financial issues raised by the Appellant on appeal.

The Appellant's penalty is, therefore, waived.

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

PENALTY ASSESSED

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

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

NOTIFICATION OF YOUR RIGHT TO APPEAL TO COURT

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

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 his eligibility for subsidized health insurance through the Health Connector at www.mahealthconnector.org or by contacting customer service at 1-877-623-6765.

FINAL APPEAL DECISION: PA19-1091

Appeal Decision: The penalty is overturned in full.
Hearing Issue: Appeal of the 2019 Tax Year Penalty
Hearing Date: January 21, 2021
Decision Date: January 29, 2021

AUTHORITY

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

JURISDICTION

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

HEARING RECORD

The Appellant appeared at the hearing, which was held by telephone on 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:	Statement of Grounds for Appeal 2019 Signed by Appellant on 9/4/2019.	(2 PP).
Exhibit 3:	Health Connector's Notice of Hearing dated 12/21/2020	(2 PP).
Exhibit 4:	DOR Vacate Dismissal	(1 page)

FINDINGS OF FACT

The record shows, and I so find:

1. Appellant, who filed a 2019 Massachusetts tax return reported he was single, was age 32 in 2019, lived in Hampden County, and had filed taxes as single with a family size of 1. (Exhibit 1, Testimony of Appellant).
2. Appellant was unemployed during the months he was uninsured and received approximately \$500 a week in unemployment. (Testimony of Appellant).
3. Appellant testified that he was rehired in April 2019 but had to wait three (3) months before he could enroll in an Employer Sponsored Insurance ("ESI"). (Testimony of Appellant).
4. Appellant obtained ESI in August 2019 and has been insured since that time. (Appellant Testimony and

Exhibit 1).

5. Appellant looked into obtaining government sponsored insurance but could not afford the premium which he estimated at \$200-\$300/month. (Testimony of Appellant).
6. Appellant's Federal Adjusted Gross Income for 2019 was \$40,812 (Exhibit 1).
7. Appellant has been assessed a tax penalty for four (4) months in 2019. The Appellant has appealed this assessment (Exhibits 1, 2).
8. Appellant had the following monthly expenses for basic necessities in 2019: Mortgage: \$900.00, Well Water/Utility: \$100, Electric: \$300, Car Insurance: \$92, Gas \$400, Internet: \$100, Food/Incidentals \$500, Credit Cards \$300, Loans: \$500, totaling \$3,192. (Appellant Testimony).
9. According to Table 3 Appellant could have afforded \$ 253.37 per month for health insurance in 2019. According to Table 4 Appellant could have purchased insurance for \$279.00 per month.
10. In addition to the foregoing, I take administrative notice of the 2019 Schedule HC Instructions and Worksheets, available at <http://www.mass.gov.dor/docs/dor/health-care/2019>, and in particular, Tables 1-6 which, as discussed below, include the Affordability Schedule and other financial information used in making 2019 individual mandate tax penalty determinations.

ANALYSIS AND CONCLUSIONS OF LAW

The issue on appeal is whether the tax penalty assessed by the Massachusetts Department of Revenue for 2019 should be waived, either in whole or in part. Appellant has been assessed a tax penalty for four (4) months in 2019. Appellant has appealed the penalty. (See Exhibits 1 and 2).

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

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

To determine if Appellant's penalty should be waived in whole or in part, we must consider whether affordable insurance which met minimum creditable coverage standards was available to the Appellant through employment, through the private market, or through a government-sponsored program. If

affordable insurance was available, we must determine if such insurance was, in fact, not affordable to the appellant because Appellant experienced a financial hardship as defined in 956 CMR 6.08.

The evidence provided by the Appellant established that his income for 2019, \$40,812.00, was more than 300% of the federal poverty level, which for 2019 was \$36,420 for an individual with a family size of one (1). According to Table 3 of Schedule HC for 2019, the Appellant had an adjusted gross income of \$40,812 in 2019 and could have afforded \$253.37 per month. According to Table 4, Appellant, age 32 and living in Hampden County during the time he was being penalized for not having insurance, could have purchased insurance for \$279.00 per month. Individual coverage was not affordable through the individual market for the Appellant in 2019 (Schedule HC for 2019).

The next issue to consider is whether the appellant had access to affordable employer health insurance (“ESI”). The Appellant credibly testified that he was unemployed during the time he did not have insurance and did not have access to ESI.

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

Th Appellant testified credibly that he had the following monthly expenses for basic necessities in 2019: Mortgage: \$900.00, Well Water/Utility: \$100, Electric: \$300, Car Insurance: \$92, Gas \$400, Internet: \$100, Food/Incidentals \$500, Credit Cards \$300, Loans: \$500, totaling \$ 3,192.

Based upon the facts summarized above, I determine that the cost of purchasing health insurance would have caused the Appellant to experience a serious deprivation of basic necessities. The Appellant credibly testified that he could not afford \$253.37 per month. I find that his basic monthly expenses of \$ 3,192 were subsumed in the \$500 a week he received through unemployment during the time he was uninsured. It is concluded that the Appellant established through substantial and credible evidence that he experienced a financial hardship within the meaning of 956 CMR 6.08(1), (e), and (3) which allows consideration of financial issues raised by the Appellant on appeal.

The Appellant’s penalty is, therefore, waived.

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

PENALTY ASSESSED

Number of Months Appealed: 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.

Cc: Connector Appeals Unit

Hearing Officer

ADDENDUM

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

FINAL APPEAL DECISION: PA19-1097

Appeal Decision: The penalty is overturned in part.
Hearing Issue: Appeal of the 2019 Tax Year Penalty
Hearing Date: January 21, 2021
Decision Date: January 29, 2021

AUTHORITY

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

JURISDICTION

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

HEARING RECORD

The Appellant appeared at the hearing, which was held by telephone on 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. The Appellant testified.

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

Exhibit 1:	Appeal Case Information from Schedule HC.	(1 page).
Exhibit 2:	Appellant's Request to Vacate Appeal with Supporting Documentation Vacating Dismissal.	(1 PP, dated 9/18/2020).
Exhibit 3:	Health Connector's Notice of Hearing	(dated 12/21/2020 (2 PP)).
Exhibit 4:	Vacate Dismissal DOR	(dated 9/21/2020 (1 PP)).

FINDINGS OF FACT

The record shows, and I so find:

1. Appellant, who filed a 2019 Massachusetts tax return filed single with a family size of 1, was age 61 in 2019, lived in Bristol County, and had no dependents. (Exhibit 1, Testimony of Appellant).
2. Appellant's Federal Adjusted Gross Income for 2019 was \$66,792. (Exhibit 1). (Appellant's Testimony).
3. Appellant did not have health insurance in 2019 from January through September 2019. (Exhibit 1). (Appellant's Testimony).
4. Appellant was employed full-time but the employer did not offer employer sponsored insurance ("ESI") because it had a small number of employees. (Appellant's Testimony).

5. Appellant's hours were sometimes reduced when business slowed. (Appellant's Testimony).
6. Appellant worked a part time job at a Supermarket where he was paid minimum wage. (Appellant's Testimony).
7. Appellant's approximate net take home pay for both jobs was \$700 weekly.
8. Appellant testified he investigated the cost of publicly sponsored insurance but was not eligible because his income was too high. (Appellant's Testimony).
9. Appellant testified that he could not afford the cost of a private plan which would be approximately \$400 to \$500 a month. (Appellant's Testimony).
10. Appellant has been assessed a tax penalty for six (6) months in 2019. The Appellant has appealed this assessment (Exhibits 1, 2).
11. Appellant had the following average monthly living expenses in 2019: Rent: \$825/mo., Utilities \$300, Car Insurance \$100, Phone \$140/mo., Gas \$100/mo., Credit Cards \$650/mo., Food \$150, Cable \$400, totaling: \$2,665. (Appellant's Testimony).
12. Appellant testified he received 2 shutoff notices from each of his utility companies but he was able to avoid a shutoff by paying past amounts due prior to shutoff. (Appellant's Testimony).
13. According to Table 3 Appellant could have afforded \$445.28 per month for health insurance in 2019. According to Table 4 Appellant could have purchased insurance for \$418.00 per month.
14. The Appellant would not have been eligible for ConnectorCare coverage in 2019 because the Appellant's income was greater than 300% of the poverty level, which was \$36,420.00. (See Table 2 of Schedule HC 2019, Appellant's Testimony).
15. In addition to the foregoing, I take administrative notice of the 2019 Schedule HC Instructions and Worksheets, available at <http://www.mass.gov.dor/docs/dor/health-care/2019>, and in particular, Tables 1-6 which, as discussed below, include the Affordability Schedule and other financial information used in making 2019 individual mandate tax penalty determinations.

ANALYSIS AND CONCLUSIONS OF LAW

The issue on appeal is whether the tax penalty assessed by the Massachusetts Department of Revenue for 2019 should be waived, either in whole or in part. Appellant has been assessed a tax penalty for six (6) months in 2019. Appellant has appealed the penalty. (See Exhibits 1 and 2).

The Appellant submitted a statement of grounds for appeal (Ex. 2) with the appeal, claiming that the individual mandate did not apply to him during 2019 because he experienced financial circumstances such that the expense of purchasing health insurance would have caused her to experience a serious deprivation of food, shelter, clothing or other necessities and that during 2019, he received a shut-off notice for

utilities, and was more than 30 days in arrears of mortgage payments. See 956 CMR 6.08. The Appellant did not have insurance from January through October 2019. (See Exhibit 1, 2).

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

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

The evidence provided by the appellant established that his income for 2019, \$66,792.00 was greater than 300% of the federal poverty level, which for 2019 was \$36,420.00 for a single person. According to Table 3 of Schedule HC for 2019, the Appellant had an adjusted gross income of \$66,792 in 2019 and could have afforded \$445.28 per month. According to Table 4, Appellant, age 61 and living in Bristol County during the time he was being penalized for not having insurance, could have purchased insurance for \$418 per month. Individual coverage was affordable through the individual market for the appellant in 2019 (Schedule HC for 2019).

The next issue to consider is whether the Appellant had access to affordable employer health insurance in 2019 (“ESI”). The Appellant credibly testified he was not eligible for employer sponsored insurance where his full-time employer did not offer coverage and he did not enough hours with his part time employer. Hence, the Appellant is considered to have had access to affordable employer qualifying health insurance. See 956 CMR 12.05 and 45 CFR section 155.305 (f)(1)(ii)(B).

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

The Appellant had the following average monthly living expenses in 2019: Rent: \$825/mo., Utilities \$300, Car Insurance \$100, Phone \$140/mo., Gas \$100/mo., Credit Cards \$650/mo., Food \$150, Cable \$400, totaling: \$2,665. (Appellant's Testimony).

The evidence presented by the Appellant in this case is insufficient to establish that he experienced a financial hardship as defined by law so as to waive his penalty for the months in question. Given the Appellant's Annual Adjusted Gross Income ("AGI") of \$66,792 and monthly expenses of \$2,665, the Appellant failed to demonstrate that the cost of purchasing private insurance for \$445.28 per month would have caused the Appellant to experience a serious deprivation of food, shelter clothing, or other necessities. (Exhibit 2(a), Appellant Testimony).

The mandate has not been lost on the Appellant as he testified that he has had insurance from October 2019 to date. Notwithstanding the above, the penalty will be reduced to three (3) months in order to mitigate the harshness of a full six (6) month assessment.

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

PENALTY ASSESSED

Number of Months Appealed: 6 Number of Months Assessed: 3

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

NOTIFICATION OF YOUR RIGHT TO APPEAL TO COURT

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

Cc: Connector Appeals Unit

Hearing Officer

ADDENDUM

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

Massachusetts Health Connector Appeals Unit
Final Appeal Decision PA 19-929

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

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

Hearing Date: December 3, 2020

Decision Date: January 25, 2021

AUTHORITY

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

JURISDICTION

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

HEARING RECORD

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

- Exhibit 1: HC Appeals Unit Notice of Hearing Dated November 5, 2020.
- Exhibit 2: Appeal Case Information from Schedule HC.
- Exhibit 3: Statement of Grounds for the Appeal dated August 1, 2020.
- Exhibit 4 : Appellant letter in support of Appeal.
- Exhibit 5: HC Open Record Request.
- Exhibit 6: HC ESI Form completed by Appellant's employer.

FINDINGS OF FACT

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

1. Appellant turned 41 years old and resided in Plymouth County in 2019. (Exhibit 2).
2. Appellant filed his 2019 Federal Income Tax return as single with no dependents claimed, reporting an Adjusted Gross Income of \$64,333. (Exhibit 2).

3. Appellant worked both a part-time and a full-time job for two different employers in 2019. (Exhibit 4; Appellant Testimony).
4. Appellant did not have health insurance during the entirety of 2019. (Exhibits 3-6; Appellant Testimony).
5. Appellant enrolled in his full-time employer's health insurance plan during open enrollment in November of 2019. (Exhibit 4; Appellant Testimony).

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

ANALYSIS AND CONCLUSIONS OF LAW

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

In support of his appeal, Appellant claims that in 2019 he believed he had health insurance through his part-time employer, and learned he did not have health insurance through this employer until August of 2019. (Exhibit 4; Appellant Testimony).

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

Pursuant to the Connector's Administrative Bulletin 03-10, applying M.G.L. c. 111M, §2(b), taxpayers are given a three-month grace period for any lapse in coverage to allow the taxpayer to obtain health insurance coverage or to make the transition between health insurance policies. Because Appellant had no health insurance during 2019, the three-month grace period is inapplicable and Appellant is appealing a twelve-month tax penalty for 2019. (Exhibit 2).

Based on Schedule HC for 2019 Table 4, it would have cost Appellant, age 41 and living in Plymouth County, \$306 per month to purchase an individual plan on the private insurance market. Based on the Affordability Schedule, Appellant filing the Federal tax return as single with no dependents, with an annual Adjusted Gross Income of \$64,333 could afford to pay \$429 monthly for a single plan. *See* 2019 Schedule HC Instructions and Worksheets, *supra*, at Table 3. I conclude that private insurance was affordable for Appellant in 2019.

Appellant testified that in 2018 he was covered under a health insurance plan offered by his part-time employer, and that he believed this health insurance coverage continued into 2019. (Exhibit 4; Appellant Testimony). Appellant testified that he received no communication from either his employer or the insurance carrier regarding his ineligibility, claiming he only learned his employer dropped him from coverage in August during a visit to his medical provider. (Exhibit 4; Appellant Testimony). Appellant testified that his employer informed him at that time that they had taken him off their part-time health insurance program because he was not working enough hours. (Exhibit 4). I do not find Appellant's testimony wholly credible, as discussed more fully below.

Appellant's employer indicated in its response to the Hearing Officer's Record Request that Appellant is ineligible for participating in its health insurance benefit plan because Appellant is a "PT Casual Employee and has averaged less than 10 hours of work in 2019 per week". (Exhibits 5 and 6). Appellant had no coverage beginning in January of 2019, and neither the employer nor Appellant explain how the employer determined, by January of 2019, that Appellant "was not working enough hours" in 2019 to make him eligible for coverage. (Exhibit 4). Neither Appellant nor employer reference any changes that may have occurred between 2018 and 2019 resulting in Appellant's 2019 ineligibility for coverage. (Exhibit 6). Appellant testified that in 2018 he paid approximately \$50 biweekly for health insurance through this employer, and that he did not notice that these health insurance premiums were no longer being deducted from his paychecks in 2019. (Appellant Testimony).

I do not credit Appellant's assertion that he believed this employer was covering him for 2019 simply because this employer covered him in 2018, particularly where his employer made no premium deductions from his paycheck, which Appellant claims not to have noticed. (Exhibit 4; Appellant's Testimony). Even if an individual does not track specific weekly or bi-weekly payroll deduction amounts, he is generally aware whether payroll deductions are taking place. However, because the employer's response fails to provide facts sufficient for fully developing the record, I will credit Appellant's testimony that he was unaware that he did not have coverage until August of 2019. (Exhibits 4 and 6; Appellant's Testimony).

Appellant admits that by August of 2019, he knew he had no health insurance. (Exhibit 4; Appellant Testimony). While he testified that he signed up for 2020 coverage through his full-time employer during open enrollment in November of 2019, Appellant offers no explanation for failing to obtain health insurance for the remainder of 2019. (Exhibit 4).

Accordingly, Appellant's appeal is **PARTIALLY UPHELD** and Appellant's twelve-month penalty is **WAIVED IN PART**.

PENALTY ASSESSED

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

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

NOTIFICATION OF YOUR RIGHT TO APPEAL TO COURT

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

Hearing Officer

Cc: Connector Appeals Unit

Massachusetts Health Connector Appeals Unit

FINAL APPEAL DECISION: PA19-1013

Appeal Decision: Primary Taxpayer – No appeal (Penalty Maintained)
Appellant Spouse - Appeal Not Decided for Lack of Jurisdiction
(Penalty Maintained)
Hearing Issue: Appeal of the 2019 Tax Year Penalty
Hearing Date: December 29, 2020
Decision Date: January 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’s Spouse (“Appellant Spouse”) on the Appeal Case Information from Schedule HC for 2019 appeared at the hearing, which was held by telephone on December 29, 2020. Appellant Spouse also provided information about the Primary Taxpayer, who appeared briefly at the end of the hearing and answered a few questions.

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

Exhibit 1: Hearing Notice dated November 19, 2020 (2 pages)

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

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

Exhibit 4: Supporting Letter from Gabriela Michaliszyn, dated 8/16/20 (1 page)

FINDINGS OF FACT

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

The record shows, and I so find:

1. The Primary Taxpayer turned 54 years old in January 2019. The Primary Taxpayer filed their Federal Income Tax Return as a married person filing jointly with one (1) dependent claimed. (Exhibit 2).
2. The Primary Taxpayer's Spouse turned 46 years old in June 2019. (Exhibit 2).
3. The Appellants lived in Hampden County, MA in 2019. (Exhibit 2).
4. The Appellants' Federal Adjusted Gross Income for 2019 was \$54,999.00. (Exhibit 2).
5. Neither Appellant had health insurance during any months of tax year 2019 according to Appeal Information from Schedule HC for 2019. (Exhibit 2). Each Appellant was assessed a twelve (12)-month tax penalty for 2019. (Exhibit 2)
6. The Appellant Spouse filed an appeal of their penalty assessment in November 2020. (Exhibits 3). The Statement of Grounds for Appeal was completed and signed solely by the Appellant Spouse. (Exhibit 3).
7. The Primary Taxpayer and Appellant Spouse testified that the Primary Taxpayer does not appeal their tax penalty assessment. (Appellants' Testimony, which I credit). The Appellants did not testify about or provide documentation of financial hardship as a reason for the Primary Taxpayer to be granted a waiver from their assessed tax penalty. 956 CMR 6.08. (Appellants' Testimony and the administrative record).
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 one (1) dependent claimed, with an annual adjusted gross income of \$54,999.00, could afford to pay \$268.12 per month for government-sponsored health insurance. In accordance with Table 4, the Primary Taxpayer and Primary Taxpayer's Spouse, ages 54 and 46 years, respectively, living in Hampden County, could have purchased private market health insurance for \$968.00 per month. (Table 4, Schedule HC for 2019). Private insurance was not affordable for the Appellants in 2019.
10. The Primary Taxpayer and the Appellant Spouse did not have employer-sponsored insurance available in 2019. The Primary Taxpayer had switched careers and was self-employed as a realtor during 2019. (Appellants' Testimony and Exhibit 4).

11. The Appellants would have been income-eligible for government-subsidized ConnectorCare coverage in 2019 because their Federal Adjusted Gross Income of \$54,999.00 was less than the Federal poverty level of \$62,340.00 for a family of three. (Schedule HC, Table 2 for 2019 and Exhibit 2).
12. The Appellant Spouse testified, and on the Statement of Ground for Appeal checked the “Other” box specifying, that they appealed their tax assessment based on the regulation providing for “Exemption from Coverage Requirement Based on Religious Belief,” 830 CMR 111M.2.1(6)(b) (the “Regulation”). (Appellant Spouse’s Testimony).
13. The Appellant Spouse testified that they did not file a sworn affidavit with their 2019 personal income tax stating that their sincerely held religious beliefs are the basis of their refusal to obtain and maintain insurance coverage during 2019, per the Regulation. (Appellant Spouse’s Testimony). I credit Appellant Spouse’s Testimony.
14. Appellant’s Spouse further testified that they did not claim the religious exemption on Schedule HC for 2019 along with their signature on their personal income tax return. (Appellant’s Testimony).
15. Appellants do not currently have health insurance coverage.² (Appellants’ 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 Primary Taxpayer does not appeal their tax penalty assessment of (12) twelve months. (Appellants’ Testimony and Exhibits 2 & 3). The Appellant Spouse appeals their tax penalty assessment of twelve (12) months on the ground of religious belief. (Appellant Spouse’s Testimony and Exhibits 3 & 4). Appellant Spouse checked the box on the Statement of Grounds for Appeal form reading “Other” circumstances during 2019 and included on that form and

² The Appellants were advised that the Connector’s current open enrollment period extends through January 23, 2021, and the Appellant Primary Taxpayer was encouraged to contact a 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.

testified that they appealed their tax assessment based on the regulation providing for “Exemption from Coverage Requirement Based on Religious Belief,” 830 CMR 111M.2.1(6) (b) (the “Regulation”). (Exhibit 3 and Appellant Spouse’s Testimony).

The Appellant Spouse testified that they did not file a sworn affidavit with their 2019 personal income tax stating their sincerely held religious beliefs as the basis of their refusal to obtain and maintain insurance coverage during 2019, per the Regulation. (Appellant Spouse’s Testimony). Appellant Spouse further testified that they did not claim the religious exemption on Schedule HC for 2019 along with their signature on their personal income tax return. (Appellant’s Testimony).

Per the Regulation, the Massachusetts Department of Revenue, not the Commonwealth Health Insurance Connector Authority, determines and administers religious exemptions. Thus, the Health Connector lacks authority to determine the Appellant Spouse’s appeal of their tax penalty assessment based on religious belief.³ 830 CMR 111M.2.1(6) (b). Accordingly, the Appellant Spouse’s penalty tax assessment of twelve (12) months remains intact, as originally assessed by the Department of Revenue.

The Appellant Primary Taxpayer does not appeal their tax assessment of twelve (12) months. Accordingly, their assessed penalty is upheld.

PENALTY ASSESSED

Appellant Primary Taxpayer:

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

Appellant Spouse:

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

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

³ The Appellant Spouse was advised to contact the Department of Revenue about their claim for a religious exemption for 2019, including to request an amendment to their Schedule HC for 2019, if appropriate.

Massachusetts Health Connector Appeals Unit

FINAL APPEAL DECISION: PA19-1015

Appeal Decision: Appeal Approved

Hearing Issue: Appeal of the 2019 Tax Year Penalty

Hearing Date: December 29, 2020

Decision Date: January 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 RECORD¹

The Appellant listed as the Primary Taxpayer (Appellant Primary Taxpayer) on the Appeal Case Information from Schedule HC for 2019 did not appear at the hearing, which was held by telephone on December 29, 2020. The Appellant listed as the Primary Taxpayer's Spouse (Appellant Spouse) did appear at the hearing on that date.

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

Exhibit 1: Hearing Notice dated November 19, 2020 (2 pages)

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

Exhibit 3: Statement of Grounds for Appeal (1 page)

FINDINGS OF FACT

The record shows, and I so find:

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

1. The Primary Taxpayer turned 34 years old in February 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 36 years old in June 2019. (Exhibit 2).
3. The Appellants lived in Worcester County, MA in 2019. (Exhibit 2).
4. The Appellants' Federal Adjusted Gross Income for 2019 was \$51,456.00. (Exhibit 2).
5. The Primary Taxpayer had MCC-compliant health insurance during seven (7) months of tax year 2019 according to Appeal Information from Schedule HC for 2019. (Exhibit 2). The Primary Taxpayer was not assessed a tax penalty for 2019. (Exhibit 2)
6. The Appellant Spouse had MCC-compliant health insurance during three (3) months of tax year 2019 according to Appeal Information from Schedule HC for 2019. (Exhibit 2). They were assessed a tax penalty for five (5) months during 2019. (Exhibit 2). The Appellant Spouse filed an appeal of their penalty assessment in November 2020. (Exhibit 3).
7. I take administrative notice of the financial information set forth in Tables 1 through 6 of the DOR 2019 Massachusetts Schedule HC Health Care Instructions and Worksheet. Tables 3 and 4 incorporate affordability and premium schedules adopted by the Board of Directors for the Commonwealth Health Insurance Connector Authority for 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 no dependents claimed, with an annual adjusted gross income of \$51,456.00, could afford to pay \$319.46 per month for government-sponsored health insurance. In accordance with Table 4, the Primary Taxpayer and Appellant Spouse, ages 34 and 36 years, respectively, living in Worcester County, could have purchased private market health insurance for \$558.00 per month. (Table 4, Schedule HC for 2019). Private insurance was not affordable for the Appellants in 2019.
9. The Appellant Spouse's employer did not offer health insurance. The Primary Taxpayer changed jobs a few times during 2019 and did not have employer-sponsored insurance available consistently throughout 2019. (Appellant Spouse's Testimony). Thus, employer-sponsored 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 \$51,999.00 was greater than the Federal poverty level of \$49,380.00 for a family of two. (Schedule HC for 2019).
11. Appellant Spouse testified that they and the Primary Taxpayer were amicably separated and lived apart in 2019. (Appellant Spouse's Testimony).

12. Appellant Spouse testified that they had received health insurance coverage through the Connector for several years prior to 2019. (Appellant Spouse's Testimony).
13. In about April 2019, when Appellant Spouse went to a pharmacy to re-fill a prescription, they learned for the first time to their surprise that they no longer had insurance coverage through the Connector. (Appellant's Testimony). Appellant testified that they desire to have and need health care coverage. (Appellant's Testimony).
14. Thereafter, Appellant Spouse re-applied for insurance coverage through the Connector and their coverage was reinstated. (Appellant's Testimony).
15. During 2019, Appellant Spouse worked as a driver for a company that provides rides for disabled individuals, earning about \$17,000.00 in wages. (Appellant's Testimony).
16. The Appellant Spouse's 2019 monthly pre-tax living expenses of \$1,520.00 included: Oil - \$125.00, Electricity - \$110.00, Car insurance - \$88.00, Gas - \$100, Telephone - \$35.00, Cable/Internet - \$70, Food - \$200.00, Property tax - \$267. Additionally, Appellant Spouse had credit card debt of five thousand dollars (\$5,000.00) during 2019. (Appellant Spouse's Testimony).
17. The Appellant Spouse and the Primary Taxpayer currently each have health insurance coverage. (Appellant Spouse'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 Primary Taxpayer was not assessed a penalty for 2019. (Exhibit 2). The Appellant Spouse appeals their tax penalty assessment of five (5) months on the ground of financial hardship. (Appellant Spouse's Testimony).

To determine if the Appellant Spouse's 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 no dependents claimed, with an annual adjusted gross income of \$51,456.00, could afford to pay \$319.46 per month for government-sponsored health insurance. In accordance with Table 4, the Primary Taxpayer and Appellant Spouse, ages 34 and 36 years, respectively, living in Worcester County, could have purchased private market health insurance for \$558.00 per month. (Table 4, Schedule HC for 2019). Private insurance was not affordable for the Appellants in 2019.

Employer-sponsored 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 \$51,999.00 was greater than the Federal poverty level of \$49,380.00 for a family of two. (Schedule HC for 2019).

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

Since no affordable coverage was available to Appellant Spouse, their five (5)-month penalty is waived.

Even if affordable coverage had been available, the Appellant's penalty would be waived because of financial hardship. See 956 CMR 6.08(1) & (3).

The Appellant's monthly pre-tax income was approximately \$1,416.67. (Appellant's Testimony). The Appellant's 2019 monthly living expenses of \$1,663.00 included: Oil - \$125.00, Electricity - \$110.00, Car insurance - \$88.00, Gas - \$100, Telephone - \$35.00, Cable/Internet - \$70, Food - \$200.00, Property tax - \$267. Additionally, Appellant Spouse had credit card debt of five thousand dollars (\$5,000.00) during 2019. (Appellant's Testimony).

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

The Appellant's five-month penalty is waived entirely because of unavailability of affordable coverage and because, even if affordable coverage had been available, purchasing health insurance would have caused Appellant financial hardship that deprived them of basic living necessities.

The Appellant Spouse 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

Appellant Primary Taxpayer:

No. of Months Appealed: 0 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 Appellants were advised that the Connector’s current open enrollment period extends through January 23, 2021, and were 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>.

Massachusetts Health Connector Appeals Unit

FINAL APPEAL DECISION: PA19-1018

Appeal Decision: Appeal Approved

Hearing Issue: Appeal of the 2019 Tax Year Penalty

Hearing Date: December 29, 2020

Decision Date: January 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 RECORD¹

The Appellant appeared at the hearing, which was held by telephone, on December 29, 2020.

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

Exhibit 1: Hearing Notice dated November 19, 2020 (2 pages)

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

Exhibit 3: Statement of Grounds for Appeal (6 pages)

FINDINGS OF FACT

The record shows, and I so find:

1. The Appellant turned 42 years old in March 2019. The Appellant filed their Federal Income Tax Return as a single individual, with no dependents claimed. (Exhibit 2).
2. The Appellant lived in Norfolk County, MA in 2019. (Exhibit 2 and Appellant's Testimony).

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

3. The Appellant's Federal Adjusted Gross Income (AGI) for 2019 was \$31,580.00. (Exhibit 2).
4. The Appellant did not have health insurance coverage during any months of tax year 2019 according to Appeal Case Information from Schedule HC for 2019. (Exhibit 2 and Appellant's Testimony).
5. The Appellant has been assessed a twelve (12)-month tax penalty for 2019. (Exhibit 2 and Appellant's Testimony). The Appellant filed an appeal of that assessment in November 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 \$31,580.00, could afford to pay \$131.58 per month for government-sponsored health insurance. In accordance with Table 4, the Appellant, age 42, living in Norfolk County, could have purchased private market health insurance for \$306.00 per month. (Table 4, Schedule HC for 2019). Private insurance was not affordable for the Appellant in 2019.
8. The Appellant was self-employed with an on-line business in 2019. Thus, employer-sponsored health insurance was not available to the Appellant in 2019.
9. The Appellant was income-eligible for ConnectorCare coverage in 2019 because their adjusted gross income of \$31,580.00 was less than 300% of the Federal poverty level, which was \$36,420.00 in 2019. (Schedule HC, Table 2).
10. The Appellant also did volunteer agricultural work outside the United States in 2019, which required them to incur expenses in connection with that work. (Appellant's Testimony).
11. The Appellant testified that they intended to maintain their Massachusetts residence as their legal residence during 2019 but lived outside the United States in 2019 for the entire year, except the month of July. (Appellant's Testimony, which I credit).
12. The Appellant's 2019 monthly pre-tax living expenses of \$2,408.33 included: Rent - \$300.00, Utilities - \$400.00, Car payments - \$500.00, Car insurance - \$500.00, Maintenance - \$83.33, Gas - \$125.00, Cell phone - \$50.00, Internet - \$50.00, Internet/cable - \$220.00, and Food - \$400.00. Additionally, during 2019 the Appellant incurred about \$10,000.00 in expenses relating to their agricultural volunteer work. (Appellant's Testimony). Further,

they incurred air travel expenses in connection with traveling between the United States and a Latin American country where they lived and did volunteer work in 2019. (Appellant's Testimony).

13. The Appellant testified that they did not understand the Connector insurance marketplace, the individual mandate and rules concerning Massachusetts residency. (Appellant's Testimony).
14. The Appellant currently lives out-of-state, where they 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 is appealing the assessed tax penalty of twelve (12) months. They checked the box on the Statement of Grounds for Appeal form saying "Other," circling "didn't reside in Massachusetts" during the period of uninsurance." (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 \$31,580.00, could afford to pay \$131.58 per month for government-sponsored health insurance. In accordance with Table 4, the Appellant, age 42, living in Norfolk County, could have purchased private market health insurance for \$306.00 per month. (Table 4, Schedule HC for 2019). Private insurance was not affordable for the Appellant in 2019.

The Appellant was self-employed with an on-line business in 2019. Thus, employer-sponsored health insurance was not available to the Appellant in 2019.

The Appellant was income-eligible for ConnectorCare coverage in 2019 because their adjusted gross income of \$31,580.00 was less than 300% of the Federal poverty level, which was \$36,420.00 in 2019. (Schedule HC, Table 2).

Given that ConnectorCare coverage 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.

As an initial matter, I conclude that the Appellant did not understand how the Health Connector marketplace works and their income-eligibility for ConnectorCare coverage in 2019. (Appellant's Testimony, which I find credible).

The Appellant's monthly pre-tax expenses during 2019 of approximately \$2,408.33 included: Rent - \$300.00, Utilities - \$400.00, Car payments - \$500.00, Car insurance - \$500.00, Maintenance - \$83.33, Gas - \$125.00, Cell phone - \$50.00, Internet - \$50.00, Internet/cable - \$220.00, and Food - \$400.00. Additionally, during 2019 the Appellant incurred about \$10,000.00 in expenses relating to their agricultural volunteer work. (Appellant's Testimony). Further, they incurred air travel expenses in connection with traveling between the United States and a Latin American country where they lived most of the year and did volunteer work. (Appellant's Testimony).

Based on monthly living expenses \$2,408.33, the Appellant's annual living expenses for 2019 were about \$28,900. See paragraph 12. Additionally, they incurred expenses of \$10,000.00 in connection with their volunteer work, for a total of \$38,900.00 in expenses during 2019. See paragraph 12. Further, they incurred air travel expenses. Appellant's pre-tax income totaled \$31,580.00, which was less than their total expenses. Therefore, I conclude based on all the evidence and the totality of the circumstances in this administrative record, that Appellant has demonstrated that the cost of purchasing health insurance for 2019 would have created a financial hardship that would have caused them to experience deprivation of basic living necessities. See 956 CMR 6.08 (1) & (3).

For these reasons, Appellant's twelve-month penalty assessment for 2019 is waived entirely.

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

PENALTY ASSESSED

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

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

NOTIFICATION OF YOUR RIGHT TO APPEAL TO COURT

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

Hearing Officer

Cc: Connector Appeals Unit

Massachusetts Health Connector Appeals Unit

FINAL APPEAL DECISION: PA19-1017

Appeal Decision: Appeal Approved

Hearing Issue: Appeal of the 2019 Tax Year Penalty

Hearing Date: December 29, 2020

Decision Date: January 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 December 29, 2020.

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

Exhibit 1: Hearing Notice dated November 19, 2020 (2 pages)

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

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

Exhibit 4: Tax Penalty Appeal Decision P17-250, March 11, 2019 (4 pages)

FINDINGS OF FACT

The record shows, and I so find:

1. The Appellant turned 45 years old in April 2019. The Appellant filed their Federal Income Tax Return as a single individual, with no dependents claimed. (Exhibit 2).

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

2. The Appellant lived in Plymouth County, MA in 2019. (Exhibit 2 and Appellant's Testimony).
3. The Appellant's Federal Adjusted Gross Income (AGI) for 2019 was \$26,125.00. (Exhibit 2).
4. The Appellant had health insurance coverage during four (4) months of tax year 2019 according to Appeal Case Information from Schedule HC for 2019. (Exhibit 2 and Appellant's Testimony).
5. The Appellant has been assessed a four (4)-month tax penalty for 2019. (Exhibit 2 and Appellant's Testimony). The Appellant filed an appeal of that assessment in November 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 \$26,125.00, could afford to pay \$91.44 per month for government-sponsored health insurance. In accordance with Table 4, the Appellant, age 45, living in Plymouth County, could have purchased private market health insurance for \$350.00 per month. (Table 4, Schedule HC for 2019). Private insurance was not affordable for the Appellant in 2019.
8. The Appellant's employer during 2019, a grocery market, did not offer health insurance. Thus, employer-sponsored health insurance was not available to the Appellant in 2019.
9. The Appellant was income-eligible for ConnectorCare coverage in 2019 because their adjusted gross income of \$26,125.00 was less than 300% of the Federal poverty level, which was \$36,420.00 in 2019. (Schedule HC, Table 2).
10. The Appellant testified that she thought her employer was required to provide health insurance and asked several times in 2019. Appellant's employer did not provide health insurance in 2019. (Appellant's Testimony, which I credit).
11. The Appellant was feeling ill and needed to see a doctor sometime in spring or summer 2019. They went on the Connector website, completed an application for insurance and began receiving ConnectorCare coverage in about August 2019. (Appellant's Testimony and Exhibit 2).

12. In December 2019 the Appellant left their job at the grocery market to take a new job. Their new employer offered health insurance after completion of a 90-day probation. (Appellant's Testimony).
13. Appellant testified that during the probation period, they could not afford to continue paying for Connector insurance because they owed arrearages on child support payments. (Appellant's Testimony, which I credit).
14. The Appellant's monthly pre-tax expenses during 2019 of approximately \$1,861.7 included: Electricity - \$300.00, Oil/heat - \$50.00, Cable/internet - \$200.00, Food - \$600.00, Water - \$175.00, Trash - \$66.7 and \$470.00 - child support arrearages.
15. The Appellant did not testify to any utility shutoffs, eviction notices or unusual expenses because of a family member's health during 2019. (Appellant's Testimony).
16. The Appellant was laid off for about three months in 2020 because of the pandemic and received unemployment benefits during that time. (Appellant's Testimony). Appellant returned to their job sometime during the summer 2020. (Appellant's Testimony).
17. The Appellant currently has health insurance coverage through their new employer. (Appellant's Testimony).
18. The Appellant appealed a tax penalty assessment for the 2017 tax year, which was approved. (Exhibit 4).

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 four (4) months. They checked the box on the Statement of Grounds for Appeal form saying that purchasing health insurance in 2-19 would have caused them a serious deprivation of food and other living necessities. (Exhibit 3).

To determine if the 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 \$26,125.00, could afford to pay \$91.44 per month for government-sponsored health insurance. In accordance with Table 4, the Appellant, age 45, living in Plymouth County, could have purchased private market health insurance for \$350.00 per month. (Table 4, Schedule HC for 2019). Private insurance was not affordable for the Appellant in 2019.

The Appellant's employer in 2019 did not offer health insurance. Thus, employer-sponsored health insurance was not available to the Appellant in 2019.

The Appellant was income-eligible for ConnectorCare coverage in 2019 because their adjusted gross income of \$26,125.00. was less than 300% of the Federal poverty level, which was \$36,420.00 in 2019. (Schedule HC, Table 2).

Given that ConnectorCare coverage 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's monthly pre-tax expenses during 2019 of approximately \$1,861.7 included: Electricity - \$300.00, Oil/heat - \$50.00, Cable/internet - \$200.00, Food - \$600.00, Water - \$175.00, Trash - \$66.7 and \$470.00 - child support arrearages.

Based on monthly living expenses of \$1,861.70, the Appellants' annual living expenses for 2019 were about \$22,340.40. Given that Appellant's adjusted gross income for 2019 was \$26,125.00, I conclude based on all the evidence and the totality of the circumstances in this administrative record, that Appellant has demonstrated that the cost of purchasing health insurance for 2019 would have created a financial hardship that would have caused them to experience deprivation of basic living necessities. See 956 CMR 6.08 (1) & (3).

For these reasons, Appellant's four-month penalty assessment for 2019 is waived entirely.

The Appellant should note that the waiver of their penalty is based upon facts that I have determined to be true in 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: 4 Number of Months Assessed: 0

² If Appellant's financial or employment circumstances change during 2019, they are encouraged to contact a Customer Service Representative at 1-877-623-6765 or to apply through the Connector website at <https://www.mahealthconnector.org> in order to explore health insurance coverage options for 2021.

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: PA19-1018

Appeal Decision: Appeal Approved

Hearing Issue: Appeal of the 2019 Tax Year Penalty

Hearing Date: December 29, 2020

Decision Date: January 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 RECORD¹

The Appellant appeared at the hearing, which was held by telephone, on December 29, 2020.

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

Exhibit 1: Hearing Notice dated November 19, 2020 (2 pages)

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

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

Exhibit 4: Appellant's Supporting Letter, dated 8/17/20 (1 page)

FINDINGS OF FACT

The record shows, and I so find:

1. The Appellant turned 57 years old in December 2019. The Appellant filed their Federal Income Tax Return as a single individual, with no dependents claimed. (Exhibit 2).

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

2. The Appellant lived in Middlesex County, MA in 2019. (Exhibit 2 and Appellant's Testimony).
3. The Appellant's Federal Adjusted Gross Income (AGI) for 2019 was \$30,374.00. (Exhibit 2).
4. The Appellant did not have health insurance coverage during any months of tax year 2019 according to Appeal Case Information from Schedule HC for 2019. (Exhibit 2 and Appellant's Testimony).
5. The Appellant has been assessed a twelve (12)-month tax penalty for 2019. (Exhibit 2 and Appellant's Testimony). The Appellant filed an appeal of that assessment in November 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 \$30,374.00, could afford to pay \$126.56 per month for government-sponsored health insurance. In accordance with Table 4, the Appellant, age 57, living in Middlesex County, could have purchased private market health insurance for \$418.00 per month. (Table 4, Schedule HC for 2019). Private insurance was not affordable for the Appellant in 2019.
8. The Appellant was not employed during 2019. (Appellant's Testimony). Therefore, employer-sponsored health insurance was not available to the Appellant in 2019.
9. The Appellant was income-eligible for ConnectorCare coverage in 2019 because their adjusted gross income of \$30,374.00 was less than 300% of the Federal poverty level, which was \$36,420.00 in 2019. (Schedule HC, Table 2).
10. The Appellant testified that their only income during 2019 was from an annuity that they were forced to cash in November 2019 in order to pay essential living expenses. Doing so caused Appellant to receive a federal tax penalty of about ten percent (10%), which meant that they received only about \$18,000.00 to help pay basic living expenses. (Appellant's Testimony). The Appellant had no other source of income during 2019. I credit Appellant's testimony.
11. Appellant further testified that because of a series of events including losing jobs due to outsourcing, death of family members and Appellant's own health problems, they were not employed during 2019 and had not been employed since 2014. (Appellant's Testimony,

which I credit). During those years, Appellant used their savings exclusively to pay for living expenses. (Appellant's Testimony). This situation caused Appellant to experience deep depression and anxiety. (Appellant's Testimony, which I credit).

12. Appellant has been looking for employment for the last year but has been unsuccessful in part because of the COVID-19 pandemic. (Appellant's Testimony).
13. Prior to 2019, the Appellant had received MassHealth insurance coverage. (Appellant's Testimony).
14. The Appellant testified that because they did not have any earned or unearned income during 2018, they did not file a personal tax return for that year and did not complete Schedule HC for 2018 or receive or complete any information concerning their MassHealth enrollment. (Appellant's Testimony).
15. The Appellant further testified that they only learned in June 2020, the extended income tax filing deadline for 2019 because of the pandemic, when they attempted to complete their tax return for 2019 and re-apply for their MassHealth insurance coverage, that they had been terminated from MassHealth insurance coverage. Appellant belatedly came to believe that the termination likely was because of the annuity payout they received in November 2019. (Appellant's Testimony, which I credit).
16. Upon learning of the termination of their MassHealth coverage, Appellant became more anxious and depressed. (Appellant's Testimony, which I credit).
17. Appellant testified that they do not understand how the Health Connector marketplace works and did not understand that they likely were income-eligible for ConnectorCare coverage in 2019. Further, they testified that they believed they could not get insurance coverage through the Connector until their penalty assessment for tax year 2019 had been resolved. (Appellant's Testimony, which I credit).
18. The Appellant attempted unsuccessfully to access government-subsidized health insurance coverage through other sources, such as the Veterans' Administration, but did not qualify. (Appellant's Testimony).
19. The Appellant testified and stated in their supporting letter that payment of a tax penalty fine could cause them to become homeless and to further delay receiving medical treatment that they require now. (Appellant's Testimony and Exhibit 4).
20. The Appellant's 2019 monthly pre-tax living expenses of \$2,270.00 included: Rent - \$1500.00, Heat/electricity - \$180.00, Car insurance - \$50.00, Internet/cable - \$220.00, and Food - \$320.00. Additionally, during 2019 the Appellant incurred credit card debt of about \$20,000.00 to help meet their basic living expenses. (Appellant's Testimony).
21. The Appellant does not currently have health insurance. (Appellant's Testimony). They testified that they now understand that the open enrollment period to apply for health

insurance through the Health Connector extends through January 23, 2021 and expressed an intention to contact the Connector promptly. (Appellant's Testimony).

ANALYSIS AND CONCLUSIONS OF LAW

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

The Appellant is appealing the assessed tax penalty of twelve (12) months. They checked the box on the Statement of Grounds for Appeal form saying that purchasing Massachusetts health insurance in 2019 would have caused them a deprivation of food and other living necessities. (Exhibit 3).

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 \$30,374.00, could afford to pay \$126.56 per month for government-sponsored health insurance. In accordance with Table 4, the Appellant, age 57, living in Middlesex County, could have purchased private market health insurance for \$418.00 per month. (Table 4, Schedule HC for 2019). Private insurance was not affordable for the Appellant in 2019.

The Appellant was not employed during 2019. (Appellant's Testimony). Thus, employer-sponsored health insurance was not available to the Appellant.

The Appellant was income-eligible for ConnectorCare coverage in 2019 because their adjusted gross income of \$30,374.00 was less than 300% of the Federal poverty level, which was \$36,420.00 in 2019. (Schedule HC, Table 2).

Given that ConnectorCare coverage 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.

As an initial matter, I conclude that the Appellant did not understand how the Health Connector marketplace works and their income-eligibility for ConnectorCare coverage in 2019. (Appellant's Testimony, which I find credible).

Further, Appellant had monthly living expenses during 2019 of \$2,270.00, which included: Rent - \$1500.00, Heat/electricity - \$180.00, Car insurance - \$50.00, Internet/cable - \$220.00, and Food - \$320.00. Thus, Appellant's annual living expenses totaled about \$22,700.00. Additionally, during 2019 the Appellant had substantial credit card debt of about \$20,000.00 which was incurred to meet their basic living expenses. Adding those two amounts totaled about \$42,700.00 in combined living expenses and debt. The Appellant testified that they received only about \$18,000.00 in disposable income from their annuity, which was used to cover essential living expenses such as for rent and food. Further, they testified that they received no other income during 2019. (Appellant's Testimony, which I credit).

I conclude based on the totality of Appellant's circumstances evidenced in this administrative record, that Appellant has demonstrated that purchasing health insurance coverage during 2019, even at a cost of \$126.56 per month, would have caused Appellant to experience a financial hardship pursuant 956 CMR 6.08 (1)(e) & (3).

For these reasons, the tax penalty for Appellant's twelve (12) uninsured months in 2019 is waived entirely.

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

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

Hearing Officer

Cc: Connector Appeals Unit

² The Appellant was advised that the Connector's current open enrollment period extends through January 23, 2021 and was further encouraged to contact a 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.

Massachusetts Health Connector Appeals Unit

FINAL APPEAL DECISION: PA19-1054

Appeal Decision: Appeal Approved

Hearing Issue: Appeal of the 2019 Tax Year Penalty

Hearing Date: January 12, 2021

Decision Date: January 28, 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:

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

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

Exhibit 3: Appellant's Supporting Letter, dated 8/18/20 (1 page)

Exhibit 4: Wolverine Worldwide Notice, Your Benefits are a Big Deal (1page)

Exhibit 5: Form MA 1099-HC 2019 (1 page)

Exhibit 6: Department of Treasury Form 1095-A for 2019 (2 pages)

FINDINGS OF FACT

The record shows, and I so find:

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

1. The Appellant turned 23 years old in April 2019. The Appellant filed their Federal Income Tax Return as a single individual, with no dependents claimed. (Exhibit 2).
2. The Appellant lived in Suffolk County, MA in 2019. (Exhibit 2 and Appellant's Testimony).
3. The Appellant's Federal Adjusted Gross Income (AGI) for 2019 was \$60,088.00. (Exhibit 2).
4. The Appellant did not have health insurance during any months of tax year 2019 according to Appeal Case Information from Schedule HC for 2019. (Exhibit 2 and Appellant's Testimony).
5. The Appellant has been assessed a twelve (12)-month tax penalty for 2019. (Exhibit 2 and Appellant's Testimony). The Appellant filed an appeal of that assessment in November 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 \$60,088.00, could afford to pay \$400.59 per month for government-sponsored health insurance. In accordance with Table 4, the Appellant, age 23, living in Suffolk County, could have purchased private market health insurance for \$257.00 per month. (Table 4, Schedule HC for 2019). Private insurance was affordable for the Appellant in 2019.
8. The Appellant's employer during 2019 did offer health insurance although it was not available to Appellant until November 2019. (Appellant's Testimony and Exhibit 4). Thus, employer-sponsored health insurance was not available to the Appellant in 2019 until November 2019.
9. The Appellant was not eligible for ConnectorCare coverage in 2019 because their adjusted gross income of \$60,088.00 was more than 300% of the Federal poverty level, which was \$36,420.00 in 2019. (Schedule HC, Table 2).
10. The Appellant graduated from college in May 2018 and became employed in August 2018. They continued to be covered under the health insurance policy of their mother, who was self-employed as a hairdresser. (Appellant's Testimony and Exhibit 3).

11. Sometime after the beginning of January 2019, Appellant and their mother were notified that Appellant would be removed from coverage under their mother's health insurance policy as they no longer were eligible for such coverage. (Appellant's Testimony and Exhibit 3).
12. Appellant attempted to enroll in coverage under their employer's plan but learned they were not eligible to do so until November 2019. (Appellant's Testimony and Exhibits 3 & 4).
13. Appellant, a recent college graduate, testified that they did not understand that non-subsidized insurance could have been available through the Health Connector marketplace or the open market until November 2019. (Appellant's Testimony, which I found credible).
14. Appellant incurred significant expenses related to graduating from college, moving to a new apartment and beginning a new job. (Appellant's Testimony).
15. Appellant promptly enrolled in their employer's health insurance coverage in November 2019 and has maintained health insurance coverage continuously since then. (Appellant's Testimony, which I find credible).
16. Appellant moved outside Massachusetts in September 2020 for work-related reasons with the same employer. (Appellant's Testimony).
17. There was confusion on the part of the Appellant, their mother and their mother's tax preparer about how to accurately complete the Schedule HC for 2019 for Appellant. (Appellant's Testimony, which I find credible).

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 lack of understanding about how health insurance coverage works, how the Connector marketplace works and their employer's requirements for enrollment in a health care plan.

As an initial matter, I conclude that Appellant was confused about how to correctly complete the Schedule HC for 2019. (Appellant's Testimony, which I credit). Based on Form MA 1099-HC, which Appellant provided, and Appellant's Testimony, they had health insurance coverage during January 2019. (Appellant's Testimony, which I find credible, and Exhibit 5). After January, Appellant had a three-month grace period to find new coverage. See above. Thus, the penalty months assessed to Appellant should be eight (8), not the twelve(12) listed on Appeal Case Information from Schedule HC. (Appellant's Testimony and Exhibit 1).

To determine if the eight (8)-month penalty should be waived in whole or in part, there must be an evaluation of whether affordable insurance which met minimum creditable coverage standards was available to the Appellant through employment, through private insurance, or through a government-sponsored program. If affordable insurance was available, it must be determined if such insurance was not affordable to the Appellant because the Appellant experienced a financial hardship as defined in 956 CMR 6.08.

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 \$60,088.00, could afford to pay \$400.59 per month for government-sponsored health insurance. In accordance with Table 4, the Appellant, age 23, living in Suffolk County, could have purchased private market health insurance for \$257.00 per month. (Table 4, Schedule HC for 2019). Private insurance was not affordable for the Appellant in 2019.

The Appellant's employer in 2019 did not offer health insurance until November 2019. Thus, employer-sponsored health insurance was not available to the Appellant until November 2019.

The Appellant was not eligible for ConnectorCare coverage in 2019 because their adjusted gross income of \$60,088.00 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.

Appellant explained in their supporting letter that after they graduated from college in May 2018, they continued to be covered under their mother's health insurance policy until after January 2019, when their mother's insurance company terminated Appellant from coverage. (Appellant's Testimony and Exhibit 3). Appellant was not able to enroll in their employer's insurance until November 2019. (Appellant's Testimony and Exhibits 3 & 4). Appellant, a recent college-graduate, did not understand that non-subsidized insurance could have been available through the Connector or the open market until November 2019. (Appellant's Testimony, which I credit). Appellant had incurred significant expenses related to graduating from college, moving to a new apartment and beginning a new job. (Appellant's Testimony).

The Appellant promptly enrolled in their employer's health insurance plan in November 2019 and has maintained coverage continuously since then. (Appellant's Testimony, which I credit.) Appellant moved out of state because of work in September 2020. (Appellant's Testimony).

Based on the totality of the circumstances and evidence contained in this administrative record, I conclude that Appellant did not understand the Health Connector or private insurance marketplace; had incurred significant expenses in connection with graduating from college, moving to an apartment and beginning a new job; and was not able to afford health insurance until November 2019. 956 CMR 6.08(3).

For all these reasons, I conclude that Appellant's assessed 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.

PENALTY ASSESSED

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

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

NOTIFICATION OF YOUR RIGHT TO APPEAL TO COURT

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

Hearing Officer

Cc: Connector Appeals Unit

Massachusetts Health Connector Appeals Unit

FINAL APPEAL DECISION: PA19-1055

Appeal Decision: Appeal Approved

Hearing Issue: Appeal of the 2019 Tax Year Penalty

Hearing Date: January 12, 2021

Decision Date: January 28, 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:

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

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

Exhibit 3: Vacated Dismissal Approved DOR, 9/8/20

Exhibit 4: Statement of Grounds for Appeal, with Post It Note, 3/12/20 (2 pages)

Exhibit 5: Form 1095-B for 2019, N.E. Family Dentistry (1 page)

Exhibit 6: Form 1095-B for 2019, King, McNamara & Moriarty (1page)

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 25 years old in April 2019. The Appellant filed their Federal Income Tax Return as a single individual, with no dependents claimed. (Exhibit 2).
2. The Appellant lived in Bristol County, MA in 2019. (Exhibit 2 and Appellant's Testimony).
3. The Appellant's Federal Adjusted Gross Income (AGI) for 2019 was \$50,474.00. (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 November 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 \$50,474.00, could afford to pay \$336.45 per month for government-sponsored health insurance. In accordance with Table 4, the Appellant, age 25, living in Bristol County, could have purchased private market health insurance for \$257.00 per month. (Table 4, Schedule HC for 2019). Private insurance was affordable for the Appellant in 2019.
8. The Appellant had two different full-time employers during 2019, each of which offered minimum creditable coverage (MCC)-compliant health insurance coverage. (Appellant's Testimony and Exhibits 5 & 6). Appellant testified and submitted supporting documents to demonstrate that they had employer-sponsored health insurance during January and February 2019 with one employer (Exhibit 5) and MCC-compliant insurance coverage with their second employer for March through December 2019. (Appellant's Testimony and Exhibit 6).
9. Appellant testified that they were confused in completing the Schedule HC for 2019 and believed they mistakenly checked boxes showing that they did not have health insurance

during any months in 2019 when, in fact, they had insurance coverage for each month of 2019. (Appellant's Testimony, which I credit, and Exhibits 5 & 6).

10. The Appellant was not eligible for ConnectorCare coverage in 2019 because their adjusted gross income of \$50,474.00 was more than 300% of the Federal poverty level, which was \$36,420.00 in 2019. (Schedule HC, Table 2).
11. The Appellant continues to have employer-sponsored health insurance coverage currently. (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 their having had employer-sponsored health insurance that was MCC-compliant for each month of tax year 2019.

The Appellant had two different full-time employers during 2019, each of which offered minimum creditable coverage (MCC)-compliant health insurance coverage. (Appellant's Testimony and Exhibits 5 & 6).

Based on the evidence and administrative record in this matter, I find that Appellant had employer-sponsored health insurance coverage during January and February 2019 with one employer (Exhibit 5) and MCC-compliant insurance coverage with their second employer for March through December 2019. (Appellant's Testimony and Exhibit 6). Thus, I conclude that Appellant had MCC-compliant health insurance coverage during each month of tax year 2019. Accordingly, Appellant satisfied the individual mandate requirement under G.L. c. 111M, § 2 for tax year 2019.

For these reasons, Appellants assessed penalty of twelve (12) months is waived entirely.

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

PENALTY ASSESSED

Number of Months Appealed: ____12____ Number of Months Assessed: ____0____

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

NOTIFICATION OF YOUR RIGHT TO APPEAL TO COURT

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

Hearing Officer

Cc: Connector Appeals Unit

Massachusetts Health Connector Appeals Unit

FINAL APPEAL DECISION: PA19-1056

Appeal Decision: Appeal Approved

Hearing Issue: Appeal of the 2019 Tax Year Penalty

Hearing Date: January 12, 2021

Decision Date: January 29, 2021

AUTHORITY

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

JURISDICTION

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

HEARING 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:

Exhibit 1: Hearing Notice Dated December 14, 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)

FINDINGS OF FACT

The record shows, and I so find:

1. The Appellant turned 41 years old in April 2019. The Appellant filed their Federal Income Tax Return as a single individual, with no dependents claimed. (Exhibit 2).

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

2. The Appellant lived in Middlesex County, MA in 2019. (Exhibit 2 and Appellant's Testimony).
3. The Appellant's Federal Adjusted Gross Income (AGI) for 2019 was \$53,681.00. (Exhibit 2).
4. The Appellant had health insurance during one month of tax year 2019 according to Appeal Case Information from Schedule HC for 2019. (Exhibit 2).
5. The Appellant has been assessed an eight (8)-month tax penalty for 2019. (Exhibit 2). The Appellant filed an appeal of that assessment in November 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 \$53,681.00, could afford to pay \$357.87 per month for government-sponsored health insurance. In accordance with Table 4, the Appellant, age 41, living in Middlesex County, could have purchased private market health insurance for \$306.00 per month. (Table 4, Schedule HC for 2019). Private insurance was affordable for the Appellant in 2019.
8. The Appellant was unemployed during 2019 and the prior two years. (Appellant's Testimony). Thus, employer-sponsored insurance was not available to Appellant.
9. The Appellant was not eligible for ConnectorCare coverage in 2019 because their adjusted gross income of \$53,681.00 was more than 300% of the Federal poverty level, which was \$36,420.00 in 2019. (Schedule HC, Table 2).
10. Appellant testified that their parents both became ill, eventually requiring Appellant to leave their job to care for them and ultimately handle their estate matters. (Appellant's Testimony).
11. Appellant has been looking for work but the process has been slowed down and complicated by the pandemic. (Appellant's Testimony).
12. The Appellant testified that they began the health insurance application renewal process in early 2019 but encountered numerous problems and spent hours, days and months on

the phone trying to rectify matters, which caused unnecessary delays in the processing of their application. (Appellants Testimony, which I credit).

13. Appellant's 2019 monthly living expenses of \$2,617.00 included: Rent - \$850.00, Mortgage on inherited properties - \$750.00, Heat/electricity - \$170.00, Phone - \$150.00, Internet/cable - \$200.00, Food - \$300.00, Clothing & miscellaneous - \$200.00. Additionally, the Appellant had incurred about \$30,000.00 in travel expenses to and from Hawaii over the preceding years where one of their sick parents lived. (Appellant's Testimony). Appellant testified they paid the state \$2,500.00 in taxes. (Appellant's Testimony).
14. 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 eight (8) months based on a delay by the MassHealth in processing their application and financial hardship.

To determine if the eight (8)-month penalty should be waived in whole or in part, there must be an evaluation of whether affordable insurance which met minimum creditable coverage standards was available to the Appellant through employment, through private insurance, or through a government-sponsored program. If affordable insurance was available, it must be determined if such insurance was not affordable to the Appellant because the Appellant experienced a financial hardship as defined in 956 CMR 6.08.

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 \$53,681.00, could afford to pay \$357.87 per month for government-sponsored health insurance. In accordance with Table 4, the Appellant, age 41, living in Middlesex County, could have purchased private market health insurance for \$306.00 per month. (Table 4, Schedule HC for 2019). Private insurance was affordable for the Appellant in 2019.

The Appellant was unemployed during 2019 and the prior year. (Appellant's Testimony). Thus, employer-sponsored insurance was not available to Appellant.

The Appellant was not eligible for ConnectorCare coverage in 2019 because their adjusted gross income of \$53,681.00 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.

Appellant was unemployed and had been for two prior years because of the need to leave their job and care for their ailing parents, one of whom lived in Hawaii. (Appellant's Testimony). Both parents died, and Appellant was required to handle details relating to their deaths and is now responsible for paying the mortgage on inherited property. (Appellant's Testimony and Exhibit 4). Appellant has been looking for work but the process has been slowed down and complicated by the pandemic. (Appellant's Testimony).

Appellant's 2019 monthly living expenses totaled \$2,617.00. Additionally, they had incurred special expenses of about \$30,000.00 in air fare and related expenses to care for an out of state ailing parent, who eventually died. (Appellant's Testimony).

Based on the totality of these circumstances and the administrative record, I conclude that they have demonstrated that paying for health insurance in tax year 2019 would have caused a financial hardship. 956 CMR 6.08(3).

For all these reasons, I conclude that Appellant's assessed 8-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.

PENALTY ASSESSED

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

If the number of months assessed is zero (0) because your penalty has been overturned, the Connector has notified the Department of Revenue that you should NOT be assessed a penalty for Tax Year 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: PA19-1058

Appeal Decision: Appeal Approved

Hearing Issue: Appeal of the 2019 Tax Year Penalty

Hearing Date: January 12, 2021

Decision Date: January 29, 2021

AUTHORITY

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

JURISDICTION

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

HEARING 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:

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 9/3/20 (8 pages)

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

FINDINGS OF FACT

The record shows, and I so find:

1. The Appellant turned 27 years old in March 2019. The Appellant filed their Federal Income Tax Return as a single individual, with no dependents claimed. (Exhibit 2).

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

2. The Appellant lived in Worcester County, MA in 2019. (Exhibit 2 and Appellant's Testimony).
3. The Appellant's Federal Adjusted Gross Income (AGI) for 2019 was \$25,960.00. (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 September 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 \$25,960.00, could afford to pay \$90.86 per month for government-sponsored health insurance. In accordance with Table 4, the Appellant, age 41, living in Worcester County, could have purchased private market health insurance for \$257.00 per month. (Table 4, Schedule HC for 2019). Private insurance was not affordable for the Appellant in 2019.
8. Employer-sponsored insurance was offered to the Appellant at a cost of about \$120.00 per month. (Appellant's Testimony). According to Table 3 of Schedule HC for 2019, employer-sponsored insurance was not affordable to Appellant.
9. The Appellant was income-eligible for ConnectorCare coverage in 2019 because their adjusted gross income of \$25,960.00 was less than 300% of the Federal poverty level, which was \$36,420.00 in 2019. (Schedule HC, Table 2).
10. Appellant testified that they worked as a cook during 2019, earning \$12.00 per hour.
11. Because of an oversight and confusion about how health insurance works, Appellant did not renew their health insurance for tax year 2019 although they had insurance the prior year. (Appellant's Testimony, which I credit).
12. The Appellant testified they did not understand the individual mandate and how the Connector marketplace works. (Appellant's Testimony, which I credit).

13. Appellant was laid off from their job in March 2020 because of the pandemic and remains unemployed. (Appellant's Testimony).
14. Appellant's 2019 monthly living expenses of \$1,460.00 included: Rent - \$600.00, Heat - \$40.00, Phone - \$150.00, Electricity - \$110.00, Wifi - \$85.00, Food - \$300.00, Car insurance - \$140.00, Gas - &60.00, Phone - \$45.00, Food - \$300.00, Credit card debt - \$50.00, Clothing & shoes - \$30.00. (Appellant's Testimony).
15. Appellant did not receive any eviction notices, utility shut off notices or incur unusual expenses in 2019 because of unexpected care of a family member. (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 \$25,960.00, could afford to pay \$90.86 per month for government-sponsored health insurance. In accordance with Table 4, the Appellant, age 41, living in Middlesex County, could have purchased private market health insurance for \$257.00 per month. (Table 4, Schedule HC for 2019). Private insurance was not affordable for the Appellant in 2019.

Employer-sponsored insurance was offered to the Appellant at a cost of about \$120.00 per month. (Appellant's Testimony). According to Table 3 of Schedule HC for 2019, employer-sponsored insurance was not affordable to Appellant.

The Appellant was income-eligible for ConnectorCare coverage in 2019 because their adjusted gross income of \$25,960.00 was less than 300% of the Federal poverty level, which was \$36,420.00 in 2019. (Schedule HC, Table 2). However, that coverage, which is subsidized in part by a federal advance premium tax credit, is available to an individual who has access to insurance through employment only if the offered insurance is unaffordable. Pursuant to the federal Affordable Care Act, if employer-sponsored health insurance is offered and if the cost to the employee in 2019 is 9.86 percent or less 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). Calculating 9.86% of the Appellant's modified adjusted gross income of \$25,960.00 equals \$2,559.67 per year or \$213.30 per month. Since the employer-sponsored insurance offered to Appellant cost about \$120.00 per month, that offer was deemed affordable pursuant to the Affordable Care Act. The Appellant, therefore, was not eligible for ConnectorCare coverage because they were ineligible for any advance premium tax credit. Exhibit 1.

The Appellant had no access to affordable insurance coverage during 2019. No available coverage was available to them through employment, the 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 through the ConnectorCare program 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) & (3).

Appellant's 2019 monthly living expenses totaled \$1,460.00. (Appellant's Testimony). Even his employer-sponsored insurance costing about \$120.00 per month was more than the \$90.86 per month for government-sponsored health insurance that Appellant could afford to pay according to Table 3 of Schedule HC for 2019. Thus, paying insurance premiums in tax year 2019 would have caused Appellant to experience financial hardship. 956 CMR 6.08(1) & (3).

Both because no affordable insurance coverage through the ConnectorCare program was available and because of 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

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

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

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: PA19937

Appeal Decision: The penalty is overturned in full.

Hearing Issue: Appeal of the 2019 Tax Year Penalty

Hearing Date: December 4, 2020

Decision Date: January 27, 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 4, 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 26, 2020 with letter in support, and Connector application history attached
- Exhibit 2: Appeal print-out from Appellant's 2019 Massachusetts Tax Return, 2019 with information from Schedule HC
- Exhibit 3: Connector Notice of Hearing sent to Appellant dated November 5, 2020 for December 4, 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 39 years old in 2019 (Exhibit 2, Testimony of Appellant).
2. Appellant resided in Middlesex County in 2019. Appellant was out of the country in January and February, and out of the Commonwealth visiting sick relatives in March. Appellant was unable to check her mail while she was out of the country, but was able to some time in March (Testimony of Appellant, Exhibit 2).
3. Appellant had a Federal Adjusted Income of \$51,282 in 2019. Virtually all of Appellant's income came from a family account rather than earned income. In 2019, Appellant who was self-employed as a writer, earned about \$1,000. Distributions from the family account were not consistent and the appellant would not know the amount she would receive in any month until about two to three months before the distribution (Testimony of Appellant, Exhibit 2).
4. Appellant had MassHealth coverage in 2018 and in January, 2019. She was not aware that she had lost her coverage until some time in March when she returned to the Commonwealth (Testimony of Appellant).

5. Throughout 2019, the appellant tried to obtain coverage through the Connector. Appellant applied on March 17, July 2, and October 18, 2019. Each time she was told that she could not obtain insurance because she was applying outside of the open enrollment period and more than 60 days after she had lost coverage (Testimony of Appellant, Exhibit 1 attachment).
6. Appellant obtained health insurance through the Connector as of January 1, 2020 (Testimony of Appellant).
7. Appellant has been assessed a penalty for May through December, 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 \$51,282 could afford to pay \$341 per month for health insurance. According to Table 4, Appellant, 39 years old and living in Middlesex County, could have purchased insurance for \$286 per month for a plan for an individual. Insurance on the individual market was affordable for the appellant (Schedule HC for 2019 Tables 3 and 4, Exhibit 2, Testimony of Appellant).
10. According to Table 2 of Schedule HC for 2019, Appellant earning more than \$36,420 per year, would have been ineligible for the ConnectorCare program based upon income (Table 2 of Schedule HC-2019, and Exhibit 2).
11. Appellant had no access to health insurance through employment. Appellant was self-employed in 2019 (Testimony of Appellant).
12. Appellant did not incur significant and unexpected increases in essential expenses as a result of domestic violence; the death of a spouse, family member, or partner who shared household expenses; the sudden responsibility for providing full care for an aging parent or other family member; or fire, flood, or other natural or man-made disaster in 2019 (Testimony of Appellant).
13. Appellant did not receive any shutoff or terminations notices for any basic utility in 2019 (Testimony of Appellant).
14. Appellant did not fall more than thirty days behind in rent payments in 2019 (Testimony of Appellant).
15. Appellant had the following monthly expenses for basic necessities in 2019: rent, including heat and electricity-\$1,550; telephone and internet-\$90; food, household supplies, and personal care items-\$930; car insurance-\$100; gas-\$65; clothing-\$175. In addition, Appellant spent \$2,500 on car repairs, \$2,000 on travel to see family, and \$4,000 on emergency surgery. Appellant was billed \$31,000 for the surgery. She was only able to pay the \$4,000 during 2019 (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 eight months, May through December, of 2019. Appellant had health insurance which met the Commonwealth’s standards in January. Since she is entitled to a three month grace period after losing her coverage, any penalty for February through April has been waived. The appellant has appealed the assessment. See Exhibit 2 and the testimony of the appellant which I find to be credible.

To determine if Appellant’s penalty should be waived in whole or in part, we must consider whether affordable insurance which met minimum creditable coverage standards was available to the appellant through employment, through the 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 2 of Schedule HC for 2019, Appellant earning more than \$36,420 per year, would have been ineligible for the ConnectorCare program based upon income (Table 2 of Schedule HC-2019, and Exhibit 2).

Appellant had no access to health insurance through employment. Appellant was self-employed during 2019.

According to Table 3 of Schedule HC for 2019, the appellant with no dependents claimed with an adjusted gross income of \$51,282 could afford to pay \$341 per month for health insurance. According to Table 4, Appellant, 39 years old and living in Middlesex County, could have purchased insurance for \$286 per month for a plan for an individual. Insurance on the individual market was affordable for the appellant. See Schedule HC for 2019 Tables 3 and 4, Exhibit 2, and the testimony of Appellant.

Since the appellant could have obtained affordable health insurance on 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 monthly expenses for basic necessities in 2019: rent, including heat and electricity-\$1,550; telephone and internet-\$90; food, household supplies, and personal care items-\$930; car insurance-\$100; gas-\$65; clothing-\$175. In addition, Appellant spent \$2,500 on car repairs, \$2,000 on travel to see family, and \$4,000 on emergency surgery. Appellant was billed \$31,000 for the surgery. She was only able to pay the \$4,000 during 2019.

Appellant’s expenses amounted to about \$4,200 a month if we include the expenses for car repairs, necessary travel, and the cost of surgery. Appellant’s income came to approximately the same amount before any taxes. In addition, the appellant did not have a stable source of income. Appellant earned very little, about \$1,000 all year, from her work. The rest of her income came from distributions from a family account which the appellant did not control. Appellant learned two to three month in advance about the amount of the next distribution. See the testimony of Appellant which I find to be credible.

Based upon these facts summarized above, I determine that the appellant had a financial hardship such that health insurance was unaffordable for Appellant during 2019. I determine that the cost of purchasing coverage would have caused Appellant to experience a serious deprivation of basic necessities. See 956 CMR 6.08(1)(e). See also 6.08(3) which allows the consideration of other financial issues raised by the appellant during the hearing.

I also note that Appellant tried to obtain health insurance through the Connector numerous times during the year. She had coverage in 2018 and in January, 2019. Appellant tried to obtain coverage again in March, July, and October. Each time she was denied because she was applying outside of the open enrollment period. See Exhibit 1. She again applied during the open enrollment period for 2020 and obtained coverage as of January 1, 2020.

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: 8 Number of Months Assessed: 0

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

NOTIFICATION OF YOUR RIGHT TO APPEAL TO COURT

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

Hearing Officer

Cc: Connector Appeals Unit

Massachusetts Health Connector Appeals Unit

FINAL APPEAL DECISION: PA19964

Appeal Decision : Penalty waived in full

Hearing Issue: Appeal of the 2019 Tax Year Penalty

Hearing Date: December 14, 2020

Decision Date: January 28, 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

Both of the appellants appeared at the hearing which was held by telephone on December 14, 2020. The procedures to be followed during the hearing were reviewed with Appellants who were then sworn in. Exhibits were marked and admitted in evidence with no objection from the appellants. The appellants testified. At the end of the hearing, the record was left open until January 18, 2021 to give Appellants time to submit additional evidence. Documents were received from the appellants on December 30, 2020 and January 4, 2021. These have been marked as exhibits, and admitted in evidence. The record of this hearing is now closed.

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

Exhibit 1: Statement of Grounds for Appeal 2019 signed and dated by Appellants on August 7, 2020

Exhibit 1a: Lease signed by Appellant on May 23, 2019 for apartment out of state

Exhibit 1b: Appellant's telephone bill for June and July, 2019, out of state address

Exhibit 1c: Appellant's bank statement, July, 2019, out of state address

Exhibit 1d: Appellant's credit card bill, August, 2019, out of state address

Exhibit 1e: 2017 lease signed by Appellants, out of state address

Exhibit 2: Appeal Case Information from Schedule HC 2019

Exhibit 3: Notice of Hearing sent to Appellant dated November 9, 2020 for hearing on December 14, 2020

Exhibit 4: Appellant's 2019 Form MA 1099-HC and summary of benefits

FINDINGS OF FACT:

The record shows, and I so find

1. Appellants were 32 and 33 years old in 2019. They filed their Massachusetts tax return jointly as a married couple and as part-year residents. They listed their start date as residents as June 1, 2019 (Exhibit 2, Testimony of Appellant).
2. The appellants had a Federal Adjusted Gross income in 2019 of \$215,838. One of the appellants was employed all year; the other was a student at an out of state university (Testimony of Appellant, Exhibit 2).

3. One of the appellants moved to Massachusetts on June 1, 2019. This appellant had health insurance which met the Commonwealth's minimum creditable coverage standards all year (Testimony of Appellant, Exhibits 2, 4).
4. The other appellant did not move to Massachusetts until November 1, 2019. This appellant was a student at a school outside of the Commonwealth; Appellant had health insurance through the university he attended for the whole year (Testimony of Appellant, Exhibits 1a-1e).
5. Appellants have each been assessed a penalty for four months, September through December. Appellants have appealed this assessment (Exhibits 1 and 2).

ANALYSIS AND CONCLUSIONS OF LAW

The appellants have each been assessed a tax penalty for four months, September through December, 2019. They have appealed the penalty. See Exhibits 1 and 2. The issue on appeal is whether the tax penalty assessed 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 which 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 are subject to a tax penalty for "each of the months" that the individual did not have health insurance as required by the individual mandate. There is a three-month grace period to allow the taxpayer to obtain health insurance coverage or to make the transition between health insurance policies. See G. L. c. 111M, sec. 2(b) and for Tax Year 2010, Administrative Bulletin 03-10: Guidance Regarding M.G.L. c. 111M and M.G.L. c. 176Q, as implemented by 956 CMR 6.00, which interprets the 63-day gap in coverage to be three months. The Connector's regulations provide for a waiver of the tax penalty in the case of a financial hardship. See 956 CMR 6.08.

One of the appellants resided out of the Commonwealth until November 1, 2019. This appellant was a student at a university outside of Massachusetts all of 2019. Appellant had health insurance all of 2019 through the university he attended. He had a lease for an apartment in which he resided, out of the Commonwealth, and he received his bills and bank statements at his out of state residence. His bank and telephone company were located in the state in which he attended school. Though the appellants were married during the months in question, they did not reside together. See the testimony of the appellant which I find to be credible and Exhibit 1a-1e. Under Massachusetts law, only residents of the Commonwealth are required to have health insurance which meets the state's minimum creditable coverage standards. See Massachusetts General Laws, Chapter 111M, Section 2. Based upon the testimony of the appellant and Exhibits 1a-1e, I determine that the appellant did not reside in Massachusetts until November 1, 2019 and was, therefore, not subject to the requirements of Chapter 111M during this from September through December. After this appellant moved to Massachusetts he had three months to obtain coverage without penalty. His penalty is waived in full.

The other appellant moved to Massachusetts at the beginning of June, 2019. This appellant had health insurance all year which met the Commonwealth's minimum creditable coverage standards. See the testimony of the appellant which I find to be credible and Exhibit 4, the appellant's 2019 Form MA 1099-HC which shows that Appellant had the proper coverage. Since she had coverage which met the Commonwealth's standards, her penalty is also waived in full. See Massachusetts General Laws, Chapter 111M, Section 2.

Appellants should note that this waiver of the penalty is based upon the facts that I have determined to be true for this 2019 appeal. Appellants should not assume that a similar determination will be made in the future should Appellants again be assessed a penalty for failure to have health insurance.

PENALTY ASSESSED

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

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