

Massachusetts Health Connector Appeals Unit

FINAL APPEAL DECISION: PA 21-2147

Appeal Decision: The penalty is overturned in full.

Hearing Issue: Appeal of the 2021 Tax Year Penalty

Hearing Date: January 11, 2023

Decision Date: January 18, 2022

AUTHORITY

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

JURISDICTION

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

HEARING RECORD

The Appellant appeared at the hearing, which was held by telephone on January 11, 2023. The procedures to be followed during the hearing were reviewed with the Appellant who was then sworn in. Exhibits were marked and admitted in evidence with no objection from the Appellant. The Appellant testified.

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

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|---------------|---|-----------|
| Exhibit 1: | Appeal Case Information from Schedule HC. | (1 page). |
| Exhibit 2: | Statement of Grounds for Appeal 2020 Signed by Appellant on 9/27 /2022. | (2 PP). |
| Exhibit 2(a): | Statement Submitted by the Appellant with Appeal 4/29/22 | (1P). |
| Exhibit 2 (b) | Documents Submitted of Appeal dated 4/29/22
(9PP) | |
| Exhibit 3: | Health Connector's Notice of Hearing dated 12/27/2022 | (2 PP). |

The record shows, and I so find:

1. Appellant, who filed a 2021 Massachusetts tax return filed single with a family size of 1, was age 25 in 2021, lived in Worcester County, and had zero (0) dependents. (Exhibit 1).
2. Appellant's Federal Adjusted Gross Income for 2021 was \$86,662. (Exhibit 1).
3. Appellant was employed full time at a construction company. (Appellant's Testimony).
4. Appellant's Employer did not offer him Employer Sponsored Insurance("ESI"). (Appellant's Testimony, Ex. 6).

5. Appellant was insured through his mother's employer until he obtained new employment in the Spring of 2021. (Appellant's Testimony).
6. Appellant investigated Connectorcare and affordable insurance on the internet and Evolve Health Insurance appeared as a link. (Appellant's Testimony).
7. Appellant did not realize that Evolve did not meet the minimal credible coverage standards and became insured through Evolve. (Appellant's Testimony).
8. Appellant paid a \$197.95 month for health insurance through Evolve from March 2021 through the end of the calendar year 2021. (Appellant's Testimony, Exhibit 2(a)(b)).
9. Appellant did not discover that Evolve was not MCC compliant until he completed his tax return at the beginning of 2022. (Appellant's Testimony).
10. Appellant has been assessed a tax penalty for twelve (12) months in 2021. The Appellant has appealed this assessment (Exhibits 1, 2).
11. Once the Appellant became aware that the the coverage he purchased would not meet the coverage insurance requirements of Massachusetts, he obtained insurance through the Connectorcare. (Appellant's Testimony, Exhibit 2(a)).
12. According to Table 3 Appellant could have afforded \$577.75 per month for health insurance in 2021. According to Table 4 Appellant could have purchased insurance for \$263.00 per month.
13. The Appellant would not have been eligible for ConnectorCare coverage in 2021 because the Appellant's income was more than 300% of the poverty level, which was \$38,280.00. (See Table 2 of Schedule HC 2021, Appellant's Testimony).
14. In addition to the foregoing, I take administrative notice of the 2021 Schedule HC Instructions and Worksheets, available at <http://www.mass.gov.dor/docs/dor/health-care/2021>, and in particular, Tables 1-6 which, as discussed below, include the Affordability Schedule and other financial information used in making 2021 individual mandate tax penalty determinations.

ANALYSIS AND CONCLUSIONS OF LAW

The issue on appeal is whether the tax penalty assessed by the Massachusetts Department of Revenue for 2021 should be waived, either in whole or in part. Appellant has been assessed a tax penalty for twelve (12) months in 2021. Appellant has appealed the penalty. (See Exhibits 1 and 2).

The Appellant submitted a statement of grounds for appeal (Ex. 2) with the appeal and checked that during 2021 that the individual mandate did not apply to him because he didn't meet minimum creditable coverage standards and that his circumstances prevented him from buying other insurance that met the minimum creditable standards.

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 2021, \$86,662.00 was more than 300% of the federal poverty level, which for 2021 was \$38,280.00 for a single person. According to Table 3 of Schedule HC for 2021, the Appellant could have afforded \$577.75 per month. According to Table 4, Appellant, age and liv 25 living in Worcester County during the time he was being penalized for not having insurance, could have purchased insurance for \$263 per month. Individual coverage was affordable through the individual market for the Appellant in 2021 (Schedule HC for 2021).

The next issue to consider is whether the Appellant had access to affordable employer health insurance (“ESI”) in 2021. The Appellant testified he was not offered ESI from his employer. (Appellant’s Testimony, Exhibit 6). 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 2021 is considered to be affordable if the employee’s contribution for an individual plan is 9.83 percent or less of the employee’s projected household modified adjusted income (MAGI). The coverage is considered to meet minimum value standards if it has an actuarial value of at least 60 percent. In this case, as referenced above, the Appellant did not have access to ESI during the months he was being penalized. (Appellant’s Testimony, Exhibit 2(a)).

Where the Appellant did have access affordable coverage for full-rate insurance on the market but did not have access to ESI, and did not experience a financial hardship such that the cost of coverage would have been unaffordable for him, we need to examine whether there are other mitigating factors that support a determination so as to waive, as defined by law so as to waive his penalty for the months in question.

I find the Appellant unknowingly purchased a non-compliant policy after investigating insurance through the Connector after he was continued discontinued from his mother’s insurance plan because she changed employment. (Appellant Testimony). The Appellant, although not purchasing a compliant policy, took

the initiative to purchase a police, at a substantial cost of \$197.95 per month. The mandate has not been lost on the Appellant when after discovering that the policy was not MCC compliant, obtained Connectorcare and continues to be insured.

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

Appellant should note that any waiver granted here is for 2021 only and is based upon the specific facts I have found to be true and should not assume that the same determination will be made should Appellant be assessed a penalty in the future.

PENALTY ASSESSED

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

The Connector has notified the Department of Revenue that pursuant to its decision, you should be assessed a penalty for Tax Year 2021 for the amount equal to one half of the lowest cost health insurance plan available to you for each month you have been assessed the penalty, as listed above, plus applicable interest back to the due date of the return without regard to extension.

NOTIFICATION OF YOUR RIGHT TO APPEAL TO COURT

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

Cc: Connector Appeals Unit

Hearing Officer

ADDENDUM

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

Massachusetts Health Connector Appeals Unit

FINAL APPEAL DECISION: PA 21-2195

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

Hearing Issue: Appeal of the 2021 Tax Year Penalty

Hearing Date: January 9, 2023

Decision Date: January 11, 2023

AUTHORITY

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

JURISDICTION

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

HEARING RECORD

Appellant appeared at the hearing, which was held by telephone, on January 9, 2023. The hearing record consists of the testimony of Appellant, and the following documents, which were admitted into evidence:

Exhibit 1: Health Connector Hearing Notice (2 pages)

Exhibit 2: Appeal Case Information sheet¹ (1 page)

Exhibit 3: Statement of Grounds (4 pages)

FINDINGS OF FACT

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

1. Appellant was 25 at the end of 2021. Exhibit 2.
2. Appellant lived in Hampshire County in 2021. Exhibit 2.
3. Appellant filed his taxes as single with no dependents. Exhibit 2.
4. Appellant reported on the Schedule HC that he filed with his state income taxes, and confirmed at the hearing, that his annual income for 2021 was \$45,208. Exhibit 2.
5. Appellant reported in the Schedule HC that he filed with his 2021 state income taxes, and confirmed at the hearing, that he had health insurance meeting minimum creditable coverage

¹ Exhibit 2 is a computer printout containing information extracted from the Schedule HC that Appellant submitted as part of his 2021 Massachusetts tax return. The Schedule HC is the form on which Massachusetts taxpayers report information relevant to the individual mandate penalty, which is the subject of this appeal.

standards in January and February 2021 but did not have such insurance for the remaining 10 months of the year. Exhibit 2.

6. Appellant worked full-time throughout 2021 at a job that did not offer him health insurance.
7. At the beginning of 2021, Appellant was enrolled in health insurance through the Massachusetts Health Connector. That insurance ended in February. Appellant did not understand why he had lost that insurance, but he believed that it was because his income increased and as a result the premium became too much for him to pay.
8. At the start of 2022, Appellant applied again for insurance through the Health Connector and was able to obtain insurance that he believed he could afford. He was insured as of the date of the hearing.
9. During 2021, Appellant purchased a residence and assumed a mortgage. He was also repaying student loans and a car loan; the loan repayments amounted to about \$700 a month.

In addition to the foregoing, I take administrative notice of the 2021 Schedule HC Instructions and Worksheets, available at <https://www.mass.gov/doc/2021-schedule-hc-instructions/download>, which, as discussed below, include the Affordability Schedule and other financial information used in making 2021 individual mandate tax penalty determinations.

ANALYSIS AND CONCLUSIONS OF LAW

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

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

In order to determine whether Appellant should be penalized for not having coverage, I must first consider whether he could have obtained affordable insurance from any of the following three sources: (1) employment-based insurance; (2) government-subsidized insurance; or (3) unsubsidized insurance purchased on the non-group market. See 2021 Schedule HC instructions at pages HC 7-9

During 2021, Appellant worked in positions in which he was not offered health insurance. Therefore he could not obtain health insurance through employment.

Further, Appellant was not eligible for Connector Care, which is government-subsidized health insurance in Massachusetts. To be eligible for Connector Care, an individual must have household income below 300 percent of the federal poverty limit. See 956 C.M.R. § 12.04 (Connector Care eligibility requirements.) This amount is \$38,280 for a household of one person like Appellant's. (I obtain the figure of \$38,280 from Table 2 to the instructions for the 2021 Schedule HC.) In this case, Appellant's income during 2021 was \$45,208 and therefore he was not eligible for Connector Care.

However, Appellant would have been able to afford to purchase unsubsidized health insurance on the non-group market under state affordability standards established by the Health Connector Board under M.G.L. c. 111M. Under those standards, an individual like Appellant who was in a household of one person and had annual income of \$45,208 was deemed able to afford 7.6 percent of income on insurance. (I obtain that figure from Table 3 of the 2021 instructions for the Schedule HC.) In this case, that amounts to \$3,435 annually or \$286 a month. During 2021, a person like Appellant who lived in Hampshire County and was 25 years of age could have obtained health insurance meeting minimum creditable coverage standards for a monthly premium of \$263. (I obtain the premium figure from Table 4 to the instructions for the 2021 Schedule HC). Thus, under state standards, this amount would have been affordable.

Because Appellant could have obtained affordable insurance in 2021, but did not, I am required to consider whether he has stated grounds sufficient to waive the penalty under Health Connector regulations. 956 C.M.R. § 6.08. I conclude that he has. During 2021, Appellant's income increased to a point that he was no longer eligible for subsidized health insurance through the Health Connector. This would have resulted in a significant increase in premium. Appellant's work was seasonal and therefore his income was not completely predictable. Further, I note that, under state standards, health insurance was only marginally affordable, by a margin of less than \$25 a month. During this time period, Appellant assumed the burden of a mortgage and was paying off loans requiring monthly payments of \$700. Finally, I take into account the fact that Appellant did eventually obtain insurance at the start of 2022 and was insured as of the date of the hearing. In light of all these factors, I will exercise my discretion to waive the penalty in its entirety.

PENALTY ASSESSED

Number of Months Appealed: 10

Number of Months Assessed: 0

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

NOTIFICATION OF YOUR RIGHT TO APPEAL TO COURT

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

Hearing Officer

Cc: Connector Appeals Unit

Massachusetts Health Connector Appeals Unit

FINAL APPEAL DECISION: PA 21-2196

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

Hearing Issue: Appeal of the 2021 Tax Year Penalty

Hearing Date: January 9, 2023

Decision Date: January 11, 2023

AUTHORITY

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

JURISDICTION

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

HEARING RECORD

Appellant appeared at the hearing, which was held by telephone, on January 9, 2023. The hearing record consists of the testimony of Appellant, and the following documents, which were admitted into evidence:

- Exhibit 1: Health Connector Hearing Notice (2 pages)
- Exhibit 2: Appeal Case Information sheet¹ (1 page)
- Exhibit 3: Statement of Grounds (with attachments) (8 pages)

FINDINGS OF FACT

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

1. Appellant was 30 at the end of 2021. Exhibit 2.
2. Appellant lived in Plymouth County in 2021. Exhibit 2.
3. Appellant filed her taxes as single with no dependents. Exhibit 2.

¹ Exhibit 2 is a computer printout containing information extracted from the Schedule HC that Appellant submitted as part of her 2021 Massachusetts tax return. The Schedule HC is the form on which Massachusetts taxpayers report information relevant to the individual mandate penalty, which is the subject of this appeal.

4. Appellant reported on the Schedule HC that she filed with her state income taxes, and confirmed at the hearing, that her annual income for 2021 was \$52,157. Exhibit 2.
5. Appellant reported in the Schedule HC that she filed with her 2021 state income taxes, and confirmed at the hearing, that she did not have health insurance meeting minimum creditable coverage standards at any point during 2021. Exhibit 2.
6. Appellant worked at two part-time jobs during 2021. Neither job offered her health insurance as a benefit.
7. Appellant worked in service jobs. As a result, her hours were cut back and were erratic during 2021 because the businesses for which she worked experienced closures due to the Covid pandemic.
8. Early in 2021, Appellant began living with her boyfriend in an apartment that he rented.
9. Appellant and her boyfriend received a notice to quit the apartment during the year because the building was being sold. See Exhibit 3 attachment (notice to quit.)
10. As a result, Appellant was without a place to living for about two months in the middle of 2021 during which time she lived either with friends or in motels.
11. At the start of 2022, after completing her 2021 taxes and realizing she was subject to a penalty, Appellant applied for health insurance through the Health Connector and was able to obtain insurance that was affordable to her. She was insured as of the date of the hearing.

In addition to the foregoing, I take administrative notice of the 2021 Schedule HC Instructions and Worksheets, available at <https://www.mass.gov/doc/2021-schedule-hc-instructions/download>, which, as discussed below, include the Affordability Schedule and other financial information used in making 2021 individual mandate tax penalty determinations.

ANALYSIS AND CONCLUSIONS OF LAW

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

In order to determine whether Appellant should be penalized for not having coverage, I must first consider whether she could have obtained affordable insurance from any of the following three sources: (1) employment-based insurance; (2) government-subsidized insurance; or (3) unsubsidized insurance purchased on the non-group market. See 2021 Schedule HC instructions at pages HC 7-9

During 2021, Appellant worked in positions in which she was not offered health insurance. Therefore, she could not obtain health insurance through employment.

Further, Appellant was not eligible for Connector Care, which is government-subsidized health insurance in Massachusetts. To be eligible for Connector Care, an individual must have household income below 300 percent of the federal poverty limit. See 956 C.M.R. § 12.04 (Connector Care eligibility requirements.) This amount is \$38,280 for a household of one person like Appellant’s. (I obtain the

figure of \$38,280 from Table 2 to the instructions for the 2021 Schedule HC.) In this case, Appellant's income during 2021 was \$52,157 and therefore she was not eligible for Connector Care.

However, Appellant would have been able to afford to purchase unsubsidized health insurance on the non-group market under state affordability standards established by the Health Connector Board under M.G.L. c. 111M. Under those standards, an individual like Appellant who was in a household of one person and had annual income of \$52,157 was deemed able to afford 8 percent of income on insurance. (I obtain that figure from Table 3 of the 2021 instructions for the Schedule HC.) In this case, that amounts to \$4,172 annually or \$347 a month. During 2021, a person like Appellant who lived in Plymouth County and was 30 years of age could have obtained health insurance meeting minimum creditable coverage standards for a monthly premium of \$263. (I obtain the premium figure from Table 4 to the instructions for the 2021 Schedule HC). Thus, under state standards, this amount would have been affordable.

Because Appellant could have obtained affordable insurance in 2021, but did not, I am required to consider whether she has stated grounds sufficient to waive the penalty under Health Connector regulations. 956 C.M.R. § 6.08. I conclude that she has. Appellant testified credibly and provided corroborating evidence (Exhibit 3) that she had received a notice to quit her dwelling during 2021. Receipt of an eviction notice is grounds for waiving the penalty under the governing regulations. Id. § 6.08. Thus, Appellant has stated grounds to waive the penalty. Additionally, I noted that during 2021, Appellant's income was unpredictable because she was experiencing erratic work hours due to Covid-related business closures. Finally, I take into account the fact that Appellant did eventually obtain insurance in early 2022 and was insured as of the date of the hearing. In light of all these factors, I will exercise my discretion to waive the penalty in its entirety.

PENALTY ASSESSED

Number of Months Appealed: 12

Number of Months Assessed: 0

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

NOTIFICATION OF YOUR RIGHT TO APPEAL TO COURT

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

Hearing Officer

Cc: Connector Appeals Unit

Massachusetts Health Connector Appeals Unit

FINAL APPEAL DECISION: PA 21-2197

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

Hearing Issue: Appeal of the 2021 Tax Year Penalty

Hearing Date: January 9, 2023

Decision Date: January 11, 2023

AUTHORITY

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

JURISDICTION

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

HEARING RECORD

Appellants, who were a married couple and who will be referred to in this decision as Husband and Wife, both appeared at the hearing, which was held by telephone on January 9, 2023. The hearing record consists of the testimony of Appellants, and the following documents, which were admitted into evidence:

- Exhibit 1: Health Connector Hearing Notice (2 pages)
- Exhibit 2: Appeal Case Information sheet¹ (1 page)
- Exhibit 3: Statement of Grounds (6 pages)

FINDINGS OF FACT

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

1. Husband was 39 and Wife was 27 at the end of 2021. Exhibit 2.
2. Appellants lived in Hampshire County in 2021. Exhibit 2.
3. Appellants filed their taxes as married, filing jointly, with no dependents. Exhibit 2.

¹ Exhibit 2 is a computer printout containing information extracted from the Schedule HC that Appellants submitted as part of their 2021 Massachusetts tax return. The Schedule HC is the form on which Massachusetts taxpayers report information relevant to the individual mandate penalty, which is the subject of this appeal.

4. Appellants reported on the Schedule HC that they filed with their state income taxes, and confirmed at the hearing, that their joint annual income for 2021 was \$38,776. Exhibit 2.
5. Appellants reported in the Schedule HC that they filed with their 2021 state income taxes, and confirmed at the hearing, that Wife had health insurance meeting minimum creditable coverage standards from September through December of 2021, but she did not have such health insurance for the balance of the year. Exhibit 2. Further Appellants reported that Husband also had health insurance meeting minimum creditable coverage standards from September through December of 2021, but he did not have health insurance for the balance of the year. Exhibit 2.
6. At the start of 2021, Appellant was trying to obtain a green card and permission to work in the United States. He succeeded in May. See Exhibit 3 (attachment). He began to look for work after that.
7. In September of 2021, Husband obtained full-time employment at a retail store. Through that job, he was able to obtain health insurance for himself and Wife, which he carried for the remainder of the year.
8. Throughout 2021, Wife worked part-time at a restaurant. She did not receive health insurance as a benefit through that job.
9. Wife testified that, at some time before 2021, she had been enrolled in state-subsidized health insurance through the Health Connector. She said that insurance had lapsed, perhaps because she had not completed an annual eligibility re-determination.
10. Wife applied for health insurance through the Health Connector again in 2022 and was enrolled in insurance at the time of the hearing.

In addition to the foregoing, I take administrative notice of the 2021 Schedule HC Instructions and Worksheets, available at <https://www.mass.gov/doc/2021-schedule-hc-instructions/download>, which, as discussed below, include the Affordability Schedule and other financial information used in making 2021 individual mandate tax penalty determinations.

ANALYSIS AND CONCLUSIONS OF LAW

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

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

In order to determine whether Appellants should be penalized for not having coverage, I must first consider whether they could have obtained affordable insurance from any of the following three sources: (1) employment-based insurance; (2) government-subsidized insurance; or (3) unsubsidized insurance purchased on the non-group market. See 2021 Schedule HC instructions at pages HC 7-9

During 2021, Wife worked in a part-time job that did not offer her insurance. Husband was unable to work because he did not yet have a work permit; when he did get that permit, he ultimately obtained a job that provided him and Wife with health insurance. Thus, during the first eight months of the year, when they were uninsured, neither Appellant could obtain health insurance through employment.

Further, Appellants were not able to afford to purchase unsubsidized health insurance on the non-group market under state affordability standards established by the Health Connector Board under M.G.L. c. 111M. Under those standards, two married persons like Appellants with a joint income of \$38,776 were deemed able to afford 6.2 percent of income on insurance. (I obtain that figure from Table 3 of the 2021 instructions for the Schedule HC.) In this case, that amounts to \$2,404 annually or \$200 a month. During 2021, a married couple like Appellants who lived in Hampshire County and the older of whom was 37 years old would have had to pay a premium of at least \$581 a month to obtain health insurance meeting minimum creditable coverage standards. (I obtain the premium figure from Table 4 to the instructions for the 2021 Schedule HC). Thus, under state standards, this amount would not have been affordable.

Further, Husband would not have been eligible for Connector Care, which is government-subsidized health insurance in Massachusetts. Connector Care is a joint federal-state program. To be eligible for Connector Care, an individual must meet the eligibility requirements for advance premium tax credits (APTCs) under the Affordable Care Act (ACA). See 956 C.M.R. § 12.04 (Connector Care eligibility requirements.) The ACA provides that, in order to receive APTCs, an individual must be a legal permanent resident of the United States. 42 U.S.C. §§ 18032(f)(3), 18081(a)(1). In this case, Husband did not meet that requirement because he did not obtain his green card until the middle of 2021. Once he obtained his green card and was able to work in the United States, he got a job that provided him with health insurance. Thus, Husband did not have an affordable option to obtain insurance during the period that he was uninsured and the penalty assessed against him should therefore be waived.

However, Wife could have obtained Connector Care during the months when she was uninsured. In order to be eligible for Connector Care, a person must have income below 300 percent of the federal poverty line and meet the other eligibility requirements such as permanent legal residence in the United States. See 956 C.M.R. § 12.04. For a household of two persons like Appellants', 300 percent of the federal poverty line amounts to \$51,290. (I obtain the figure of \$38,280 from Table 2 to the instructions for the 2021 Schedule HC.) In this case, Appellants' income during 2021 was \$38,776 and therefore Wife was income-eligible for Connector Care. Additionally, I conclude that she met the other eligibility requirements because she testified that she was receiving Connector Care in 2023, at the time of the hearing, and had received it in the past, before 2021.

Because Wife could have obtained affordable insurance in 2021, but did not, I am required to consider whether she has stated grounds sufficient to waive the penalty under Health Connector regulations. 956

C.M.R. § 6.08. I conclude that she has. At no point before September 2021 could Appellants have obtained insurance that was affordable and that would cover both Husband and Wife. Further, their income was limited during the period when they were uninsured. They had only one source of income, which was Wife's part-time job, until Husband obtained a green card and was able to work. It was difficult for Wife to figure out that she could obtain Connector Care even though Husband could not. Finally, I take into account the fact that Appellants did eventually obtain insurance in September 2021 and had maintained insurance into 2022. In light of all these factors, I will exercise my discretion to waive the penalty in its entirety.

PENALTY ASSESSED

Husband

Number of Months Appealed: 8

Number of Months Assessed: 0

Wife

Number of Months Appealed: 8

Number of Months Assessed: 0

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

NOTIFICATION OF YOUR RIGHT TO APPEAL TO COURT

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

Hearing Officer

Cc: Connector Appeals Unit

Massachusetts Health Connector Appeals Unit

FINAL APPEAL DECISION: PA 21-2199

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

Hearing Issue: Appeal of the 2021 Tax Year Penalty

Hearing Date: January 9, 2023

Decision Date: January 11, 2023

AUTHORITY

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

JURISDICTION

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

HEARING RECORD

Appellant appeared at the hearing, which was held by telephone, on January 9, 2023. The hearing record consists of the testimony of Appellant, and the following documents, which were admitted into evidence:

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

FINDINGS OF FACT

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

1. Appellant was 26 at the end of 2021. Exhibit 2.
2. Appellant lived in Bristol County in 2021. Exhibit 2.
3. Appellant filed his taxes as single with no dependents. Exhibit 2.
4. Appellant reported on the Schedule HC that he filed with his state income taxes, and confirmed at the hearing, that his annual income for 2021 was \$62,537. Exhibit 2.

¹ Exhibit 2 is a computer printout containing information extracted from the Schedule HC that Appellant submitted as part of his 2021 Massachusetts tax return. The Schedule HC is the form on which Massachusetts taxpayers report information relevant to the individual mandate penalty, which is the subject of this appeal.

5. Appellant reported in the Schedule HC that he filed with his 2021 state income taxes, and confirmed at the hearing, that he did not have health insurance meeting minimum creditable coverage standards from January through October 2021 but did have such insurance for the remaining two months of the year. Exhibit 2.
6. Appellant started a full-time job in September 2020. At the time that he was hired, he received information about health benefits available through the job. He was told he would not be eligible for health insurance until he had worked at the job for 90 days. One of the documents he received stated that open enrollment for health benefits occurred in October of each year and that, during open enrollment, individuals could enroll in health insurance if they had been working full time for 90 days. See Exhibit 3 (attachment).
7. Based on that information, Appellant believed that he could not get health insurance through his work at that time.
8. At some point in 2021, Appellant did apply for insurance through the Health Connector. As a result of this application, he was determined not to be eligible to receive any subsidies to purchase insurance because his income was too high. However, he was enrolled in Health Safety Net, which is a state program that provides limited coverage for emergency room visits.
9. Based on that, Appellant believed he was covered during 2021. On two occasions in 2021, he sought emergency room treatment and his treatment was covered without cost to him because the services were covered through Health Safety Net. Based on those experiences, he believed he was insured and did not learn otherwise until he had to complete his 2021 state income tax return.
10. At the next open enrollment at his job, which occurred in October 2021, Appellant enrolled in health insurance. He was insured through his job as of the date of the hearing.

In addition to the foregoing, I take administrative notice of the 2021 Schedule HC Instructions and Worksheets, available at <https://www.mass.gov/doc/2021-schedule-hc-instructions/download>, which, as discussed below, include the Affordability Schedule and other financial information used in making 2021 individual mandate tax penalty determinations.

ANALYSIS AND CONCLUSIONS OF LAW

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

Under M.G.L. c. 111M, § 2, residents are permitted a 63-day gap between periods of insurance without incurring a penalty. The Health Connector’s “Administrative Bulletin 03-10: Guidance Regarding M.G.L. c. 111M and M.G.L. c. 176Q, as implemented by 956 CMR 6.00”, which can be found at <https://betterhealthconnector.com/wp-content/uploads/rules-and-regulations/AdminBulletin03-10.pdf>, interprets the 63-day gap in coverage to be three months. As a result, gaps of three months are not subject to penalty. In this case, Appellant lacked insurance for ten months out of the

year. Therefore, he was entitled to a three-month gap without penalty, and so he has been assessed a penalty for only seven months.

In order to determine whether Appellant should be penalized for not having coverage, I must first consider whether he could have obtained affordable insurance from any of the following three sources: (1) employment-based insurance; (2) government-subsidized insurance; or (3) unsubsidized insurance purchased on the non-group market. See 2021 Schedule HC instructions at pages HC 7-9

Appellant's job offered him health insurance. However, based on the information he received at the time of his hiring, he believed that he could not obtain insurance during the October 2020 open enrollment because he had not yet worked 90 days in his position. As a result, he did not obtain health insurance through employment until the next open enrollment in October 2021.

Further, Appellant was not eligible for Connector Care, which is government-subsidized health insurance in Massachusetts. To be eligible for Connector Care, an individual must have household income below 300 percent of the federal poverty limit. See 956 C.M.R. § 12.04 (Connector Care eligibility requirements.) This amount is \$38,280 for a household of one person like Appellant's. (I obtain the figure of \$38,280 from Table 2 to the instructions for the 2021 Schedule HC.) In this case, Appellant's income during 2021 was \$62,537 and therefore he was not eligible for Connector Care.

However, Appellant would have been able to afford to purchase unsubsidized health insurance on the non-group market under state affordability standards established by the Health Connector Board under M.G.L. c. 111M. Under those standards, an individual like Appellant who was in a household of one person and had annual income of \$62,537 was deemed able to afford 8 percent of income on insurance. (I obtain that figure from Table 3 of the 2021 instructions for the Schedule HC.) In this case, that amounts to \$5,003 annually or \$416 a month. During 2021, a person like Appellant who lived in Bristol County and was 26 years of age could have obtained health insurance meeting minimum creditable coverage standards for a monthly premium of \$263. (I obtain the premium figure from Table 4 to the instructions for the 2021 Schedule HC). Thus, under state standards, this amount would have been affordable.

Because Appellant could have obtained affordable insurance in 2021, but did not, I am required to consider whether he has stated grounds sufficient to waive the penalty under Health Connector regulations. 956 C.M.R. § 6.08. I conclude that he has. Appellant was under the mistaken belief that he had obtained insurance because he was enrolled in the Health Safety Net. He did not understand that this program does not constitute insurance because it does not cover a range of medical services. It does cover emergency room visits and, during the period that he was uninsured, Appellant only sought emergency services, which were covered. This contributed to his belief that he was insured. Moreover, when the next open enrollment period occurred at his place of employment, he enrolled and remained in insurance at the time of the hearing. In light of all these factors, I will exercise my discretion to waive the penalty in its entirety.

PENALTY ASSESSED

Number of Months Appealed: 10

Number of Months Assessed: 0

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

NOTIFICATION OF YOUR RIGHT TO APPEAL TO COURT

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

Hearing Officer

Cc: Connector Appeals Unit

Massachusetts Health Connector Appeals Unit

FINAL APPEAL DECISION: PA 20-202

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

Hearing Issue: Appeal of the 2020 Tax Year Penalty

Hearing Date: January 17, 2023

Decision Date: January 19, 2023

AUTHORITY

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

JURISDICTION

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

HEARING RECORD

Appellant appeared at the hearing, which was held by telephone, on January 17, 2023. The hearing record consists of the testimony of Appellant, and the following documents, which were admitted into evidence:

- Exhibit 1: Health Connector Hearing Notice (2 pages)
- Exhibit 2: Appeal Case Information sheet¹ (1 page)
- Exhibit 3: Statement of Grounds (6 pages)
- Exhibit 4: Notice of Dismissal for Failure to Appear (1 page)
- Exhibit 5: Request to Vacate Dismissal (1 page)

FINDINGS OF FACT

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

1. Appellant was 50 at the end of 2020. Exhibit 2.
2. Appellant lived in Middlesex County in 2020. Exhibit 2.
3. Appellant filed her taxes as a head of household with one dependent. Exhibit 2. The dependent was a minor child who lived with Appellant.

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

4. Appellant reported on the Schedule HC that she filed with her state income taxes, and confirmed at the hearing, that her annual income for 2020 was \$69,216. Exhibit 2.
5. Appellant reported in the Schedule HC that she filed with her 2020 state income taxes, and confirmed at the hearing, that she did not have health insurance meeting minimum creditable coverage standards from January through August, 2020, but did have insurance from September through December of that year. Exhibit 2.
6. From 2017 through late 2019, Appellant had been working at a part-time job. Because she was part-time, the job did not offer her health insurance benefits.
7. During that time, Appellant qualified for Connector Care, which was subsidized health insurance available through the Massachusetts Health Connector.
8. In late 2019, Appellant began working full-time. Because of that change, her income increased. As a result, she no longer qualified for Connector Care, which is available only to people whose household incomes are below a certain amount.
9. Because Appellant was no longer eligible for Connector Care, she no longer received government subsidies to defray the cost of her health insurance. As a result, the amount of premium she had to pay increased to the point where she felt she could not afford to continue paying. As a result, she stopped paying the premium and was consequently disenrolled. This all occurred in late 2019.
10. After she was disenrolled from her insurance through the Health Connector, Appellant contacted her employer to ask if she could enroll in health insurance through her job. She was told that she could do so only during the annual open enrollment period, which had already passed.
11. Appellant then remained uninsured until the employer's next open enrollment period, when she signed up for health insurance effective September 2020. She has remained enrolled in that insurance since, and she was insured as of the date of the hearing in January 2023.
12. When Appellant filed her 2020 income taxes in 2021, she was assessed a penalty for not having health insurance during part of the year. She appealed that penalty. She had two hearings scheduled on the appeal, but did not attend either one, leading to dismissals. In each case, she requested to vacate the dismissal, and the request was granted. See Exhibit 4.

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

ANALYSIS AND CONCLUSIONS OF LAW

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

Further, according to M.G.L. c. 111M, § 2, Massachusetts residents are permitted a 63-day gap in coverage without facing a penalty. The Health Connector’s “Administrative Bulletin 03-10: Guidance

Regarding M.G.L. c. 111M and M.G.L. c. 176Q, as implemented by 956 CMR 6.00,” which is available at <https://betterhealthconnector.com/wp-content/uploads/rules-and-regulations/AdminBulletin03-10.pdf>,, interprets the 63-day gap in coverage to be three months. As a result, gaps of three months are not subject to penalty. In Appellant’s case, she was without MCC-compliant insurance for eight months in 2020. Because she is given a three-month grace period, she has been assessed a penalty for only five months.

In order to determine whether Appellant should be penalized for not having coverage, I must first consider whether she could have obtained affordable insurance from any of the following three sources: (1) employment-based insurance; (2) government-subsidized insurance; or (3) unsubsidized insurance purchased on the non-group market. See 2020 Schedule HC instructions at pages HC 7-9

During the eight months that she was uninsured in 2020, Appellant worked at a job that offered health insurance benefits. However, she did not enroll in that insurance when she became eligible for it because she was insured through Connector Care and did not realize that she would lose eligibility as a result of the increase in income. When she tried to enroll later, she was told she had to wait until the next open enrollment period, which was September 2020. At that point, she enrolled.

Further, Appellant would not have been eligible to receive Connector Care, which is government-subsidized health insurance in Massachusetts. To be eligible for Connector Care, an individual must have household income below 300 percent of the federal poverty limit. See 956 C.M.R. § 12.04 (Connector Care eligibility requirements.) In 2020, 300 percent of the federal poverty limit for a household of two persons like Appellant’s was \$50,730. (I obtain the figure of \$50,730 from Table 2 to the instructions for the 2020 Schedule HC.) In this case, Appellant’s income during 2020 was \$69,216 and therefore she was not eligible for Connector Care. This conclusion is supported by the fact that she lost eligibility for Connector Care in 2019 when she started working full-time.

Finally, Appellant would not have been able to afford to purchase unsubsidized health insurance for herself and her minor child on the non-group market under state affordability standards established by the Health Connector Board under M.G.L. c. 111M. Under those standards, an individual like Appellant who was in a household of two persons and had annual income of \$69,2167 was deemed able to afford 8 percent of income on insurance. (I obtain that figure from Table 3 of the 2020 instructions for the Schedule HC.) In this case, that amounts to \$5,537 annually or \$461 a month. During 2020, a person like Appellant who lived in Middlesex County and was 50 years of age would have had to pay a premium of at least \$999 a month in order to obtain health insurance for a family that met minimum creditable coverage standards. (I obtain the premium figure from Table 4 to the instructions for the 2020 Schedule HC). Thus, under state standards, this amount would not have been affordable.

Because Appellant could not have obtained affordable insurance in 2020, I am not required to consider whether she has stated grounds sufficient to waive the penalty under Health Connector regulations. 956 C.M.R. § 6.08. Rather, I conclude that she should not have been assessed a penalty for not having insurance in that year. Therefore, I am allowing the appeal and waiving the penalty assessed against her in its entirety.

PENALTY ASSESSED

Number of Months Appealed: 5

Number of Months Assessed: 0

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

NOTIFICATION OF YOUR RIGHT TO APPEAL TO COURT

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

Hearing Officer

Cc: Connector Appeals Unit

Massachusetts Health Connector Appeals Unit

FINAL APPEAL DECISION: PA 20-403

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

Hearing Issue: Appeal of the 2020 Tax Year Penalty

Hearing Date: January 17, 2023

Decision Date: January 19, 2023

AUTHORITY

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

JURISDICTION

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

HEARING RECORD

Appellant appeared at the hearing, which was held by telephone, on January 17, 2023. The hearing record consists of the testimony of Appellant, and the following documents, which were admitted into evidence:

- Exhibit 1: Health Connector Hearing Notice (2 pages)
- Exhibit 2: Appeal Case Information sheet¹ (1 page)
- Exhibit 3: Statement of Grounds (5 pages)
- Exhibit 4: Request to Vacate Dismissal (8/24/21) (1 page)
- Exhibit 5: Request to Vacate Dismissal (3/18/22) (1 page)

FINDINGS OF FACT

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

1. Appellant was 59 at the end of 2020. Exhibit 2.
2. Appellant lived in Bristol County in 2020. Exhibit 2.
3. Appellant filed his taxes as single with no dependents. Exhibit 2.
4. Appellant reported on the Schedule HC that he filed with his state income taxes, and confirmed at the hearing, that his annual income for 2020 was \$63,866. Exhibit 2.

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

5. Appellant reported in the Schedule HC that he filed with his 2020 state income taxes, and confirmed at the hearing, that he did not have health insurance meeting minimum creditable coverage standards from January through September, 2020, but he did have insurance from October through December of that year. Exhibit 2.
6. In late 2019, Appellant was laid off from his job. He was still out of work at the start of the Covid pandemic in early 2020.
7. Because of the business closures due to the pandemic, Appellant found it difficult to find new work and was unemployed until the middle of 2020.
8. When Appellant began a new job in the middle of 2020, he was not eligible for health insurance through that job for the first three months of employment. When he became eligible, he enrolled in insurance effective October 1 and remained insured throughout the rest of the year.
9. When Appellant filed his 2020 income taxes in 2021, he was assessed a penalty for not having health insurance during part of the year. He appealed that penalty. He had two hearings scheduled on the appeal, but did not attend either one, leading to dismissals. In each case, he requested to vacate the dismissal, and the request was granted. Exhibits 4, 5.

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

ANALYSIS AND CONCLUSIONS OF LAW

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

Further, according to M.G.L. c. 111M, § 2, Massachusetts residents are permitted a 63-day gap in coverage without facing a penalty. The Health Connector’s “Administrative Bulletin 03-10: Guidance Regarding M.G.L. c. 111M and M.G.L. c. 176Q, as implemented by 956 CMR 6.00,” which is available at <https://betterhealthconnector.com/wp-content/uploads/rules-and-regulations/AdminBulletin03-10.pdf>, interprets the 63-day gap in coverage to be three months. As a result, gaps of three months are not subject to penalty. In Appellant’s case, he was without health insurance for nine months in 2020. Because he is given a three-month grace period, he has been assessed a penalty for only six months.

In order to determine whether Appellant should be penalized for not having coverage, I must first consider whether he could have obtained affordable insurance from any of the following three sources: (1) employment-based insurance; (2) government-subsidized insurance; or (3) unsubsidized insurance purchased on the non-group market. See 2020 Schedule HC instructions at pages HC 7-9

During the nine months that he was uninsured in 2020, Appellant was either unemployed or in a probationary period at work waiting to become eligible for health insurance. Thus, he was unable to obtain employment-based insurance during that time.

Further, Appellant would not have been eligible to receive Connector Care, which is government-subsidized health insurance in Massachusetts. To be eligible for Connector Care, an individual must have household income below 300 percent of the federal poverty limit. See 956 C.M.R. § 12.04 (Connector Care eligibility requirements.) In 2020, 300 percent of the federal poverty limit for a household of one person like Appellant’s was \$37,470. (I obtain the figure of \$37,470 from Table 2 to the instructions for the 2020 Schedule HC.) In this case, Appellant’s income during 2020 was \$63,866 and therefore he was not eligible for Connector Care.

Finally, Appellant would not have been able to afford to purchase unsubsidized health insurance on the non-group market under state affordability standards established by the Health Connector Board under M.G.L. c. 111M. Under those standards, an individual like Appellant who was in a household of one person and had annual income of \$63,866 was deemed able to afford 8 percent of income on insurance. (I obtain that figure from Table 3 of the 2020 instructions for the Schedule HC.) In this case, that amounts to \$5,109 annually or \$425 a month. During 2020, a person like Appellant who lived in Bristol County and was 59 years of age would have had to pay a monthly premium of \$432 for health insurance that met minimum creditable coverage standards. (I obtain the premium figure from Table 4 to the instructions for the 2020 Schedule HC). Thus, under state standards, this amount would not have been affordable.

Because Appellant could not have obtained affordable insurance in 2020, I am not required to consider whether he has stated grounds sufficient to waive the penalty under Health Connector regulations. 956 C.M.R. § 6.08. Rather, I conclude that he should not have been assessed a penalty for not having insurance in that year. Therefore, I am allowing the appeal and waiving the penalty assessed against him in its entirety.

PENALTY ASSESSED

Number of Months Appealed: 6

Number of Months Assessed: 0

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

NOTIFICATION OF YOUR RIGHT TO APPEAL TO COURT

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

Hearing Officer

Cc: Connector Appeals Unit

Massachusetts Health Connector Appeals Unit

FINAL APPEAL DECISION: PA 20-617

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

Hearing Issue: Appeal of the 2020 Tax Year Penalty

Hearing Date: January 17, 2023

Decision Date: January 19, 2023

AUTHORITY

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

JURISDICTION

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

HEARING RECORD

Appellant appeared at the hearing, which was held by telephone, on January 17, 2023. The hearing record consists of the testimony of Appellant, and the following documents, which were admitted into evidence:

- Exhibit 1: Health Connector Hearing Notice (2 pages)
- Exhibit 2: Appeal Case Information sheet¹ (1 page)
- Exhibit 3: Statement of Grounds (6 pages)
- Exhibit 4: Request to Vacate Dismissal (3/6/22) (1 page)
- Exhibit 5: Request to Vacate Dismissal (11/16/21) (1 page)

FINDINGS OF FACT

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

1. Appellant was 64 at the end of 2020. Exhibit 2.
2. Appellant lived in Plymouth County in 2020. Exhibit 2.
3. Appellant filed her taxes as single with no dependents. Exhibit 2.
4. Appellant reported on the Schedule HC that she filed with her state income taxes, and confirmed at the hearing, that her annual income for 2020 was \$50,928. Exhibit 2.

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

5. Appellant reported in the Schedule HC that she filed with her 2020 state income taxes, and confirmed at the hearing, that she did not have health insurance meeting minimum creditable coverage standards at any point in 2020. Exhibit 2.
6. During 2020, Appellant worked in a position where she was considered an independent contractor and thus did not receive health insurance benefits.
7. Appellant investigated the possibility of purchasing health insurance without receiving any subsidy, but she concluded that the cost of the premium was too high for her to afford.
8. When Appellant turned 65 in 2021, she enrolled in Medicare and was covered through that program at the time of the hearing.
9. When Appellant filed her 2020 income taxes in 2021, she was assessed a penalty for not having health insurance during part of the year. She appealed that penalty. She had two hearings scheduled on the appeal, but did not attend either one, leading to dismissals. In each case, she requested to vacate the dismissal, and the request was granted. Exhibits 4,5.

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

ANALYSIS AND CONCLUSIONS OF LAW

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

In order to determine whether Appellant should be penalized for not having coverage, I must first consider whether she could have obtained affordable insurance from any of the following three sources: (1) employment-based insurance; (2) government-subsidized insurance; or (3) unsubsidized insurance purchased on the non-group market. See 2020 Schedule HC instructions at pages HC 7-9

During 2020, Appellant did not work in a job that offered health insurance benefits. Thus, she was unable to obtain employment-based insurance.

Further, Appellant would not have been eligible to receive Connector Care, which is government-subsidized health insurance in Massachusetts. To be eligible for Connector Care, an individual must have household income below 300 percent of the federal poverty limit. See 956 C.M.R. § 12.04 (Connector Care eligibility requirements.) In 2020, 300 percent of the federal poverty limit for a household of one person like Appellant’s was \$37,470. (I obtain the figure of \$37,470 from Table 2 to the instructions for the 2020 Schedule HC.) In this case, Appellant’s income during 2020 was \$50,928 and therefore she was not eligible for Connector Care

Finally, Appellant would not have been able to afford to purchase unsubsidized health insurance in the non-group market under state affordability standards established by the Health Connector Board under M.G.L. c. 111M. Under those standards, an individual like Appellant who was in a household of one person and had annual income of \$50,928 was deemed able to afford 7.6 percent of income on insurance. (I obtain that figure from Table 3 of the 2020 instructions for the Schedule HC.) In this case, that amounts to \$3,870 annually or \$322 a month. During 2020, a person like Appellant who lived in Plymouth County and was 64 years of age would have had to pay a premium of at least \$432 a month in order to obtain health insurance that met minimum creditable coverage standards. (I obtain the premium figure from Table 4 to the instructions for the 2020 Schedule HC). Thus, under state standards, this amount would not have been affordable.

Because Appellant could not have obtained affordable insurance in 2020, I am not required to consider whether she has stated grounds sufficient to waive the penalty under Health Connector regulations. 956 C.M.R. § 6.08. Rather, I conclude that she should not have been assessed a penalty for not having insurance in that year. Therefore, I am allowing the appeal and waiving the penalty assessed against her in its entirety.

PENALTY ASSESSED

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

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

NOTIFICATION OF YOUR RIGHT TO APPEAL TO COURT

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

Hearing Officer

Cc: Connector Appeals Unit

Massachusetts Health Connector Appeals Unit

FINAL APPEAL DECISION: PA 21-2127

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

Hearing Issue: Appeal of the 2021 Tax Year Penalty

Hearing Date: January 13, 2023

Decision Date: January 16, 2023

AUTHORITY

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

JURISDICTION

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

HEARING RECORD

Appellant appeared at the hearing, which was held by telephone, on January 13, 2023. The hearing was conducted with the assistance of a Spanish language interpreter. The hearing record consists of the testimony of Appellant, and the following documents, which were admitted into evidence:

Exhibit 1: Health Connector Hearing Notice (2 pages)

Exhibit 2: Appeal Case Information sheet¹ (1 page)

Exhibit 3: Statement of Grounds (10 pages)

FINDINGS OF FACT

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

1. Appellant was 41 at the end of 2021. Exhibit 2.
2. Appellant lived in Essex County in 2021. Exhibit 2.
3. Appellant filed his taxes as single with no dependents. Exhibit 2.
4. Appellant reported on the Schedule HC that he filed with his state income taxes, and confirmed at the hearing, that his annual income for 2a021 was \$24,393. Exhibit 2.

¹ Exhibit 2 is a computer printout containing information extracted from the Schedule HC that Appellant submitted as part of his 2021 Massachusetts tax return. The Schedule HC is the form on which Massachusetts taxpayers report information relevant to the individual mandate penalty, which is the subject of this appeal.

5. Appellant reported in the Schedule HC that he filed with his 2021 state income taxes, and confirmed at the hearing, that he did not have health insurance meeting minimum creditable coverage standards at any point in 2021. Exhibit 2.
6. At the start of 2021, Appellant was staying overseas in order to care for his father, who was ill. His father died and Appellant remained in his native country until April, when he returned to the United States. His return is proved by his testimony and a copy of his passport stamp, which he provided as evidence. Exhibit 3 (attachment).
7. When he returned to the United States, Appellant began to look for work. He was jobless until August, when he started a new job. Exhibit 3 (attachment).
8. At this job, he was employed by a staffing agency. He was not offered health insurance through this job.
9. During his period of unemployment in 2021, Appellant experienced financial difficulties. He was living at a friend's residence because he could not afford his own residence. He had to borrow money in order to obtain the necessities of life. When he began to work, he used his earnings to repay his debts and to find a residence.
10. Appellant has a green card and is a legal permanent resident of the United States.
11. At some point in 2022, Appellant obtained a new job that did offer him health insurance as a benefit and he was enrolled in insurance as of the date of the hearing.

In addition to the foregoing, I take administrative notice of the 2021 Schedule HC Instructions and Worksheets, available at <https://www.mass.gov/doc/2021-schedule-hc-instructions/download>, which, as discussed below, include the Affordability Schedule and other financial information used in making 2021 individual mandate tax penalty determinations.

ANALYSIS AND CONCLUSIONS OF LAW

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

In order to determine whether Appellant should be penalized for not having coverage, I must first consider whether he could have obtained affordable insurance from any of the following three sources: (1) employment-based insurance; (2) government-subsidized insurance; or (3) unsubsidized insurance purchased on the non-group market. See 2021 Schedule HC instructions at pages HC 7-9

During 2021, Appellant was either unemployed or worked for a position that did not offer him health insurance. Therefore, he could not obtain health insurance through employment.

Further, Appellant would not have been able to afford to purchase unsubsidized health insurance on the non-group market under state affordability standards established by the Health Connector Board under M.G.L. c. 111M. Under those standards, an individual like Appellant who was in a household of one

person and had annual income of \$24,393 was deemed able to afford 2.9 percent of income on insurance. (I obtain that figure from Table 3 of the 2021 instructions for the Schedule HC.) In this case, that amounts to \$707 annually or \$58 a month. During 2021, a person like Appellant who lived in Essex County and was 41 years of age could have obtained health insurance meeting minimum creditable coverage standards for a monthly premium of \$294. (I obtain the premium figure from Table 4 to the instructions for the 2021 Schedule HC). Thus, under state standards, this amount would have been affordable.

However, Appellant would have been eligible to receive Connector Care, which is government-subsidized health insurance in Massachusetts. To be eligible for Connector Care, an individual must have household income below 300 percent of the federal poverty limit and meet other eligibility requirements, such as legal permanent residence in the United States. See 956 C.M.R. § 12.04 (Connector Care eligibility requirements.) In 2021, 300 percent of the federal poverty limit for a household of one person like Appellant's was \$38,280. (I obtain the figure of \$38,280 from Table 2 to the instructions for the 2021 Schedule HC.) In this case, Appellant's income during 2021 was \$24,393 and therefore he was income-eligible for Connector Care. Further, he was a legal permanent resident of the United States and lived in Massachusetts so he met the other eligibility requirements. Accordingly, Appellant could have received Connector Care, which would have constituted affordable insurance to him.

Because Appellant could have obtained affordable insurance in 2021, but did not, I am required to consider whether he has stated grounds sufficient to waive the penalty under Health Connector regulations. 956 C.M.R. § 6.08. I conclude that he has. First, Appellant was not living in the United States for the first four months of 2021. Therefore, it would not have made sense for him to have health insurance in Massachusetts during that period of time. Accordingly, I will only consider the remaining eight months of 2021.

During the period from April through August, Appellant was without income and was experiencing significant difficulties just paying for the necessities of life, without adding the extra cost of health insurance. Further, he was without a fixed residence. Both of these facts constitute grounds for waiving the penalty. See 956 C.M.R. § 6.08(1)(a), (e). Even after he began working in August, Appellant experienced significant financial difficulties. His income during that period was low. He was forced to repay money he had borrowed during his period of unemployment. Thus, it would have constituted a significant hardship to purchase insurance. Further, I take into account the fact that Appellant did obtain health insurance in 2022, when he got a job that offered it as a benefit. In light of all these factors, I will exercise my discretion to waive the penalty in its entirety.

PENALTY ASSESSED

Number of Months Appealed: 12

Number of Months Assessed: 0

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

NOTIFICATION OF YOUR RIGHT TO APPEAL TO COURT

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

Hearing Officer

Cc: Connector Appeals Unit

Massachusetts Health Connector Appeals Unit

FINAL APPEAL DECISION: PA 21-2129

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

Hearing Issue: Appeal of the 2021 Tax Year Penalty

Hearing Date: January 13, 2023

Decision Date: January 16, 2023

AUTHORITY

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

JURISDICTION

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

HEARING RECORD

Appellant appeared at the hearing, which was held by telephone, on January 13, 2023. The hearing record consists of the testimony of Appellant, and the following documents, which were admitted into evidence:

Exhibit 1: Health Connector Hearing Notice (2 pages)

Exhibit 2: Appeal Case Information sheet¹ (1 page)

Exhibit 3: Statement of Grounds (10 pages)

FINDINGS OF FACT

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

1. Appellant was 64 at the end of 2021. Exhibit 2.
2. Appellant lived in Worcester County in 2021. Exhibit 2.
3. Appellant filed her taxes as single with no dependents. Exhibit 2.
4. Appellant reported on the Schedule HC that she filed with her state income taxes, and confirmed at the hearing, that her annual income for 2021 was \$89,996. Exhibit 2.

¹ Exhibit 2 is a computer printout containing information extracted from the Schedule HC that Appellant submitted as part of her 2021 Massachusetts tax return. The Schedule HC is the form on which Massachusetts taxpayers report information relevant to the individual mandate penalty, which is the subject of this appeal.

5. Appellant reported in the Schedule HC that she filed with her 2021 state income taxes, and confirmed at the hearing, that she had health insurance meeting minimum creditable coverage standards from January through March of 2021, but she did not have such insurance for the remaining nine months of the year. Exhibit 2.
6. At the start of 2021, Appellant worked for a Massachusetts based company and received health insurance through that job.
7. She retired at the end of March 2021. When she retired, she was offered the ability to continue in her health insurance plan under COBRA, the federal statute that provides that employment-based insurance plans must be offered to people for a period of 18 months after they leave employment, provided that the insureds pay the full cost of the insurance. The cost of continuing insurance under COBRA would have been about \$600 a month, which Appellant felt she could not afford.
8. Instead, Appellant shopped for health insurance on her own. On-line, she found a company known as Evolve that offered her a product at a monthly cost of \$149.95. Appellant signed up for this product and paid the monthly premium for 12 months until she reached 65 in 2022.
9. In documentation provided to Appellant, Evolve stated that it “does not provide major medical or comprehensive medical insurance and is not designed to replace major medical insurance.” Further, it states that it is not “minimum eligible coverage under the Patient Protection and Affordable Care Act.” See Exhibit 3 (attachment).
10. When she purchased this product, Appellant did not understand that it was not comprehensive insurance.
11. When she reached 65, Appellant signed up for Medicare and was covered under Medicare at the time of the hearing.
12. When Appellant went to pay her 2021 state income taxes, she learned that she only had minimum creditable coverage during the three months that she was insured through her former employer.

In addition to the foregoing, I take administrative notice of the 2021 Schedule HC Instructions and Worksheets, available at <https://www.mass.gov/doc/2021-schedule-hc-instructions/download>, which, as discussed below, include the Affordability Schedule and other financial information used in making 2021 individual mandate tax penalty determinations.

ANALYSIS AND CONCLUSIONS OF LAW

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

Further, according to M.G.L. c. 111M, § 2, Massachusetts residents are permitted a 63-day gap in coverage without facing a penalty. The Health Connector’s “Administrative Bulletin 03-10: Guidance Regarding M.G.L. c. 111M and M.G.L. c. 176Q, as implemented by 956 CMR 6.00,” which is available at <https://betterhealthconnector.com/wp-content/uploads/rules-and-regulations/AdminBulletin03-10.pdf>, interprets the 63-day gap in coverage to be three months. As a result, gaps of three months are

not subject to penalty. In Appellant's case, she was without MCC-compliant insurance for nine months in 2020. Because she is given a three-month grace period, she has been assessed a penalty for only six months.

Insurance coverage satisfies the individual mandate requirement only if it constitutes "creditable coverage" as defined by the statute. M.G.L. c. 111M, § 2(a). "Creditable coverage" is defined as a plan that meets the standards for "minimum creditable coverage" (MCC) under regulations promulgated by the Health Connector's board. *Id.* § 1. These regulations contain a number of requirements that an insurance plan must meet. Among these are requirements that the insurance plan cover a broad range of medical services, including major medical expenses. 956 C.M.R. § 5.03(1)(a). The Evolve product that Appellant purchased did not meet that standard. Accordingly, it was not MCC-compliant insurance.

Because Appellant did not have MCC-compliant health insurance for nine months, she is subject to a penalty under M.G.L. c. 111M if she could have afforded to purchase such health insurance. In order to determine whether she had access to affordable health insurance, I must consider whether she could have obtained affordable insurance from any of the following three sources: (1) employment-based insurance; (2) government-subsidized insurance; or (3) unsubsidized insurance purchased on the non-group market. See 2021 Schedule HC instructions at pages HC 7-9

During the period when she was uninsured in 2021, Appellant was retired. Therefore, she could not obtain health insurance through employment.

Further, Appellant would not have been eligible to receive Connector Care, which is government-subsidized health insurance in Massachusetts. To be eligible for Connector Care, an individual must have household income below 300 percent of the federal poverty limit. See 956 C.M.R. § 12.04 (Connector Care eligibility requirements.) In 2021, 300 percent of the federal poverty limit for a household of one person like Appellant's was \$38,280. (I obtain the figure of \$38,280 from Table 2 to the instructions for the 2021 Schedule HC.) In this case, Appellant's income during 2021 was \$89,966 and therefore she was not income-eligible for Connector Care.

However, Appellant would have been able to afford to purchase unsubsidized health insurance on the non-group market under state affordability standards established by the Health Connector Board under M.G.L. c. 111M. Under those standards, an individual like Appellant who was in a household of one person and had annual income of \$89,966 was deemed able to afford 8 percent of income on insurance. (I obtain that figure from Table 3 of the 2021 instructions for the Schedule HC.) In this case, that amounts to \$7,197 annually or \$599 a month. During 2021, a person like Appellant who lived in Worcester County and was 64 years of age could have obtained health insurance meeting minimum creditable coverage standards for a monthly premium of \$401. (I obtain the premium figure from Table 4 to the instructions for the 2021 Schedule HC). Thus, under state standards, this amount would have been affordable.

Because Appellant could have obtained affordable insurance in 2021, but did not, I am required to consider whether she has stated grounds sufficient to waive the penalty under Health Connector regulations. 956 C.M.R. § 6.08. I conclude that she has. In reaching that determination, I may consider a

range of financial factors, including the cost of insurance that Appellant did actually purchase. See 956 CMR § 6.08(2)(b). In this case, Appellant unknowingly purchased a product that did not meet MCC standards under state law. The cost of that product was not insignificant. Thus, I conclude that Appellant did not fail to get creditable coverage because she was trying to save money. Rather, I conclude that it was due to confusion and unfamiliarity with the nature of the product that she was purchasing.

Based on the foregoing, I will exercise my discretion to allow the appeal and waive the penalty in full.

PENALTY ASSESSED

Number of Months Appealed: 6

Number of Months Assessed: 0

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

NOTIFICATION OF YOUR RIGHT TO APPEAL TO COURT

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

Hearing Officer

Cc: Connector Appeals Unit

Massachusetts Health Connector Appeals Unit

Tax Penalty Appeal Decision—Docket No. PA21-2167 [T.S.]

Appeal Decision: Appeal Approved -- 2021 tax penalty overturned.

Hearing Issue: Appeal of the 2021 Tax Year Penalty

Hearing Date: January 9, 2023

Decision Date: January 16, 2023

AUTHORITY

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

JURISDICTION

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

HEARING RECORD

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

1. DOR Appeal Case Information from Schedule HC (1 page);
2. Appellant's Statement of Grounds for Appeal – 2021;
3. Health Care Proxy for Elderly Father;
4. Durable Power of Attorney for Elderly Father;
5. Health Connector Hearing Notice.

FINDINGS OF FACT

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

1. The Appellant appealed from the Department of Revenue's assessment of a 12 month penalty for 2021. The basis for the penalty was that the Appellant was not insured at any time in 2021. Exhibits 1 and 2. Based on Exhibit 1 and the Appellant's hearing testimony, I find that the penalty assessment is accurate.
2. The Appellant filed a Massachusetts personal income tax return for 2021 as a Head of Household with 2 dependents. The Appellant's federal adjusted gross income (AGI) for 2021 was \$79,576. Exhibit 1.
3. The Appellant was 48 years old at the beginning of 2021 and resided in [name of city or town omitted] in Hampden County, Massachusetts. Exhibit 1.
4. The Appellant's 2021 AGI (\$79,576) was more than 300% of the federal poverty level (\$65,160 for a three person household). DOR Table 2. On this basis I infer that it is likely that the Appellant would not satisfy the financial eligibility requirements for government-subsidized health insurance.
5. I credit the Appellant's hearing testimony that she was not able to obtain insurance through the Health Connector in 2021.
6. The Appellant has two college-aged children who live with her. Following their 2008 divorce the Father has provided health insurance coverage for the children. The Father did not, however, pay a portion of the children's college tuition as provided in the divorce agreement, which cost the Appellant \$30,000 per year. Testimony.
7. The Appellant worked as a self-employed real estate agent. Her income was lower and more inconsistent in 2021 due to the effects of the coronavirus pandemic (COVID-19), especially since the Appellant principally worked as a buyer's agent whose clients were frequently outbid as the housing market began to recover. Testimony.
8. The Appellant's father was diagnosed with dementia, which further reduced the Appellant's earning power in 2021 in order to take him to doctor's appointments and also to do grocery shopping for her father and mother during covid. Testimony. See also Exhibits 3 and 4.

9. The Appellant was insured in 2022, and her coverage continued in January 2023. Testimony.
10. Individual health insurance would cost the Appellant \$355 per month in 2021. DOR Table 4 (Region 2).
11. Except as set forth in the foregoing findings of fact, I adopt the facts set forth in Exhibit 1 as my own findings of fact. Exhibit 1 is a computer printout prepared by the Massachusetts Department of Revenue (DOR) that extracts information submitted by the Appellant on Schedule HC as part of the Appellant's 2021 Massachusetts income tax return.
12. I take administrative notice of the financial information set forth in Tables 1 through 6 of the DOR 2021 Massachusetts Schedule HC Health Care Instructions and Worksheet. Tables 3 and 4 incorporate the affordability schedules adopted by the board of directors for the Commonwealth Health Insurance Connector Authority (Health Connector or Connector) for 2021. See 956 Code Mass. Regs. 6.05. Table 1 sets forth income levels less than 150% of the federal poverty level that are exempt from the assessment of a state tax penalty. Table 2 sets forth income eligibility standards for various family sizes at 300% of the federal poverty level, which is the income eligibility standard for the ConnectorCare government subsidized health insurance program. Tables 5 and 6 set forth the tax penalties in effect for 2020. (The DOR instructions are published online at <http://www.mass.gov/dor/2018ScheduleHCInstructions> and are also available in the state income tax forms supplied to taxpayers. See also DOR Technical Information Release (TIR) 12-7: Individual Mandate Penalties for Tax Year 2021.)

ANALYSIS AND CONCLUSIONS OF LAW

The case is before me on the Appellant's appeal from the state Department of Revenue's (DOR) assessment of a 12 month tax penalty because the Appellant did not have health insurance coverage in 2021. See Exhibits 1 and 2. The issue to be decided is whether the penalty should be waived, either in whole or in part.

I begin by summarizing the legal rules that underlie this appeal. The tax penalty was enacted by the Massachusetts Legislature to encourage compliance with what is

known as the “individual mandate” under the Massachusetts Health Care Reform Act of 2006. The individual mandate requires that all Massachusetts residents, age 18 and older, “shall obtain and maintain” health insurance coverage, as long as it is “deemed affordable” under the schedule set by the Health Connector’s board of directors that is incorporated in the DOR tables referred to earlier. Massachusetts General Laws c. 111M, sec. 2(a). Any health insurance policy must also satisfy the Massachusetts minimum creditable coverage standards (“MCC”) in order to avoid the penalty. Mass. Gen. Laws c. 111M, sec. 2(b). See also 956 Code Mass Regs. 501 and 5.03.

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

The Health Connector’s regulations also provide for a “hardship” appeal from the assessment of a penalty. 956 Code Mass. Regs. 6.07 and 6.08. The grounds for a hardship appeal are summarized in the Statement of Grounds for Appeal – 2021 that the Appellant signed and filed in this case. See Exhibit 2.

In this case, the Appellant incurred exceptional expenses in 2021 – the year at issue – and then was able to obtain health insurance coverage again in 2022 as a self-employed person. The Appellant’s income as a real estate agent was disrupted by the coronavirus in 2021 and this continued into 2022. Her father’s dementia diagnosis disrupted her ability to work, as she had to take her father to medical appointments. She also assumed the grocery shopping task for her parents during this period. In addition, the Appellant had to pay college expenses for her two children.

After considering all the circumstances, I conclude that it is appropriate to waive the entire penalty assessed against the Appellant for 2021. See, e.g., 956 Code Mass. Regs. 6.08 (1) (e) ([The Appellant] experienced financial circumstances such that the expense of purchasing health insurance that met minimum creditable coverage standards would have caused [her] to experience a serious deprivation of food, shelter, clothing or other necessities.”).

PENALTY ASSESSED

Number of Months Appealed: 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 2021 for the amount equal to one half of the lowest cost health insurance plan available to you for each month you have been assessed the penalty, as listed above, plus applicable interest back to the due date of the return without regard to extension.

OR

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

NOTIFICATION OF YOUR RIGHT TO APPEAL TO COURT

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

Hearing Officer

Cc: Massachusetts Health Connector Appeals Unit

Massachusetts Health Connector Appeals Unit

Tax Penalty Appeal Decision—Docket No. PA21-2169 [M.X.]

Appeal Decision: Appeal Approved -- 2021 tax penalty overturned.

Hearing Issue: Appeal of the 2021 Tax Year Penalty

Hearing Date: January 9, 2023

Decision Date: January 17, 2023

AUTHORITY

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

JURISDICTION

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

HEARING RECORD

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

1. DOR Appeal Case Information from Schedule HC (1 page);
2. Appellant’s Statement of Grounds for Appeal – 2021;
3. Employer’s Letter Offering Internship (dated 3.12.21);
4. Appellant’s Letter Supporting Appeal; and
5. Health Connector’s Notice of Hearing (2 pages).

FINDINGS OF FACT

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

1. The Appellant appealed from the Department of Revenue's assessment of a 3 .month penalty for 2021. The basis for the penalty was that the Appellant was not insured for the months of January through June 2021 but was insured for the months of July through December 2021. Exhibits 1 and 2. Based on Exhibit 1 and the Appellant's hearing testimony, I find that the penalty assessment is accurate. (The calculation is 12 months minus 6 months insured = 6 months uninsured minus 3-month administrative grace period = 3 penalty months.)
2. The Appellant filed a Massachusetts personal income tax return for 2021 as a single person with no dependents. The Appellant's federal adjusted gross income (AGI) for 2021 was \$36,027. Exhibit 1.
3. The Appellant was 26 years old at the beginning of 2021 and resided in [name of city or town omitted] in Middlesex County, Massachusetts. Exhibit 1.
4. Based on DOR Table 3 the Appellant could afford to pay 5.00 % of his income -- or \$150 per month -- for health insurance coverage in 2021. (The calculation is 5.00% multiplied by \$36,027 AGI = \$1,801.35 per year divided by 12 months = \$150.11 per month.)
5. Based on DOR Table 4 (Region 2) the Appellant could obtain individual health insurance coverage at his age and location for \$271 per month in 2021.
6. Until his graduation in December 2020 the Appellant was a student on a F1 visas that restricted his ability to earn income. He had health insurance coverage through the school. Testimony and Exhibit 4.
7. The Appellant was not employed and was not insured starting in January 2022. Testimony and Exhibit 4.
8. The Appellant accepted an employer's offer of an internship starting on April 1, 2021, that paid him \$18 per hour for 20 hours per week. The internship did not offer health insurance as a benefit. Testimony and Exhibit 3. See also Exhibit 4.
9. The internship ended after three months, and the Appellant was offered full-time employment starting on July 1, 2021, with employer subsidized health insurance,

which the Appellant accepted. The Appellant's job and health insurance continued into 2022. Testimony and Exhibit 4.

10. Except as set forth in the foregoing findings of fact, I adopt the facts set forth in Exhibit 1 as my own findings of fact. Exhibit 1 is a computer printout prepared by the Massachusetts Department of Revenue (DOR) that extracts information submitted by the Appellant on Schedule HC as part of the Appellant's 2021 Massachusetts income tax return.

11. I take administrative notice of the financial information set forth in Tables 1 through 6 of the DOR 2021 Massachusetts Schedule HC Health Care Instructions and Worksheet. Tables 3 and 4 incorporate the affordability schedules adopted by the board of directors for the Commonwealth Health Insurance Connector Authority (Health Connector or Connector) for 2021. See 956 Code Mass. Regs. 6.05. Table 1 sets forth income levels less than 150% of the federal poverty level that are exempt from the assessment of a state tax penalty. Table 2 sets forth income eligibility standards for various family sizes at 300% of the federal poverty level, which is the income eligibility standard for the ConnectorCare government subsidized health insurance program. Tables 5 and 6 set forth the tax penalties in effect for 2020. (The DOR instructions are published online at <http://www.mass.gov/dor/2018ScheduleHCInstructions> and are also available in the state income tax forms supplied to taxpayers. See also DOR Technical Information Release (TIR) 12-7: Individual Mandate Penalties for Tax Year 2021.)

ANALYSIS AND CONCLUSIONS OF LAW

The case is before me on the Appellant's appeal from the state Department of Revenue's (DOR) assessment of a 3 month tax penalty because the Appellant did not have health insurance coverage for the first six months in 2021. See Exhibits 1 and 2. The issue to be decided is whether the penalty should be waived, either in whole or in part.

I begin by summarizing the legal rules that underlie this appeal. The tax penalty was enacted by the Massachusetts Legislature to encourage compliance with what is known as the "individual mandate" under the Massachusetts Health Care Reform Act of 2006. The individual mandate requires that all Massachusetts residents, age 18 and older, "shall obtain and maintain" health insurance coverage, as long as it is "deemed affordable" under the schedule set by the Health Connector's board of directors that is

incorporated in the DOR tables referred to earlier. Massachusetts General Laws c. 111M, sec. 2(a). Any health insurance policy must also satisfy the Massachusetts minimum creditable coverage standards (“MCC”) in order to avoid the penalty. Mass. Gen. Laws c. 111M, sec. 2(b). See also 956 Code Mass Regs. 501 and 5.03.

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

The Health Connector’s regulations also provide for a “hardship” appeal from the assessment of a penalty. 956 Code Mass. Regs. 6.07 and 6.08. The grounds for a hardship appeal are summarized in the Statement of Grounds for Appeal – 2021 that the Appellant signed and filed in this case. See Exhibit 2.

In this case, the Appellant lacked health insurance coverage for a short period after his college graduation in December 2020 when he was no longer covered by his school health plan. The Appellant was unemployed and uninsured for the months of January, February, and March. He started a three month part-time internship in April that did not offer health insurance. In July 2021 the employer offered the Appellant a full-time job with health insurance benefits. The Appellant had health insurance through his employer for the remainder of 2021, which continued in 2022.

Under the objective standards set forth in DOR Tables 3 and 4 the Appellant could not afford health insurance during the portion of 2021 before he was employed full-time. The Appellant could afford to pay \$150 per month for health insurance but individual coverage at his age and location would cost \$271 per month.

After considering the circumstances, I conclude that that it is appropriate to waive the entire penalty assessed against the Appellant for 2021. See, e.g., 956 Code Mass. Regs. 6.08 (1) (e) ([The Appellant] experienced financial circumstances such that the expense of purchasing health insurance that met minimum creditable coverage standards would have caused him [her] ** to experience a serious deprivation of food, shelter, clothing or other necessities.”).

PENALTY ASSESSED

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

The Connector has notified the Department of Revenue that, pursuant to its decision, you should be assessed a penalty for Tax Year 2021 for the amount equal to one half of the lowest cost health insurance plan available to you for each month you have been assessed the penalty, as listed above, plus applicable interest back to the due date of the return without regard to extension.

OR

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

NOTIFICATION OF YOUR RIGHT TO APPEAL TO COURT

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

Hearing Officer

Cc: Massachusetts Health Connector Appeals Unit

Massachusetts Health Connector Appeals Unit

Tax Penalty Appeal Decision—Docket No. PA21-2171 [K.M.]

Appeal Decision: Appeal Approved -- 2021 tax penalty overturned.

Hearing Issue: Appeal of the 2021 Tax Year Penalty

Hearing Date: January 9, 2023

Decision Date: January 17, 2023

AUTHORITY

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

JURISDICTION

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

HEARING RECORD

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

1. DOR Appeal Case Information from Schedule HC (1 page);
2. Appellant's Statement of Grounds for Appeal – 2021;
3. Health Connector's Notice of Hearing (2 pages);
4. 2018 Tax Penalty Appeal Decision; and
5. 2020 Tax Penalty Appeal Decision.

FINDINGS OF FACT

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

1. The Appellant appealed from the Department of Revenue's assessment of a 12 month penalty for 2021. The basis for the penalty was that the Appellant was not insured at any time in 2021. Exhibits 1 and 2. Based on Exhibit 1 and the Appellant's hearing testimony, I find that the penalty assessment is accurate.
2. The Appellant also appealed tax penalties that the DOR assessed for 2018 and 2020. The Hearing Officers who heard those appeals waived the 12 month penalties that had been assessed in both 2018 and 2020 and urged that Appellant to apply to the Health Connector for health insurance coverage. (There is no information in the hearing file concerning 2019.) Exhibits 4 and 5.
3. In his hearing testimony in this appeal the Appellant asserted that he had filed a Health Connector application, that the monthly premium was more than he could afford, and that he did not enroll in the health insurance. Testimony.
4. During the appeal hearing the Appellant testified that he had a new job as a chef starting on January 18, 2023, and that the employer would provide health insurance as a job benefit after a short waiting period. I found the testimony credible.
5. The Appellant, who was 48 years old in 2021, has worked in the restaurant industry since he was 19 years old. Restaurant employment has been unstable in 2020, 2021 and 2022 due to the coronavirus pandemic (COVID-19), and the Appellant has frequently been unemployed. The Appellant has also worked in a neighboring state and in seasonal jobs, including restaurants at golf courses. Testimony.
6. The Appellant filed a Massachusetts personal income tax return for 2021 as a single person with no dependents. The Appellant's federal adjusted gross income (AGI) for 2021 was \$ 55,881, and he resided in Hampden County. Exhibit 1.
7. The Appellant's 2021 AGI (\$55,881) was more than 300% of the federal poverty level (\$38,280 for a one person household). DOR Table 2. On this basis I infer that it is likely that the Appellant would not satisfy the financial eligibility requirements for government-subsidized health insurance.

8. Based on DOR Table 3 the Appellant could afford to pay 8.00 % of his income -- or \$372 per month -- for health insurance coverage in 2021. (The calculation is 8.00 % multiplied by \$55,881 AGI = \$4,470.48 per year divided by 12 months = \$372.54 per month.)
9. Based on DOR Table 4 (Region 1) the Appellant could obtain individual health insurance coverage at his age and location for \$355 per month in 2021.
10. The Appellant had substantial debt in 2021, including a \$584 monthly payment on a consolidation loan, a \$15,000 credit card balance, and a car loan. Testimony.
- 11.12 Except as set forth in the foregoing findings of fact, I adopt the facts set forth in Exhibit 1 as my own findings of fact. Exhibit 1 is a computer printout prepared by the Massachusetts Department of Revenue (DOR) that extracts information submitted by the Appellant on Schedule HC as part of the Appellant's 2021 Massachusetts income tax return.
12. I take administrative notice of the financial information set forth in Tables 1 through 6 of the DOR 2021 Massachusetts Schedule HC Health Care Instructions and Worksheet. Tables 3 and 4 incorporate the affordability schedules adopted by the board of directors for the Commonwealth Health Insurance Connector Authority (Health Connector or Connector) for 2021. See 956 Code Mass. Regs. 6.05. Table 1 sets forth income levels less than 150% of the federal poverty level that are exempt from the assessment of a state tax penalty. Table 2 sets forth income eligibility standards for various family sizes at 300% of the federal poverty level, which is the income eligibility standard for the ConnectorCare government subsidized health insurance program. Tables 5 and 6 set forth the tax penalties in effect for 2020. (The DOR instructions are published online at <http://www.mass.gov/dor/2018ScheduleHCInstructions> and are also available in the state income tax forms supplied to taxpayers. See also DOR Technical Information Release (TIR) 12-7: Individual Mandate Penalties for Tax Year 2021.)

ANALYSIS AND CONCLUSIONS OF LAW

The case is before me on the Appellant's appeal from the state Department of Revenue's (DOR) assessment of a 12 month tax penalty because the Appellant did not

have health insurance coverage in 2021. See Exhibits 1 and 2. The issue to be decided is whether the penalty should be waived, either in whole or in part.

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

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

The Health Connector’s regulations also provide for a “hardship” appeal from the assessment of a penalty. 956 Code Mass. Regs. 6.07 and 6.08. The grounds for a hardship appeal are summarized in the Statement of Grounds for Appeal – 2021 that the Appellant signed and filed in this case. See Exhibit 2.

Given that two prior hearing officers have waived 12 month tax penalties that were assessed for 2018 and 2020 this appears to be a close case. Several factors weigh on the other side. First, the objective standards set forth in DOR Tables 3 and 4 are quite close even though they indicate that the Appellant could afford health insurance in 2021. The Appellant’s substantial indebtedness weighs in the opposite direction, however. The Appellant’s Health Connector application was also unsuccessful.

Two additional factors point in favor of relief in this appeal. The first is the coronavirus pandemic which was especially difficult for the restaurant industry where the

Appellant works. In this context it is significant that the Appellant is about to start a new job that will provide him health insurance coverage after a long period without insurance.

After considering all the circumstances, I conclude that it is appropriate to waive the entire penalty assessed against the Appellant for 2021. See, e.g., 956 Code Mass. Regs. 6.08 (1) (e) ([The Appellant] experienced financial circumstances such that the expense of purchasing health insurance that met minimum creditable coverage standards would have caused him [her] ** to experience a serious deprivation of food, shelter, clothing or other necessities.”).

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 2021 for the amount equal to one half of the lowest cost health insurance plan available to you for each month you have been assessed the penalty, as listed above, plus applicable interest back to the due date of the return without regard to extension.

OR

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

NOTIFICATION OF YOUR RIGHT TO APPEAL TO COURT

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

Hearing Officer

Cc: Massachusetts Health Connector Appeals Unit

Massachusetts Health Connector Appeals Unit

Tax Penalty Appeal Decision—Docket No. PA21-2205 [R.H.]

Appeal Decision: Appeal Approved -- 2021 tax penalty overturned.

Hearing Issue: Appeal of the 2021 Tax Year Penalty

Hearing Date: January 18, 2023

Decision Date: January 24, 2023

AUTHORITY

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

JURISDICTION

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

HEARING RECORD

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

1. DOR Appeal Case Information from Schedule HC (1 page);
2. Appellant’s Statement of Grounds for Appeal – 2021; and
3. Health Connector’s Notice of Hearing (2 pages).

FINDINGS OF FACT

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

1. The Appellant appealed from the Department of Revenue's assessment of a 12 month penalty for 2021. The basis for the penalty was that the Appellant was not insured at any time in 2021. Exhibits 1 and 2. Based on Exhibit 1 and the Appellant's hearing testimony, I find that the penalty assessment is accurate.
2. The Appellant filed a Massachusetts personal income tax return for 2021 as a single person with no dependents. The Appellant's federal adjusted gross income (AGI) for 2021 was \$36,882. Exhibit 1.
3. The Appellant was 21 years old at the beginning of 2021 and resided in [name of city or town omitted] in Plymouth County, Massachusetts. Exhibit 1.
4. The Appellant's AGI was more than 150% of the federal poverty level. On this basis I conclude that the Appellant was not automatically exempt from the assessment of a tax penalty in 2021. DOR Table 1.
5. The Appellant's 2021 AGI (\$36,882) was less than 300% of the federal poverty level (\$38,280 for a one-person household). DOR Table 2. On this basis I infer that it is likely that the Appellant would satisfy the financial eligibility requirements for government-subsidized health insurance.
6. The Appellant graduated from a community college in Massachusetts in December 2020 where she had been a full-time student who was covered by health insurance. The Appellant worked part-time on a per diem basis, but she was not eligible for employer-sponsored health insurance. Testimony. See also Exhibit 1.
7. In the past the Appellant and her Father were insured by MassHealth. At some point the Appellant applied to the Health Connector for health insurance coverage but her application was denied. Testimony.
8. The Appellant learned that she was not insured and was subject to a penalty for 2021 when she self-prepared her 2021 income tax return in early 2022 using TurboTax. Testimony.
9. Based on DOR Table 3 the Appellant could afford to pay 5.00 % of her income -- or \$154 per month -- for health insurance coverage in 2021. (The calculation is 5.00 %

multiplied by \$36,882 AGI = \$1,844.10 per year divided by 12 months = \$153.67 per month.)

10. Based on DOR Table 4 (Region 2) the Appellant could obtain individual health insurance coverage at her age and location for \$263 per month in 2021.
11. The Appellant obtained a full-time job as a nurse starting in August 2021, and she enrolled in the employer-subsidized health plan offered by her employer. (I note a likely inconsistency in the evidence in that the Appellant recalled that her insurance started at the same time as her employment, but her tax return showed that she was not insured in 2021. See Exhibit 1. This will not affect the outcome of this appeal.)
12. The Appellant has an outstanding student loan in the amount of \$33,000. Testimony.
13. The Appellant was involved in a car accident. She pays \$572 per month for her car loan and insurance. Testimony.
14. Except as set forth in the foregoing findings of fact, I adopt the facts set forth in Exhibit 1 as my own findings of fact. Exhibit 1 is a computer printout prepared by the Massachusetts Department of Revenue (DOR) that extracts information submitted by the Appellant on Schedule HC as part of the Appellant's 2021 Massachusetts income tax return.
15. I take administrative notice of the financial information set forth in Tables 1 through 6 of the DOR 2021 Massachusetts Schedule HC Health Care Instructions and Worksheet. Tables 3 and 4 incorporate the affordability schedules adopted by the board of directors for the Commonwealth Health Insurance Connector Authority (Health Connector or Connector) for 2021. See 956 Code Mass. Regs. 6.05. Table 1 sets forth income levels less than 150% of the federal poverty level that are exempt from the assessment of a state tax penalty. Table 2 sets forth income eligibility standards for various family sizes at 300% of the federal poverty level, which is the income eligibility standard for the ConnectorCare government subsidized health insurance program. Tables 5 and 6 set forth the tax penalties in effect for 2020. (The DOR instructions are published online at <http://www.mass.gov/dor/2018ScheduleHCInstructions> and are also available in

the state income tax forms supplied to taxpayers. See also DOR Technical Information Release (TIR) 12-7: Individual Mandate Penalties for Tax Year 2021.)

ANALYSIS AND CONCLUSIONS OF LAW

The case is before me on the Appellant’s appeal from the state Department of Revenue’s (DOR) assessment of a 12 month tax penalty because the Appellant did not have health insurance coverage in 2021. See Exhibits 1 and 2. The issue to be decided is whether the penalty should be waived, either in whole or in part.

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

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

The Health Connector’s regulations also provide for a “hardship” appeal from the assessment of a penalty. 956 Code Mass. Regs. 6.07 and 6.08. The grounds for a hardship appeal are summarized in the Statement of Grounds for Appeal – 2021 that the Appellant signed and filed in this case. See Exhibit 2.

This appeal involves a young person who – during 2021, the year in question – was making the transition from college to her first full time job. The Appellant had previously been insured, including by MassHealth together with her Father. In 2021 she had a gap in

her coverage after her college graduation. Later in 2021 she obtained a full-time job that offered her health insurance benefits (though the evidence is not altogether clear when her coverage began).

When I apply the objective standards set forth in DOR Tables 3 and 4 it is clear the Appellant could not afford health insurance during the 2021 gap in her coverage. On her income she could afford to pay \$154 per month for health insurance, but the coverage would cost \$263 per month. See also DOR Table 2, above.

The Appellant’s \$33,000 outstanding student loan obligation reinforces the observation that the Appellant could not afford health insurance in 2021. Fortunately, the Appellant subsequently obtained employer-subsided health insurance, so I do not anticipate that her coverage problem will continue.

After considering all the circumstances, I conclude that it is appropriate to waive the entire penalty assessed against the Appellant for 2021. See, e.g., 956 Code Mass. Regs. 6.08 (1) (e) ([The Appellant] experienced financial circumstances such that the expense of purchasing health insurance that met minimum creditable coverage standards would have caused her] ** to experience a serious deprivation of food, shelter, clothing or other necessities.”).

PENALTY ASSESSED

Number of Months Appealed: 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 2021 for the amount equal to one half of the lowest cost health insurance plan available to you for each month you have been assessed the penalty, as listed above, plus applicable interest back to the due date of the return without regard to extension.

OR

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

NOTIFICATION OF YOUR RIGHT TO APPEAL TO COURT

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

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

Hearing Officer

Cc: Massachusetts Health Connector Appeals Unit

Massachusetts Health Connector Appeals Unit

Tax Penalty Appeal Decision—Docket No. PA21-2208 [M.C.]

Appeal Decision: Appeal Approved -- 2021 tax penalty overturned.

Hearing Issue: Appeal of the 2021 Tax Year Penalty

Hearing Date: January 18, 2023

Decision Date: January 26, 2023

AUTHORITY

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

JURISDICTION

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

HEARING RECORD

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

1. DOR Appeal Case Information from Schedule HC (1 page);
2. Appellant’s Statement of Grounds for Appeal – 2021;
3. Appellant’s Letter in Support of Appeal (1 page);
4. Member Services Letter;
5. 2021 IRS Form 1095-B; and
6. Health Connector’s Notice of Hearing (2 pages).

FINDINGS OF FACT

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

1. The Appellant appealed from the Department of Revenue's assessment of a 12 month penalty for 2021. The evidence shows, as the Appellant asserted in her appeal (Exhibit 2), that the Appellant was insured for all of 2021 but that her insurance for the months of January through November did not meet the Massachusetts minimum creditable coverage standard ("MCC"). I also find that for the month of December 2021 the Appellant had health insurance coverage that met the MCC standard. I base this finding on the 2021 IRS Form 1095-B (Exhibit 5, which I find in the context of all the hearing evidence is more reliable than the Appellant's Massachusetts income tax return. See Exhibit 1 (12 month penalty). The tax penalty would be reduced to 8 months after the DOR's 3-month grace period is applied to the December coverage. (I note that the federal "minimum essential services" standard is not identical to the MCC standard that applies in Massachusetts. The hearing record does not contain sufficiently detailed information to make this comparison.)
2. In 2021 the Appellant was employed by a company in the beauty industry that is located in a Mid-Atlantic state, but the Appellant actually resided and worked in a Southern state. Testimony. See also Exhibits 3 and 4.
3. In late 2020 the Appellant relocated to Massachusetts where she opened new stores for her Mid-Atlantic company. For 2021 the Appellant filed a Massachusetts state income tax return as a single person with no dependents. Exhibit 1 and Testimony. See also Exhibits 3 and 4.
4. The Appellant was enrolled in a health insurance plan offered by her Mid-Atlantic employer. Having worked in other states the Appellant was not aware that her employer's health plan did not meet the MCC standards when she relocated to Massachusetts, and the Appellant continued to pay the \$197.95 monthly premium for her employer's health plan (plus a \$99.95 initial enrollment fee). Testimony. See also Exhibits 2, 3, and 4.

5. The Appellant does not contest that her Mid-Atlantic employer's health plan did not satisfy the MCC standard, but she questions the fairness of applying the MCC standard to her when she was already paying the premium for the coverage that her employer offered her. Testimony and Exhibits 2 and 3. She adds that most of the Mid-Atlantic employees were women and most of them obtained health insurance as a dependent on their Husband's health plans, an option that was not available to her as a single person. Testimony.
6. The Appellant started to work for a new employer in Massachusetts at the end of 2021. See Exhibit 5 (2021 IRS Form 1095-B). See also Testimony and Exhibit 3. She was insured under her new employer's health plan in 2022. Testimony.
7. Under DOR Table 4 the Appellant would have to pay \$263 per month (\$3,156 per year) in Massachusetts for coverage that would satisfy the MCC standard (Region 2, Norfolk County, age 28 years). By comparison the Appellant was actually paying \$197.95 per month (\$2,375.40 per year). See Findings of Fact, No. 4, above. Under DOR Table 6 (column D) a penalty assessment would add \$142 per month (\$1,704 per year, plus any interest assessed by DOR) to the Appellant's 2021 cost. The Appellant's total 2021 outlay would increase from \$3,156 to \$4,079.40. (The Appellant's 2021 federal adjusted gross income (AGI) was \$59,238 per year. Exhibit 1).
8. Except as set forth in the foregoing findings of fact, I adopt the facts set forth in Exhibit 1 as my own findings of fact. Exhibit 1 is a computer printout prepared by the Massachusetts Department of Revenue (DOR) that extracts information submitted by the Appellant on Schedule HC as part of the Appellant's 2021 Massachusetts income tax return.
9. I take administrative notice of the financial information set forth in Tables 1 through 6 of the DOR 2021 Massachusetts Schedule HC Health Care Instructions and Worksheet. Tables 3 and 4 incorporate the affordability schedules adopted by the board of directors for the Commonwealth Health Insurance Connector Authority (Health Connector or Connector) for 2021. See 956 Code Mass. Regs. 6.05. Table 1 sets forth income levels less than 150% of the federal poverty level that are exempt from the assessment of a state tax penalty. Table 2 sets forth income eligibility standards for various family sizes at 300% of the federal poverty level, which is the income eligibility standard for the ConnectorCare government

subsidized health insurance program. Tables 5 and 6 set forth the tax penalties in effect for 2020. (The DOR instructions are published online at <http://www.mass.gov/dor/2018ScheduleHCInstructions> and are also available in the state income tax forms supplied to taxpayers. See also DOR Technical Information Release (TIR) 12-7: Individual Mandate Penalties for Tax Year 2021.)

ANALYSIS AND CONCLUSIONS OF LAW

The case is before me on the Appellant's appeal from the state Department of Revenue's (DOR) assessment of a 12 month tax penalty because the health insurance that the Appellant obtained from her out-of-state employer did not satisfy the Massachusetts minimum credible coverage standard ("MCC"). See Exhibits 1 and 2. The issue to be decided is whether the penalty should be waived, either in whole or in part.

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

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

The Health Connector's regulations also provide for a "hardship" appeal from the assessment of a penalty. 956 Code Mass. Regs. 6.07 and 6.08. The grounds for a hardship appeal are summarized in the Statement of Grounds for Appeal – 2021 that the Appellant signed and filed in this case. See Exhibit 2.

When the Appellant in this appeal moved to Massachusetts from a Southern state the underlying requirements for her health insurance also changed even though she continued to work for the same employer located in a Mid-Atlantic state and even though she was still insured under the same health plan that her employer offered to all of its employees. The “minimum creditable coverage” (MCC) standard that applies to insurance offered to Massachusetts residents serves a beneficial purpose. Unfortunately, the Appellant was not alerted to the need to reconsider her health insurance coverage when her work location changed. When she subsequently filed her first Massachusetts state income tax return for 2021 she learned, after the fact, that she was subject to a tax penalty because her existing health insurance did not meet the state’s MCC standard.

Fortunately, the Appellant changed jobs and insurers. From her appeal testimony it appears that the Appellant’s MCC problem will not carry over to 2022. The question, then, is whether I should I waive the penalty assessed for 2021. Under these circumstances I conclude that it is appropriate to waive the entire penalty that the DOR assessed for 2021.

The Appellant had insurance through her employer before she relocated to Massachusetts where she opened new stores for the employer. She continued her employer’s insurance coverage and continued to pay the monthly premium for all of 2021 before she learned that Massachusetts imposed a different MCC standard for health insurance in this state. At about the same time she made changes in her health insurance coverage through a new employer in Massachusetts, so I anticipate that the MCC problem will not continue in 2022.

The premium that the Appellant continued to pay for her Mid-Atlantic employer’s health plan is less that MCC coverage would cost in Massachusetts in 2021. This is outweighed, in my view, by the fact that adding the DOR tax penalty assessment to the premium would actually increase Appellant’s total out-of-pocket cost to more than the cost of MCC insurance in 2021. See Findings of Fact, No. 7, above (\$3,156 MCC cost vs. \$4,079 premium plus tax penalty cost).

For the foregoing reasons I waive the entire penalty assessed by DOR for 2021. See 956 Code Mass. Regs. 6.08 (3) (“consider any other grounds”). See also Exhibit 2 (“other” ground for appeal on Health Connector’s pre-printed appeal form).

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 2021 for the amount equal to one half of the lowest cost health insurance plan available to you for each month you have been assessed the penalty, as listed above, plus applicable interest back to the due date of the return without regard to extension.

OR

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

NOTIFICATION OF YOUR RIGHT TO APPEAL TO COURT

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

Hearing Officer

Cc: Massachusetts Health Connector Appeals Unit

Massachusetts Health Connector Appeals Unit

Tax Penalty Appeal Decision—Docket No. PA21-2209 [S.E.]

Appeal Decision: Appeal Approved -- 2021 tax penalty overturned.

Hearing Issue: Appeal of the 2021 Tax Year Penalty

Hearing Date: January 18, 2023

Decision Date: January 26, 2023

AUTHORITY

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

JURISDICTION

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

HEARING RECORD

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

1. DOR Appeal Case Information from Schedule HC (1 page);
2. Appellant’s Statement of Grounds for Appeal – 2021;
3. U.S. Department of Agriculture – Cost of Food (March 2022);
4. Appellant’s Payroll Record (12/5/21 – 12/16/21);
5. Eastern Bank – Free Checking Statement;
6. Capital ONE – bank statement;
7. Rent Statement;
8. Eversource electric bill;
9. Xfinity statement;
10. MBTA monthly pass;
11. Credit card charges (\$10 each for automatic laundry);

12. Bank of America – bank statement;
13. Chase - credit card statement'
14. Credit One – credit card statement;
15. Capital ONE – bank statement;
16. Citi Advantage – credit card statement'
17. Indigo - credit card statement;
18. Eastern Bank – Visa credit card statement;
19. Synchrony – credit card statement;
20. PayPal – credit statement;
21. Appellant's Supporting Letter to DOR;
22. Appellant's income and expense summary;
23. Appellant's Payroll Record (12/24/21);
24. YMCA – membership statement;
25. Amazon Prime – statement;
26. Appellant's 2016 Tax Penalty Appeal Decision (PA16-287);
and
27. Health Connector's Notice of Hearing (2 pages).

FINDINGS OF FACT

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

1. The Appellant appealed from the Department of Revenue's assessment of a 12 month penalty for 2021. The basis for the penalty was that the Appellant was not insured at any time in 2021. Exhibits 1 and 2. Based on Exhibit 1 and the Appellant's hearing testimony, I find that the penalty assessment is accurate.
2. The Appellant filed a Massachusetts personal income tax return for 2021 as a single person with no dependents. The Appellant's federal adjusted gross income (AGI) for 2021 was \$51,752. Exhibit 1.
3. The Appellant was 52 years old at the beginning of 2021 and resided in [name of city or town omitted] in Suffolk County, Massachusetts. Exhibit 1.

4. The Appellant's AGI was more than 150% of the federal poverty level. On this basis I conclude that the Appellant was not automatically exempt from the assessment of a tax penalty in 2021. DOR Table 1.
5. The Appellant's 2021 AGI (\$51,752) is more than 300% of the federal poverty level (\$38,280 for a one-person household). DOR Table 2. On this basis I infer that it is not likely that the Appellant would satisfy the financial eligibility requirements for government-subsidized health insurance.
6. Based on DOR Table 3 the Appellant could afford to pay 8.00% of her income -- or \$345 per month -- for health insurance coverage in 2021. (The calculation is 8.00 % multiplied by \$51,752 AGI = \$4,140.16 per year divided by 12 months = \$ 345.01 per month.)
7. Based on DOR Table 4 (Region 2) the Appellant could obtain individual health insurance coverage at her age and location for \$390 per month in 2021.
8. Based on the objective standards set forth in DOR Tables 3 and 4 I find that the Appellant could not afford health insurance in 2021. See Findings of Fact, Nos. 7 and 8, above.
9. The Appellant filed successful appeals from tax penalties that were assessed by the DOR for 2009 and 2016. See Exhibit 1 and Testimony. In the 2016 tax penalty appeal a prior Hearing Officer waived the entire 12 month penalty assessment on the ground that the Appellant could not afford health insurance. The hearing record does not contain the written decision in the 2009 penalty appeal. I credit the Appellant's testimony that she also prevailed in the 2009 appeal.
10. Apart from 2009 and 2016, the DOR did not assess tax penalties against the Appellant even though she did not have health insurance for those years. Testimony.
11. At the end of 2021 -- the year in question in this appeal -- the Appellant received a \$1,200 bonus from her employer. Testimony, Exhibit 4 (payroll record), and Exhibit 22 (Appellant's summary of income and expenses). The Appellant also received a \$1,200 bonus from her employer in 2016 when a hearing office waived the penalty

assessment on appeal. Testimony and Exhibit 26 (PA16-287). The Appellant did not receive bonuses in other years. Testimony.

12. The Appellant filed an exceptionally detailed account of her income and expenses, as illustrated by the lengthy list of hearing exhibits set forth above. The exhibits support the Appellant's contention in her supporting letter (Exhibit 21) and in her written summaries of her financial condition (Exhibit 22) that, based on her income and living expenses, she could not afford to purchase health insurance in 2021. In addition to her other expenses the Appellant had an outstanding credit card balance in 2021 that approximated \$15,000. Testimony.
13. Except as set forth in the foregoing findings of fact, I adopt the facts set forth in Exhibit 1 as my own findings of fact. Exhibit 1 is a computer printout prepared by the Massachusetts Department of Revenue (DOR) that extracts information submitted by the Appellant on Schedule HC as part of the Appellant's 2021 Massachusetts income tax return.
14. I take administrative notice of the financial information set forth in Tables 1 through 6 of the DOR 2021 Massachusetts Schedule HC Health Care Instructions and Worksheet. Tables 3 and 4 incorporate the affordability schedules adopted by the board of directors for the Commonwealth Health Insurance Connector Authority (Health Connector or Connector) for 2021. See 956 Code Mass. Regs. 6.05. Table 1 sets forth income levels less than 150% of the federal poverty level that are exempt from the assessment of a state tax penalty. Table 2 sets forth income eligibility standards for various family sizes at 300% of the federal poverty level, which is the income eligibility standard for the ConnectorCare government subsidized health insurance program. Tables 5 and 6 set forth the tax penalties in effect for 2020. (The DOR instructions are published online at <http://www.mass.gov/dor/2018ScheduleHCInstructions> and are also available in the state income tax forms supplied to taxpayers. See also DOR Technical Information Release (TIR) 12-7: Individual Mandate Penalties for Tax Year 2021.)

ANALYSIS AND CONCLUSIONS OF LAW

The case is before me on the Appellant's appeal from the state Department of Revenue's (DOR) assessment of a 12 month tax penalty because the Appellant did not

have health insurance coverage in 2021. See Exhibits 1 and 2. The issue to be decided is whether the penalty should be waived, either in whole or in part.

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

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

The Health Connector’s regulations also provide for a “hardship” appeal from the assessment of a penalty. 956 Code Mass. Regs. 6.07 and 6.08. The grounds for a hardship appeal are summarized in the Statement of Grounds for Appeal – 2021 that the Appellant signed and filed in this case. See Exhibit 2.

In this appeal the Appellant has presented a detailed and persuasive case that she was not able to afford the added expense of health insurance on top of her other living expenses. In addition to the evidence presented by the Appellant, the objective standards set forth in DOR Table 3 and 4 support her position that she could not afford health insurance in 2021: on her income the Appellant could afford to pay only \$345 per month for health insurance that would cost \$390 per month. See Findings of Fact, Nos. 6, 7, and 8, above.

What I have said is sufficient to decide the appeal favorably to the Appellant. I will not attempt to address the Appellant’s question about her employment bonus beyond

pointing out that the Appellant appears to live on the edge of affordability where health insurance premiums are concerned.

After considering all the circumstances, I conclude that it is appropriate to waive the entire penalty assessed against the Appellant for 2021. See, e.g., 956 Code Mass. Regs. 6.08 (1) (e) ([The Appellant] experienced financial circumstances such that the expense of purchasing health insurance that met minimum creditable coverage standards would have caused [her] to experience a serious deprivation of food, shelter, clothing or other necessities.”).

PENALTY ASSESSED

Number of Months Appealed: 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 2021 for the amount equal to one half of the lowest cost health insurance plan available to you for each month you have been assessed the penalty, as listed above, plus applicable interest back to the due date of the return without regard to extension.

OR

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

NOTIFICATION OF YOUR RIGHT TO APPEAL TO COURT

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

Hearing Officer

Cc: Massachusetts Health Connector Appeals Unit

Massachusetts Health Connector Appeals Unit

Tax Penalty Appeal Decision—Docket No. PA21-2211 [S.W.]

Appeal Decision: Appeal Approved -- 2021 tax penalty overturned.

Hearing Issue: Appeal of the 2021 Tax Year Penalty

Hearing Date: January 18, 2023

Decision Date: January 30, 2023

AUTHORITY

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

JURISDICTION

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

HEARING RECORD

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

1. DOR Appeal Case Information from Schedule HC (1 page);
2. Appellant's Statement of Grounds for Appeal – 2021;
3. Appellant's Letter in Support of Appeal (1 page); and
4. Health Connector's Notice of Hearing (2 pages).

FINDINGS OF FACT

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

1. The Appellant appealed from the Department of Revenue's assessment of a 12 month penalty for 2021. The basis for the penalty was that the Appellant was not insured at any time in 2021. Exhibits 1 and 2. Based on Exhibit 1 and the Appellant's hearing testimony, I find that the penalty assessment is accurate. See also Exhibit 3.
2. The Appellant filed a Massachusetts personal income tax return for 2021 as a single person with no dependents. The Appellant's federal adjusted gross income (AGI) for 2021 was \$53,161. Exhibit 1. See also Exhibit 3 and Testimony.
3. The Appellant was 39 years old at the beginning of 2021 and resided in [name of city or town omitted] in Norfolk County, Massachusetts. Exhibit 1.
4. The Appellant's 2021 AGI (\$53,161) was more than 300% of the federal poverty level (\$38,280 for a one person household). DOR Table 2. On this basis I infer that it is not likely that the Appellant would satisfy the financial eligibility requirements for government-subsidized health insurance.
5. The Appellant lead a peripatetic life during the period in question, when he lived with family members -- his parents or his brother -- in two different states. I note that the Appellant used a New Jersey address on his 2021 Massachusetts state income tax filing (Exhibit 1), on his appeal of the DOR's 2021 penalty assessment (Exhibit 2), on his letter supporting his appeal (Exhibit 3), and that the Health Connector also used the New Jersey address on its hearing notice addressed to the Appellant (Exhibit 4). More recently (at the beginning of 2023) the Appellant has returned to his parents' residence in Massachusetts. Testimony.
6. In late 2019 the Appellant left New York and moved in with his parents in Massachusetts in order to seek employment and to pay down debt. The coronavirus pandemic (COVID-19) intervened starting in March 2020, and the Appellant was unemployed for sixteen without any income or unemployment insurance benefits. Testimony and Exhibit 3.
7. From mid-February through mid-August 2021 the Appellant obtained work through a temp agency at a truck dealership in Massachusetts. The job did not offer health insurance benefits. Exhibit 3 and Testimony.

8. From mid-August to the end of 2021 the Appellant worked for a film production firm in New Jersey, which also did not offer him health insurance benefits. During this period the Appellant lived with his brother in New York, where he slept on his brother's couch, and commuted to work with his brother. Exhibit 3 and Testimony.
9. Later in 2021 the Appellant paid \$23,000 to purchase a used car to commute to work, which he paid for with a combination of a credit card and a loan from his parents. Testimony.
10. In mid-2022 the Appellant obtained health insurance. Testimony
11. Except as set forth in the foregoing findings of fact, I adopt the facts set forth in Exhibit 1 as my own findings of fact. Exhibit 1 is a computer printout prepared by the Massachusetts Department of Revenue (DOR) that extracts information submitted by the Appellant on Schedule HC as part of the Appellant's 2021 Massachusetts income tax return.
12. I take administrative notice of the financial information set forth in Tables 1 through 6 of the DOR 2021 Massachusetts Schedule HC Health Care Instructions and Worksheet. Tables 3 and 4 incorporate the affordability schedules adopted by the board of directors for the Commonwealth Health Insurance Connector Authority (Health Connector or Connector) for 2021. See 956 Code Mass. Regs. 6.05. Table 1 sets forth income levels less than 150% of the federal poverty level that are exempt from the assessment of a state tax penalty. Table 2 sets forth income eligibility standards for various family sizes at 300% of the federal poverty level, which is the income eligibility standard for the ConnectorCare government subsidized health insurance program. Tables 5 and 6 set forth the tax penalties in effect for 2020. (The DOR instructions are published online at <http://www.mass.gov/dor/2018ScheduleHCInstructions> and are also available in the state income tax forms supplied to taxpayers. See also DOR Technical Information Release (TIR) 12-7: Individual Mandate Penalties for Tax Year 2021.)

ANALYSIS AND CONCLUSIONS OF LAW

The case is before me on the Appellant's appeal from the state Department of Revenue's (DOR) assessment of a 12 month tax penalty because the Appellant did not

have health insurance coverage in 2021. See Exhibits 1 and 2. The issue to be decided is whether the penalty should be waived, either in whole or in part.

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

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

The Health Connector’s regulations also provide for a “hardship” appeal from the assessment of a penalty. 956 Code Mass. Regs. 6.07 and 6.08. The grounds for a hardship appeal are summarized in the Statement of Grounds for Appeal – 2021 that the Appellant signed and filed in this case. See Exhibit 2.

In this case, the Appellant had moved in with family members (his parents in Massachusetts and his brother in New Jersey) while he sought employment and to pay off debt. For 2020 his efforts were thwarted by the coronavirus pandemic when he was not employed for more than a year. For six months in 2021 (mid-February through mid-August) the Appellant obtained a job through a temp agency, which did not offer him health insurance as a job benefit. For the remainder of 2021 he was either unemployed (January – mid February) or he was working in New Jersey and living in New York with his brother and was not offered health insurance through his job (mid-August – end of December). The Appellant went further into credit card debt and parental loans for a used car to commute to work.

After considering all the circumstances, I conclude that the Appellant has established a financial hardship that it is appropriate to waive the entire penalty assessed against the Appellant for 2021. See, e.g., 956 Code Mass. Regs. 6.08 (1) (e) ([The Appellant] experienced financial circumstances such that the expense of purchasing health insurance that met minimum creditable coverage standards would have caused him to experience a serious deprivation of food, shelter, clothing or other necessities.”). See also 956 Code Mass. Regs. 6.08 (1) (a) (homeless). Since the appeal is resolved favorably to the Appellant it is not necessary to analyze whether the Appellant was subject to the individual mandate for all of 2021. See Mass. Gen. Law c. 111M, sec. 2(a), above (months living and working outside Massachusetts).

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 2021 for the amount equal to one half of the lowest cost health insurance plan available to you for each month you have been assessed the penalty, as listed above, plus applicable interest back to the due date of the return without regard to extension.

OR

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

NOTIFICATION OF YOUR RIGHT TO APPEAL TO COURT

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

Hearing Officer

Cc: Massachusetts Health Connector Appeals Unit

Massachusetts Health Connector Appeals Unit

FINAL APPEAL DECISION: PA 20-712

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

Hearing Issue: Appeal of the 2020 Tax Year Penalty

Hearing Date: January 17, 2023

Decision Date: January 19, 2023

AUTHORITY

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

JURISDICTION

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

HEARING RECORD

Appellant appeared at the hearing, which was held by telephone, on January 17, 2023. The hearing record consists of the testimony of Appellant, and the following documents, which were admitted into evidence:

- Exhibit 1: Health Connector Hearing Notice (2 pages)
- Exhibit 2: Appeal Case Information sheet¹ (1 page)
- Exhibit 3: Statement of Grounds (6 pages)
- Exhibit 4: Request to Vacate Dismissal (3/9/22) (1 page)
- Exhibit 5: Request to Vacate Dismissal (11/20) (1 page)

FINDINGS OF FACT

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

1. Appellant was 56 at the end of 2020. Exhibit 2.
2. Appellant lived in Worcester County in 2020. Exhibit 2.
3. Appellant filed his taxes as single with no dependents. Exhibit 2.
4. Appellant reported on the Schedule HC that he filed with his state income taxes, and confirmed at the hearing, that his annual income for 2020 was \$57,626. Exhibit 2.

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

5. Appellant reported in the Schedule HC that he filed with his 2020 state income taxes, and confirmed at the hearing, that he had health insurance meeting minimum creditable coverage standards from January through March 2020, but did not have such insurance from April through December of that year. Exhibit 2.
6. At the start of 2020, Appellant was working at a job that offered him insurance. He was enrolled in that insurance.
7. After the beginning of the Covid pandemic, Appellant was laid off from his job because of business slowdowns. As a result, he lost his employment-based health insurance.
8. Appellant attempted to purchase insurance but was told that he could not purchase insurance because he had missed the annual open enrollment period, which typically occurs in the beginning of the year.
9. At the beginning of 2021, he obtained insurance and was covered for the remainder of that year.
10. When Appellant filed his 2020 income taxes in 2021, he was assessed a penalty for not having health insurance during part of the year. He appealed that penalty. He had two hearings scheduled on the appeal, but did not attend either one, leading to dismissals. In each case, he requested to vacate the dismissal, and the request was granted. Exhibits 4,5.

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

ANALYSIS AND CONCLUSIONS OF LAW

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

Further, according to M.G.L. c. 111M, § 2, Massachusetts residents are permitted a 63-day gap in coverage without facing a penalty. The Health Connector’s “Administrative Bulletin 03-10: Guidance Regarding M.G.L. c. 111M and M.G.L. c. 176Q, as implemented by 956 CMR 6.00,” which is available at <https://betterhealthconnector.com/wp-content/uploads/rules-and-regulations/AdminBulletin03-10.pdf>, interprets the 63-day gap in coverage to be three months. As a result, gaps of three months are not subject to penalty. In Appellant’s case, he was without health insurance for nine months in 2020. Because he is given a three-month grace period, he has been assessed a penalty for only six months.

In order to determine whether Appellant should be penalized for not having coverage, I must first consider whether he could have obtained affordable insurance from any of the following three sources: (1) employment-based insurance; (2) government-subsidized insurance; or (3) unsubsidized insurance purchased on the non-group market. See 2020 Schedule HC instructions at pages HC 7-9

During the nine months that he was uninsured in 2020, Appellant was unemployed. Thus, he was unable to obtain employment-based insurance during that time.

Further, Appellant would not have been eligible to receive Connector Care, which is government-subsidized health insurance in Massachusetts. To be eligible for Connector Care, an individual must have household income below 300 percent of the federal poverty limit and meet other eligibility requirements, such as legal permanent residence in the United States. See 956 C.M.R. § 12.04 (Connector Care eligibility requirements.) In 2020, 300 percent of the federal poverty limit for a household of one person like Appellant’s was \$37,470. (I obtain the figure of \$37,470 from Table 2 to the instructions for the 2020 Schedule HC.) In this case, Appellant’s income during 2020 was \$57,626 and therefore he was not eligible for Connector Care.

Finally, Appellant would not have been able to afford to purchase unsubsidized health insurance on the non-group market under state affordability standards established by the Health Connector Board under M.G.L. c. 111M. Under those standards, an individual like Appellant who was in a household of one person and had annual income of \$57,626 was deemed able to afford 8 percent of income on insurance. (I obtain that figure from Table 3 of the 2020 instructions for the Schedule HC.) In this case, that amounts to \$4,610 annually or \$384 a month. During 2020, a person like Appellant who lived in Worcester County and was 56 years of age would have had to pay a monthly premium of \$432 for health insurance that met minimum creditable coverage standards. (I obtain the premium figure from Table 4 to the instructions for the 2020 Schedule HC). Thus, under state standards, this amount would not have been affordable.

Because Appellant could not have obtained affordable insurance in 2020, I am not required to consider whether he has stated grounds sufficient to waive the penalty under Health Connector regulations. 956 C.M.R. § 6.08. Rather, I conclude that he should not have been assessed a penalty for not having insurance in that year. Therefore, I am allowing the appeal and waiving the penalty assessed against him in its entirety.

PENALTY ASSESSED

Number of Months Appealed: 6

Number of Months Assessed: 0

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

NOTIFICATION OF YOUR RIGHT TO APPEAL TO COURT

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

Hearing Officer

Cc: Connector Appeals Unit

Massachusetts Health Connector Appeals Unit

FINAL APPEAL DECISION: PA21-2184

Appeal Decision: The penalty is overturned.

Hearing Issue: Appeal of the 2021 Tax Year Penalty

Hearing Date: January 12, 2023

Decision Date: January 30, 2023

AUTHORITY

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

JURISDICTION

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

HEARING RECORD

The appellant appeared at the hearing which was held by telephone on January 12, 2023. 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 2021 signed and dated by Appellant on April 24, 2022

Exhibit 2: Appeal Case Information from Schedule HC 2021

Exhibit 3: Notice of Hearing sent to Appellant dated December 27, 2022 for January 12, 2023 hearing

FINDINGS OF FACT

The record shows, and I so find:

1. Appellant, who filed a 2021 Massachusetts tax return as a single person with no dependents claimed, was 54 years old in 2021 (Exhibit 2, Testimony of Appellant).
2. Appellant resided in Norfolk County in 2021 (Testimony of Appellant, Exhibit 2).
3. Appellant had a Federal Adjusted Income of \$42,210 in 2021 (Testimony of Appellant, Exhibit 2).
4. Appellant was employed from January through June, 2021. Appellant lost her job in June and remained unemployed the rest of the year (Testimony of Appellant).
5. Appellant had health insurance through her employment from January through June. When she lost her job, she lost her health insurance. Appellant was uninsured the rest of the year (Testimony of the Appellant).
6. Appellant found a new job in 2022. She now has health insurance (Testimony of Appellant).
7. Appellant has been assessed a tax penalty for three months, October through December, 2021 (Testimony of Appellant, Exhibit 2).

8. I take administrative notice of the financial information set forth in Tables 1 through 6 in the DOR 2021 Massachusetts Schedule HC Health Care Instructions and Worksheets. Tables 3 and 4 incorporate affordability and premium schedules adopted by the Board of Directors for the Commonwealth Health Insurance Connector Authority for 2021. Table 2 sets forth income at 300% of the Federal poverty level and Tables 5 and 6 set forth tax penalties in effect for 2021.

9. According to Table 3 of Schedule HC for 2021, the appellant with no dependents claimed with an adjusted gross income of \$42,210, could afford to pay \$262 per month for health insurance. According to Table 4, Appellant, 54 years old and living in Norfolk County, could have purchased insurance for \$390 per month for a plan for an individual. Insurance on the individual market was unaffordable for the appellant (Schedule HC for 2021 Tables 3 and 4, Exhibit 2).

10. According to Table 2 of Schedule HC for 2021, Appellant, who earned more than \$38,280 per year, would have been ineligible for the ConnectorCare program based upon income (Table 2 of Schedule HC-2021, and Exhibit 2).

11. Appellant was not eligible for any government-sponsored health insurance in 2021. She was not eligible for Medicare and she was not eligible for any coverage through Veterans Affairs (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 2021 should be waived, either in whole or in part.

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

Appellant had health insurance which met the Commonwealth’s minimum creditable coverage standards from January through June, 2021. The appellant has been assessed a penalty for only three months, October through December, since Appellant is entitled to a three-month grace period after losing coverage. The appellant has appealed the assessment. See Exhibits 1, 2.

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

According to Table 3 of Schedule HC for 2021, the appellant with no dependents claimed with an adjusted gross income of \$42,210 could afford to pay \$262 per month for health insurance. According to Table 4, Appellant, 54

years old and living in Norfolk County, could have purchased insurance for \$390 per month for a plan for an individual. Insurance on the individual market was unaffordable for the appellant. See Schedule HC for 2021, Tables 3 and 4, Exhibit 2.

In 2021, Appellant was unemployed from July through December. Appellant had no access to employer-sponsored health insurance during those months. See the testimony of the Appellant which I find credible.

Appellant was ineligible for coverage through the ConnectorCare program. The appellant's annual Federal Adjusted Income was \$42,210 more than the income limit for one person (\$38,280). See 956 CMR 12.00 et. seq., Exhibit 2, and Table 2 of Schedule HC 2021. There is no evidence that the appellant had access to any other government-sponsored coverage.

The appellant had no access to affordable health insurance from October through December, the months for which Appellant has been assessed a tax penalty. Pursuant to Massachusetts General Laws Chapter 111M, Section 2, if an individual has no access to affordable health insurance, the individual should not be assessed a tax penalty. In this matter, Appellant had no access to insurance through the individual market, through employment, or through a government program. Appellant's penalty is, therefore, waived.

Appellant should note that any waiver granted here is for 2021 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 2021.

NOTIFICATION OF YOUR RIGHT TO APPEAL TO COURT

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

Cc: Connector Appeals Unit

Hearing Officer

Massachusetts Health Connector Appeals Unit

Tax Penalty Appeal Decision—Docket No. PA21-2210 [R.G.]

Appeal Decision: Appeal Approved -- 2021 tax penalty overturned.

Hearing Issue: Appeal of the 2021 Tax Year Penalty

Hearing Date: January 18, 2023

Decision Date: January 30, 2023

AUTHORITY

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

JURISDICTION

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

HEARING RECORD

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

1. DOR Appeal Case Information from Schedule HC (1 page);
2. Appellant's Statement of Grounds for Appeal – 2021;
3. Appellant's Letter in Support of Appeal; and
4. Health Connector's Notice of Hearing (2 pages).

FINDINGS OF FACT

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

1. The Appellant appealed from the Department of Revenue's assessment of a 6 month penalty for 2021. The basis for the penalty was that the Appellant was insured for the months of January, February and March 2021 but was not insured for the remainder of the year.. Exhibits 1 and 2. Based on Exhibit 1 and the Appellant's hearing testimony, I find that the penalty assessment is accurate. (The calculation is 12 months minus 3 months insured = 9 months uninsured minus 3-month administrative grace period = 6 penalty months.)
2. The Appellant filed a Massachusetts personal income tax return for 2021 as a single person with no dependents. The Appellant's federal adjusted gross income (AGI) for 2021 was \$ 37,280 . Exhibit 1.
3. The Appellant was 47 years old at the beginning of 2021 and resided in [name of city or town omitted] in Middlesex County, Massachusetts. Exhibit 1.
4. Based on DOR Table 3 the Appellant could afford to pay 5.00 % of his income -- or \$155 per month -- for health insurance coverage in 2021. (The calculation is 5.00 % multiplied by \$37,199 AGI = \$1,859.95 per year divided by 12 months = \$154.99 per month.)
5. Based on DOR Table 4 (Region 2) the Appellant could obtain individual health insurance coverage at his age and location for \$336 per month in 2021.
6. The Appellant was a trade union member in 2020 and 2021, and he had health insurance coverage under the union health plan. Under the union plan the Appellant had to work a specified minimum number of hours every six months (October 2020 – March 2021) in order for his insurance coverage to renew for the next six-month period that began on April 1, 2021. Exhibit 3 and Testimony.
7. The Appellant's union health insurance expired on April 1, 2021, because the Appellant had not been employed the required number of hours during the preceding six months. The shortfall was due to the coronavirus pandemic (COVID-19) that began in March 2020 and curtailed construction labor – the Appellant is a drywall installer who works as an independent contractor – for the remainder of 2020 and 2021. Testimony and Exhibit 3. See also Exhibit 1 (insured for January – March 2021).

8. Under the terms of the union contract the Appellant's health insurance will be reinstated once he satisfies the minimum hours requirement. Testimony and Exhibit 3.
9. Except as set forth in the foregoing findings of fact, I adopt the facts set forth in Exhibit 1 as my own findings of fact. Exhibit 1 is a computer printout prepared by the Massachusetts Department of Revenue (DOR) that extracts information submitted by the Appellant on Schedule HC as part of the Appellant's 2021 Massachusetts income tax return.
10. I take administrative notice of the financial information set forth in Tables 1 through 6 of the DOR 2021 Massachusetts Schedule HC Health Care Instructions and Worksheet. Tables 3 and 4 incorporate the affordability schedules adopted by the board of directors for the Commonwealth Health Insurance Connector Authority (Health Connector or Connector) for 2021. See 956 Code Mass. Regs. 6.05. Table 1 sets forth income levels less than 150% of the federal poverty level that are exempt from the assessment of a state tax penalty. Table 2 sets forth income eligibility standards for various family sizes at 300% of the federal poverty level, which is the income eligibility standard for the ConnectorCare government subsidized health insurance program. Tables 5 and 6 set forth the tax penalties in effect for 2020. (The DOR instructions are published online at <http://www.mass.gov/dor/2018ScheduleHCInstructions> and are also available in the state income tax forms supplied to taxpayers. See also DOR Technical Information Release (TIR) 12-7: Individual Mandate Penalties for Tax Year 2021.)

ANALYSIS AND CONCLUSIONS OF LAW

The case is before me on the Appellant's appeal from the state Department of Revenue's (DOR) assessment of a 6 month tax penalty because the Appellant's union health insurance benefits expired on April 1, 2021, since he was not employed for the required minimum number of hours during the preceding six months as required by his union health plan. See Exhibits 1 and 2. The issue to be decided is whether the penalty should be waived, either in whole or in part.

I begin by summarizing the legal rules that underlie this appeal. The tax penalty was enacted by the Massachusetts Legislature to encourage compliance with what is known as the "individual mandate" under the Massachusetts Health Care Reform Act of

2006. The individual mandate requires that all Massachusetts residents, age 18 and older, “shall obtain and maintain” health insurance coverage, as long as it is “deemed affordable” under the schedule set by the Health Connector’s board of directors that is incorporated in the DOR tables referred to earlier. Massachusetts General Laws c. 111M, sec. 2(a). Any health insurance policy must also satisfy the Massachusetts minimum creditable coverage standards (“MCC”) in order to avoid the penalty. Mass. Gen. Laws c. 111M, sec. 2(b). See also 956 Code Mass Regs. 501 and 5.03.

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

The Health Connector’s regulations also provide for a “hardship” appeal from the assessment of a penalty. 956 Code Mass. Regs. 6.07 and 6.08. The grounds for a hardship appeal are summarized in the Statement of Grounds for Appeal – 2021 that the Appellant signed and filed in this case. See Exhibit 2.

Many people were unemployed in 2020 and 2021 due to the coronavirus pandemic. In the Appellant’s case his inability to work regular hours on union construction jobs meant that the health insurance benefits provided under his trade union contract were suspended on April 1, 2021, because he was not able to work the required minimum number of hours during the preceding six months (October 2020 – March 2021). His union coverage will resume when the Appellant works the required number of hours. See Findings of Fact, Nos. 6 – 8, above.

The Appellant’s reduced income due to the coronavirus epidemic also meant that he was not able to afford health insurance in 2021 under the objective standards set forth in DOR Tables 3 and 4. The Appellant could afford to pay to pay \$155 per month for health insurance but individual coverage would cost \$366 at his age and location. See Findings of Fact, Nos. 4 and 5, above.

After considering all the circumstances, I conclude that it is appropriate to waive the entire penalty assessed against the Appellant for 2021. See, e.g., 956 Code Mass. Regs. 6.08 (2) and (3).

PENALTY ASSESSED

Number of Months Appealed: 6 Number of Months Assessed: -0-

The Connector has notified the Department of Revenue that, pursuant to its decision, you should be assessed a penalty for Tax Year 2021 for the amount equal to one half of the lowest cost health insurance plan available to you for each month you have been assessed the penalty, as listed above, plus applicable interest back to the due date of the return without regard to extension.

OR

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

NOTIFICATION OF YOUR RIGHT TO APPEAL TO COURT

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

Hearing Officer

Cc: Massachusetts Health Connector Appeals Unit

Massachusetts Health Connector Appeals Unit

FINAL APPEAL DECISION: PA21-1731

Appeal Decision Appeal Approved.

Hearing Issue: Appeal of the 2021 Tax Year Penalty

Hearing Date: January 18, 2023

Decision Date: January 23, 2023

AUTHORITY

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

JURISDICTION

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

HEARING RECORD

One of Appellants appeared at the hearing, which was held by telephone, on January 18, 2023. The hearing record consists of the Appellant's testimony, and the following documents which were admitted into evidence without objection by Appellant:

- Exhibit 1: Notice of Hearing (1-5-23) (3 pages);
- Exhibit 2: Information from Schedule HC TY 2021 (1 page);
- Exhibit 3: Statement of Grounds for Appeal (2-20-22) (with letter) (4 pages); and
- Exhibit 4: Prior hearing notice (4-8-22) (2 pages).

FINDINGS OF FACT

The record shows, and I so find:

1. Appellants, ages 53 and 55 during 2021, from Middlesex County, filed married filing jointly on the tax return with a family size of 2. (Exhibit 2).
2. Appellants did have insurance for the months of June through December of 2021 but did not have health insurance from January through May of 2021. (Appellant's testimony, Exhibit 2).
3. Appellant is a seasonal employee and was unemployed during December 2020 through 2021 and did not believe that health insurance was affordable. Appellants' income during the months that they did not have health insurance was approximately \$2,480.00 per month. (Testimony, Exhibit 3).

4. Appellants' Federal Adjusted Gross Income for 2021 was \$86,276.00 (Exhibit 2). However, much of that income was earned during the months of June through October of 2021. (Testimony).
5. Appellants' expenses for food, shelter, transportation and other necessities used all of the income during the months that they did not have health insurance. The expenses totaled approximately \$3,714.00 per month as compared to income of \$2,480.00 during those months. (Testimony).
6. Appellants now have health insurance through one of their employers as of December 2022. Appellants had health insurance through the Health Connector for June through November 2022. (Testimony).
7. I take administrative notice of the financial information set forth in Tables 1 through 6 in the DOR 2021 Massachusetts Schedule HC Health Care Instructions and Worksheets. Tables 3 and 4 incorporate affordability and premium schedules adopted by the Board of Directors for the Commonwealth Health Insurance Connector Authority for 2021. Table 2 sets forth income at 300% of the Federal poverty level and Tables 5 and 6 set forth tax penalties in effect for 2021.
8. Appellants could not afford health insurance based on the tables in Schedule HC. According to Table 4, the health insurance would cost \$802.00 for coverage. According to Table 3, Appellants were deemed to afford \$575.00.
9. Private insurance was not affordable for the Appellant in 2021. (Schedule HC for 2021).
10. Appellants' AGI was over 300% of the Federal Poverty Level, and Appellants therefore may not have qualified for subsidized health insurance through the Health Connector. (Schedule HC for 2021).
11. Appellants claimed that they should be granted a waiver based on the grounds that paying for health insurance would have caused a serious deprivation of food, shelter, clothing and other necessities. (Testimony of Appellant, Exhibit 3).
12. Appellants did not incur significant and unexpected increases in essential expenses as a result of domestic violence or the sudden responsibility for providing full care for an aging parent or other family member; and did not incur such expenses due to the death of a spouse, family member, or partner who shared household expenses. Appellants did not incur additional expenses as a result of a fire, flood, or other natural or man-made disaster in 2021 (Exhibit 3).
13. Appellants were not homeless, were not thirty days or more behind in rent in 2021, and did not receive eviction notices. Appellants did not receive a shut-off notice for basic utilities. (Appellant's Testimony, Exhibit 3).

ANALYSIS AND CONCLUSIONS OF LAW

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

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

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

Appellants did have health insurance for the months of June through December of 2021 but did not have health insurance for January through May of 2021. They have been assessed a tax penalty for two months. Appellants appealed the assessment. See Exhibits 2, and 3. To determine if the penalty should be waived in whole or in part, we must consider whether affordable insurance which met minimum creditable coverage standards was available to the Appellants through employment, through the private market, or through a government-sponsored program. If affordable insurance was available, we must determine if such insurance was, in fact, not affordable to the Appellants because they experienced a financial hardship as defined in 956 CMR 6.08.

Private insurance was not affordable for the Appellants during 2021. According to Tables 3 and 4 of the HC Schedule for 2021, Appellants, with an adjusted gross income of \$86,276.00 were deemed to not have been able to afford health insurance on the private market. According to Table 3, Appellants could have afforded to pay \$575.00 per month; according to Table 4, Appellants, who were 53 and 55 years old in 2021, from Middlesex County, and filed the 2021 Massachusetts taxes as married filing jointly with a family size of 2, would have had to pay \$802.00 for coverage per month for insurance on the private market. See CMR 6.05 (1)(2), Schedule HC Tables 3 and 4, and Exhibit 2.

Regarding the hardship waiver of the penalty, Appellants claimed that paying for health insurance would have caused a serious deprivation of food, shelter, clothing and other necessities. Appellants' expenses for necessities used all the income during the months that they did not have health insurance. Appellants obtained health insurance through the Health Connector for June through November 2021, and then had health insurance through one of their employers as of December 2021 which they continue to have. For these reasons, the waiver of the penalty is approved.

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

PENALTY ASSESSED

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

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

NOTIFICATION OF YOUR RIGHT TO APPEAL TO COURT

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

Hearing Officer

Cc: Connector Appeals Unit

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

Massachusetts Health Connector Appeals Unit

FINAL APPEAL DECISION: PA21-1851

Appeal Decision Appeal Approved.

Hearing Issue: Appeal of the 2021 Tax Year Penalty

Hearing Date: January 18, 2023

Decision Date: January 23, 2023

AUTHORITY

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

JURISDICTION

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

HEARING RECORD

Appellant appeared at the hearing, which was held by telephone, on January 18, 2023. The hearing record consists of the Appellant's testimony, and the following documents which were admitted into evidence without objection by Appellant:

- Exhibit 1: Notice of Hearing (1-5-23) (3 pages);
- Exhibit 2: Information from Schedule HC TY 2021 (1 page);
- Exhibit 3: Statement of Grounds for Appeal (3-16-22) (with letter and documents) (5 pages); and
- Exhibit 4: Prior hearing notice and documents (6-3-22) (9 pages).

FINDINGS OF FACT

The record shows, and I so find:

1. Appellant, age 28 during 2021, from Middlesex County, filed single on the tax return with a family size of 1. (Exhibit 2).
2. Appellant did not have health insurance 2021. (Appellant's testimony, Exhibit 2). Appellant had significant expenses due to having to move apartments during 2021 and did not believe that health insurance was affordable. (Testimony, Exhibit 3).
3. Appellant's Federal Adjusted Gross Income for 2021 was \$35,869.00 (Exhibit 2).
4. Appellant's expenses for food, shelter, transportation and other necessities used all of the income. The expenses totaled approximately \$3,717.00 per month or \$44,604.00 per year. (Testimony).

5. Appellant now has health insurance and had it in 2022 as well. (Testimony).
6. I take administrative notice of the financial information set forth in Tables 1 through 6 in the DOR 2021 Massachusetts Schedule HC Health Care Instructions and Worksheets. Tables 3 and 4 incorporate affordability and premium schedules adopted by the Board of Directors for the Commonwealth Health Insurance Connector Authority for 2021. Table 2 sets forth income at 300% of the Federal poverty level and Tables 5 and 6 set forth tax penalties in effect for 2021.
7. Appellant could not afford health insurance based on the tables in Schedule HC. According to Table 4, the health insurance would cost \$263.00 for coverage. According to Table 3, Appellant was deemed to afford \$149.00.
8. Private insurance was not affordable for the Appellant in 2021. (Schedule HC for 2021).
9. Appellant's AGI was under 300% of the Federal Poverty Level, and Appellant therefore may have qualified for subsidized health insurance through the Health Connector. (Schedule HC for 2021).
10. Appellant claimed that they should be granted a waiver based on the grounds that paying for health insurance would have caused a serious deprivation of food, shelter, clothing and other necessities. (Testimony of Appellant, Exhibit 3).
11. Appellant did not incur significant and unexpected increases in essential expenses as a result of domestic violence or the sudden responsibility for providing full care for an aging parent or other family member; and did not incur such expenses due to the death of a spouse, family member, or partner who shared household expenses. Appellant did not incur additional expenses as a result of a fire, flood, or other natural or man-made disaster in 2021 (Exhibit 3).
12. Appellant was not homeless, was not thirty days or more behind in rent in 2021, and did not receive eviction notices. Appellant did not receive a shut-off notice for basic utilities. (Appellant's Testimony, Exhibit 3).

ANALYSIS AND CONCLUSIONS OF LAW

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

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

Appellant did not have health insurance for 2021. They have been assessed a tax penalty for twelve months. Appellant appealed the assessment. See Exhibits 2, and 3. To determine if the penalty should be waived in whole or in part, we must consider whether affordable insurance which met minimum creditable coverage standards was available to the Appellant through employment, through the private

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

Private insurance was not affordable for the Appellant during 2021. According to Tables 3 and 4 of the HC Schedule for 2021, Appellant, with an adjusted gross income of \$35,869.00 was deemed to not have been able to afford health insurance on the private market. According to Table 3, Appellant could have afforded to pay \$149.00 per month; according to Table 4, Appellant, who was 28 years old in 2021, from Middlesex County, and filed the 2021 Massachusetts taxes as single with a family size of 1, would have had to pay \$263.00 for coverage per month for insurance on the private market. See CMR 6.05 (1)(2), Schedule HC Tables 3 and 4, and Exhibit 2.

With regard to the hardship waiver of the penalty, Appellant claimed that paying for health insurance would have caused a serious deprivation of food, shelter, clothing and other necessities. Appellant's expenses for necessities used all of the income. Appellant had health insurance as of 2022. For these reasons, the waiver of the penalty is approved.

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

PENALTY ASSESSED

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

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

NOTIFICATION OF YOUR RIGHT TO APPEAL TO COURT

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

Hearing Officer

Cc: Connector Appeals Unit

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

Massachusetts Health Connector Appeals Unit

FINAL APPEAL DECISION: PA21-2157

Appeal Decision Appeal Approved.

Hearing Issue: Appeal of the 2021 Tax Year Penalty

Hearing Date: January 11, 2023

Decision Date: January 16, 2023

AUTHORITY

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

JURISDICTION

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

HEARING RECORD

Appellant appeared at the hearing, which was held by telephone, on January 11, 2023. The hearing record consists of the Appellant's testimony, and the following documents which were admitted into evidence without objection by Appellant:

- Exhibit 1: Notice of Hearing (12-27-22) (3 pages);
- Exhibit 2: Information from Schedule HC TY 2021 (1 page);
- Exhibit 3: Statement of Grounds for Appeal (4-28-22) (3 pages);
- Exhibit 4: Final Appeal Decision TY2020 (1-4-22) (3 pages);
- Exhibit 5: Final Appeal Decision TY2018 (10-11-19) (3 pages); and
- Exhibit 6: Final Appeal Decision TY2017 (12-28-18) (2 pages).

FINDINGS OF FACT

The record shows, and I so find:

1. Appellant, age 38 during 2021, from Suffolk County, filed single on the tax return with a family size of 1. (Exhibit 2).
2. Appellant did not have health insurance 2021. (Appellant's testimony, Exhibit 2). Appellant was unemployed during 2021 and did not believe that health insurance was affordable. Appellant had significant credit card debt and monthly minimum payments. (Testimony, Exhibit 3).
3. Appellant's Federal Adjusted Gross Income for 2021 was \$36,305.00 (Exhibit 2).

4. Appellant's expenses for food, shelter, transportation and other necessities used all of the income. The expenses totaled approximately \$4,230.00 per month or \$50,760.00 per year. (Testimony).
5. Appellant now has a job that will provide health insurance as of March 2023.
6. I take administrative notice of the financial information set forth in Tables 1 through 6 in the DOR 2021 Massachusetts Schedule HC Health Care Instructions and Worksheets. Tables 3 and 4 incorporate affordability and premium schedules adopted by the Board of Directors for the Commonwealth Health Insurance Connector Authority for 2021. Table 2 sets forth income at 300% of the Federal poverty level and Tables 5 and 6 set forth tax penalties in effect for 2021.
7. Appellant could not afford health insurance based on the tables in Schedule HC. According to Table 4, the health insurance would cost \$275.00 for coverage. According to Table 3, Appellant was deemed to afford \$151.00.
8. Private insurance was not affordable for the Appellant in 2021. (Schedule HC for 2021).
9. Appellant's AGI was under 300% of the Federal Poverty Level, and Appellant therefore may have qualified for subsidized health insurance through the Health Connector. (Schedule HC for 2021).
10. Appellant claimed that they should be granted a waiver based on the grounds that paying for health insurance would have caused a serious deprivation of food, shelter, clothing and other necessities. (Testimony of Appellant, Exhibit 3).
11. Appellant did not incur significant and unexpected increases in essential expenses as a result of domestic violence or the sudden responsibility for providing full care for an aging parent or other family member; and did not incur such expenses due to the death of a spouse, family member, or partner who shared household expenses. Appellant did not incur additional expenses as a result of a fire, flood, or other natural or man-made disaster in 2021 (Exhibit 3).
12. Appellant was not homeless, was not thirty days or more behind in rent in 2021, and did not receive eviction notices. Appellant did not receive a shut-off notice for basic utilities. (Appellant's Testimony, Exhibit 3).

ANALYSIS AND CONCLUSIONS OF LAW

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

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

Appellant did not have health insurance for 2021. They have been assessed a tax penalty for twelve months. Appellant appealed the assessment. See Exhibits 2, and 3. To determine if the penalty should be waived in whole or in part, we must consider whether affordable insurance which met minimum creditable coverage standards was available to the Appellant through employment, through the private market, or through a government-sponsored program. If affordable insurance was available, we must determine if such insurance was, in fact, not affordable to the Appellant because they experienced a financial hardship as defined in 956 CMR 6.08.

Private insurance was not affordable for the Appellant during 2021. According to Tables 3 and 4 of the HC Schedule for 2021, Appellant, with an adjusted gross income of \$36,305.00 was deemed to not have been able to afford health insurance on the private market. According to Table 3, Appellant could have afforded to pay \$151.00 per month; according to Table 4, Appellant, who was 38 years old in 2021, from Suffolk County, and filed the 2021 Massachusetts taxes as single with a family size of 2, would have had to pay \$275.00 for coverage per month for insurance on the private market. See CMR 6.05 (1)(2), Schedule HC Tables 3 and 4, and Exhibit 2.

With regard to the hardship waiver of the penalty, Appellant claimed that paying for health insurance would have caused a serious deprivation of food, shelter, clothing and other necessities. Appellant's expenses for necessities used all of the income. Appellant will health insurance as of March 2023. For these reasons, the waiver of the penalty is approved.

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

PENALTY ASSESSED

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

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

NOTIFICATION OF YOUR RIGHT TO APPEAL TO COURT

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

Hearing Officer

Cc: Connector Appeals Unit

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

Massachusetts Health Connector Appeals Unit

FINAL APPEAL DECISION: PA21-2177

Appeal Decision Appeal Approved.

Hearing Issue: Appeal of the 2021 Tax Year Penalty

Hearing Date: January 11, 2023

Decision Date: January 16, 2023

AUTHORITY

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

JURISDICTION

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

HEARING RECORD

Appellant appeared at the hearing, which was held by telephone, on January 11, 2023. The hearing record consists of the Appellant's testimony, and the following documents which were admitted into evidence without objection by Appellant:

- Exhibit 1: Notice of Hearing (12-27-22) (3 pages);
- Exhibit 2: Information from Schedule HC TY 2021 (1 page); and
- Exhibit 3: Statement of Grounds for Appeal (4-24-22) (with letter) (6 pages).

FINDINGS OF FACT

The record shows, and I so find:

1. Appellant, age 54 during 2021, from Bristol County, filed single on the tax return with a family size of 1. (Exhibit 2).
2. Appellant did not have health insurance 2021. (Appellant's testimony, Exhibit 2). Appellant's employer offered health insurance at no cost to employees, however Appellant was unable to sign up due to a problem with the system. Appellant contacted the employer several times and was unable to obtain the insurance during 2021. Other employees experienced the same problem. Appellant was finally able to obtain the health insurance and continues to have the insurance. (Testimony, Exhibit 3).
3. Appellant's Federal Adjusted Gross Income for 2021 was \$51,971.00 (Exhibit 2).

4. I take administrative notice of the financial information set forth in Tables 1 through 6 in the DOR 2021 Massachusetts Schedule HC Health Care Instructions and Worksheets. Tables 3 and 4 incorporate affordability and premium schedules adopted by the Board of Directors for the Commonwealth Health Insurance Connector Authority for 2021. Table 2 sets forth income at 300% of the Federal poverty level and Tables 5 and 6 set forth tax penalties in effect for 2021.
5. Appellant could not afford health insurance based on the tables in Schedule HC. According to Table 4, the health insurance would cost \$390.00 for coverage. According to Table 3, Appellant was deemed to afford \$346.00.
6. Private insurance was not affordable for the Appellant in 2021. (Schedule HC for 2021).
7. Appellant's AGI was over 300% of the Federal Poverty Level, and Appellant therefore would not have qualified for subsidized health insurance through the Health Connector. (Schedule HC for 2021).
8. Appellant claimed that they should be granted a waiver based on the grounds that they had difficulty signing up for the health insurance available through the employer. (Testimony of Appellant, Exhibit 3).
9. Appellant did not incur significant and unexpected increases in essential expenses as a result of domestic violence or the sudden responsibility for providing full care for an aging parent or other family member; and did not incur such expenses due to the death of a spouse, family member, or partner who shared household expenses. Appellant did not incur additional expenses as a result of a fire, flood, or other natural or man-made disaster in 2021 (Exhibit 3).
10. Appellant was not homeless, was not thirty days or more behind in rent in 2021, and did not receive eviction notices. Appellant did not receive a shut-off notice for basic utilities. (Appellant's Testimony, Exhibit 3).

ANALYSIS AND CONCLUSIONS OF LAW

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

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

Appellant did not have health insurance for 2021. They have been assessed a tax penalty for twelve months. Appellant appealed the assessment. See Exhibits 2, and 3. To determine if the penalty should be waived in whole or in part, we must consider whether affordable insurance which met minimum creditable coverage standards was available to the Appellant through employment, through the private

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

Private insurance was not affordable for the Appellant during 2021. According to Tables 3 and 4 of the HC Schedule for 2021, Appellant, with an adjusted gross income of \$51,971.00 was deemed to not have been able to afford health insurance on the private market. According to Table 3, Appellant could have afforded to pay \$346.00 per month; according to Table 4, Appellant, who was 54 years old in 2021, from Bristol County, and filed the 2021 Massachusetts taxes as single with a family size of 1, would have had to pay \$390.00 for coverage per month for insurance on the private market. See CMR 6.05 (1)(2), Schedule HC Tables 3 and 4, and Exhibit 2.

With regard to the hardship waiver of the penalty, Appellant claimed that they had difficulty signing up for the free health insurance available through the employer. Appellant was able to obtain the health insurance and currently still has the health insurance. For these reasons, the waiver of the penalty is approved.

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

PENALTY ASSESSED

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

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

NOTIFICATION OF YOUR RIGHT TO APPEAL TO COURT

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

Hearing Officer

Cc: Connector Appeals Unit

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

Massachusetts Health Connector Appeals Unit

FINAL APPEAL DECISION: PA21-2178

Appeal Decision Appeal Approved.

Hearing Issue: Appeal of the 2021 Tax Year Penalty

Hearing Date: January 11, 2023

Decision Date: January 16, 2023

AUTHORITY

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

JURISDICTION

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

HEARING RECORD

Appellant appeared at the hearing, which was held by telephone, on January 11, 2023. The hearing record consists of the Appellant's testimony, and the following documents which were admitted into evidence without objection by Appellant:

- Exhibit 1: Notice of Hearing (12-27-22) (3 pages);
- Exhibit 2: Information from Schedule HC TY 2021 (1 page); and
- Exhibit 3: Statement of Grounds for Appeal (4-26-22) (with letter and documents) (6 pages).

FINDINGS OF FACT

The record shows, and I so find:

1. Appellant, age 26 during 2021, from Suffolk County, filed single on the tax return with a family size of 1. (Exhibit 2).
2. Appellant did have health insurance through the employer for January through May of 2021, and then had health insurance that did not meet minimum creditable coverage for June through December of 2021. Appellant's testimony, Exhibit 2).
3. Appellant switched to part time as of June 2021 and was no longer eligible for health insurance through the employer. Appellant obtained other health insurance at a rate of \$269 per month for the remainder of 2021. Appellant learned, when they went to prepare their taxes, that the health insurance they had obtained did not meet minimum creditable coverage in Massachusetts. (Testimony, Exhibit 3).

4. Appellant obtained a new full-time job as of December 2021 and had health insurance again as of January 2022 that met minimum creditable coverage in Massachusetts. (Testimony).
5. Appellant's Federal Adjusted Gross Income for 2021 was \$49,342.00 (Exhibit 2).
6. I take administrative notice of the financial information set forth in Tables 1 through 6 in the DOR 2021 Massachusetts Schedule HC Health Care Instructions and Worksheets. Tables 3 and 4 incorporate affordability and premium schedules adopted by the Board of Directors for the Commonwealth Health Insurance Connector Authority for 2021. Table 2 sets forth income at 300% of the Federal poverty level and Tables 5 and 6 set forth tax penalties in effect for 2021.
7. Appellant could afford health insurance based on the tables in Schedule HC. According to Table 4, the health insurance would cost \$263.00 for coverage. According to Table 3, Appellant was deemed to afford \$312.00.
8. Private insurance was affordable for the Appellant in 2021. (Schedule HC for 2021).
9. Appellant's AGI was over 300% of the Federal Poverty Level, and Appellant therefore would not have qualified for subsidized health insurance through the Health Connector. (Schedule HC for 2021).
10. Appellant claimed that they should be granted a waiver based on the grounds that they had health insurance, but it did not meet minimum creditable coverage and they were not aware that it did not meet minimum creditable coverage during 2021. (Testimony of Appellant, Exhibit 3).
11. Appellant did not incur significant and unexpected increases in essential expenses as a result of domestic violence or the sudden responsibility for providing full care for an aging parent or other family member; and did not incur such expenses due to the death of a spouse, family member, or partner who shared household expenses. Appellant did not incur additional expenses as a result of a fire, flood, or other natural or man-made disaster in 2021 (Exhibit 3).
12. Appellant was not homeless, was not thirty days or more behind in rent in 2021, and did not receive eviction notices. Appellant did not receive a shut-off notice for basic utilities. (Appellant's Testimony, Exhibit 3).

ANALYSIS AND CONCLUSIONS OF LAW

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

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

Appellant did have health insurance through the employer for January through May of 2021, and then had health insurance that did not meet minimum creditable coverage for June through December of 2021. They have been assessed a tax penalty for four months. Appellant appealed the assessment. See Exhibits 2, and 3. To determine if the penalty should be waived in whole or in part, we must consider whether affordable insurance which met minimum creditable coverage standards was available to the Appellant through employment, through the private market, or through a government-sponsored program. If affordable insurance was available, we must determine if such insurance was, in fact, not affordable to the Appellant because they experienced a financial hardship as defined in 956 CMR 6.08. Private insurance was affordable for the Appellant during 2021. According to Tables 3 and 4 of the HC Schedule for 2021, Appellant, with an adjusted gross income of \$49,342.00 was deemed to have been able to afford health insurance on the private market. According to Table 3, Appellant could have afforded to pay \$312.00 per month; according to Table 4, Appellant, who was 26 years old in 2021, from Suffolk County, and filed the 2021 Massachusetts taxes as single with a family size of 1, would have had to pay \$263.00 for coverage per month for insurance on the private market. See CMR 6.05 (1)(2), Schedule HC Tables 3 and 4, and Exhibit 2.

Regarding the hardship waiver of the penalty, Appellant claimed that they had health insurance that did not meet minimum creditable coverage and they did not know it did not meet minimum creditable coverage. Appellant was able to obtain health insurance that did meet minimum creditable coverage as of January 2022 and currently still has the health insurance. For these reasons, the waiver of the penalty is approved.

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

PENALTY ASSESSED

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

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

NOTIFICATION OF YOUR RIGHT TO APPEAL TO COURT

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

Hearing Officer

Cc: Connector Appeals Unit

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

Massachusetts Health Connector Appeals Unit

FINAL APPEAL DECISION: PA21-2703

Appeal Decision Appeal Approved.

Hearing Issue: Appeal of the 2021 Tax Year Penalty

Hearing Date: January 18, 2023

Decision Date: January 23, 2023

AUTHORITY

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

JURISDICTION

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

HEARING RECORD

Appellant appeared at the hearing, which was held by telephone, on January 18, 2023. The hearing record consists of the Appellant's testimony, and the following documents which were admitted into evidence without objection by Appellant:

- Exhibit 1: Notice of Hearing (1-5-23) (3 pages);
- Exhibit 2: Information from Schedule HC TY 2021 (1 page);
- Exhibit 3: Statement of Grounds for Appeal (12-12-22) (1 page); and
- Exhibit 4: Final Appeal Decision TY2020 (1-14-22) (4 pages).

FINDINGS OF FACT

The record shows, and I so find:

1. Appellant, age 59 during 2021, from Norfolk County, filed single on the tax return with a family size of 1. (Exhibit 2).
2. Appellant did not have health insurance 2021. (Appellant's testimony, Exhibit 2). Appellant did not believe that health insurance was affordable. (Testimony, Exhibit 3).
3. Appellant's Federal Adjusted Gross Income for 2021 was \$21,225.00 (Exhibit 2).
4. Appellant's expenses for food, shelter, transportation and other necessities used all of the income. The expenses totaled approximately \$1,817.00 per month or \$21,804.00 per year. (Testimony).
5. Appellant now has health insurance through the Health Connector. (Testimony).

6. I take administrative notice of the financial information set forth in Tables 1 through 6 in the DOR 2021 Massachusetts Schedule HC Health Care Instructions and Worksheets. Tables 3 and 4 incorporate affordability and premium schedules adopted by the Board of Directors for the Commonwealth Health Insurance Connector Authority for 2021. Table 2 sets forth income at 300% of the Federal poverty level and Tables 5 and 6 set forth tax penalties in effect for 2021.
7. Appellant could not afford health insurance based on the tables in Schedule HC. According to Table 4, the health insurance would cost \$401.00 for coverage. According to Table 3, Appellant was deemed to afford \$51.00.
8. Private insurance was not affordable for the Appellant in 2021. (Schedule HC for 2021).
9. Appellant's AGI was under 300% of the Federal Poverty Level, and Appellant therefore may have qualified for subsidized health insurance through the Health Connector. (Schedule HC for 2021).
10. Appellant claimed that they should be granted a waiver based on the grounds that paying for health insurance would have caused a serious deprivation of food, shelter, clothing and other necessities. (Testimony of Appellant, Exhibit 3).
11. Appellant did not incur significant and unexpected increases in essential expenses as a result of domestic violence or the sudden responsibility for providing full care for an aging parent or other family member; and did not incur such expenses due to the death of a spouse, family member, or partner who shared household expenses. Appellant did not incur additional expenses as a result of a fire, flood, or other natural or man-made disaster in 2021 (Exhibit 3).
12. Appellant was not homeless, was not thirty days or more behind in rent in 2021, and did not receive eviction notices. Appellant did not receive a shut-off notice for basic utilities. (Appellant's Testimony, Exhibit 3).

ANALYSIS AND CONCLUSIONS OF LAW

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

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

Appellant did not have health insurance for 2021. They have been assessed a tax penalty for twelve months. Appellant appealed the assessment. See Exhibits 2, and 3. To determine if the penalty should be waived in whole or in part, we must consider whether affordable insurance which met minimum creditable coverage standards was available to the Appellant through employment, through the private market, or through a government-sponsored program. If affordable insurance was available, we must

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

Private insurance was not affordable for the Appellant during 2021. According to Tables 3 and 4 of the HC Schedule for 2021, Appellant, with an adjusted gross income of \$21,225.00 was deemed to not have been able to afford health insurance on the private market. According to Table 3, Appellant could have afforded to pay \$51.00 per month; according to Table 4, Appellant, who was 59 years old in 2021, from Norfolk County, and filed the 2021 Massachusetts taxes as single with a family size of 1, would have had to pay \$401.00 for coverage per month for insurance on the private market. See CMR 6.05 (1)(2), Schedule HC Tables 3 and 4, and Exhibit 2.

With regard to the hardship waiver of the penalty, Appellant claimed that paying for health insurance would have caused a serious deprivation of food, shelter, clothing and other necessities. Appellant's expenses for necessities used all of the income. Appellant has health insurance as of 2023. For these reasons, the waiver of the penalty is approved.

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

PENALTY ASSESSED

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

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

NOTIFICATION OF YOUR RIGHT TO APPEAL TO COURT

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

Hearing Officer

Cc: Connector Appeals Unit

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

Massachusetts Health Connector Appeals Unit

FINAL APPEAL DECISION: PA21-2050

Appeal Decision: Appeal Approved

Hearing Issue: Appeal of the 2021 Tax Year Penalty

Hearing Date: October 5, 2022

Decision Date: January 27, 2023

AUTHORITY

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

JURISDICTION

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

HEARING RECORD

The Appellant appeared at the hearing, which was held by telephone, on October 5 2022. The Appellant offered testimony under oath or affirmation. At the end of the hearing, the record was closed.

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

Exhibit 1: Appeal Case Information from 2021 Schedule HC (1 page)

Exhibit 2: 4/9/22 Appeal (10 pages)

Exhibit 3: 9/15/22 Hearing Notice (2 pages)

FINDINGS OF FACT

The record shows, and I so find:

1. The Appellant's filing status for 2021 was Single with no dependents. The Appellant's federal AGI in 2021 was \$47,419. The Appellant turned twenty-four years old in 2021. The Appellant resided in Suffolk County in 2021. (Exhibit 1)
2. The Appellant appealed from the assessment of a three-month penalty on his 2021 income tax return, checking off that purchasing health insurance coverage would have caused him a serious deprivation of basic necessities. (Exhibit 2)
3. As a full-time employee, the Appellant had health insurance coverage that met MCC standards through his employer from January 2021 through June 2021, when he had to leave his job due to personal Covid-related issues. (Appellant's testimony; Exhibit 2)
4. The Appellant worked in a temporary part-time summer job with a municipality in July and August 2021; and, the Appellant was not eligible for health insurance coverage through this employer. (Appellant's testimony; Exhibit 2)
5. The Appellant was unemployed in September 2021. (Appellant's testimony)

6. The Appellant found a new job at the start of October 2021 and was employed at this new job through the remainder of 2021. (Appellant’s testimony; Exhibit 2)
7. The Appellant’s new employer offered health insurance coverage after three months of employment. (Appellant’s testimony; Exhibit 2)
8. The Appellant enrolled in the employer-sponsored coverage as soon as he was eligible, and the coverage was effective January 1, 2022. (Appellant’s testimony; Exhibit 2)
9. According to Table 3 of the 2021 Schedule HC, the Appellant could have afforded to pay up to \$300 for health insurance coverage in 2021, based on his tax filing status and 2021 AGI.
10. According to Table 4 of the 2021 Schedule HC, the Appellant could have purchased health insurance coverage in the private market in 2021 for a monthly premium of \$263, based his age and county of residence in 2021.

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 through his employer from January 2021 through June 2022, and then had a three-month grace period through September 2021 to obtain new coverage, at issue here is the Appellant’s failure to have health insurance coverage during the last three months of 2021.

I am persuaded by the Appellant’s argument that, after having to leave his full-time job at the end of June 2021 due to personal Covid-related reasons, he struggled over the summer months to return to work at a job that paid enough for him to pay for his basic necessities. When he finally found such a job at the end of September 2021, the Appellant enrolled in the coverage as soon as he was eligible to do so.

For the foregoing reasons, I conclude that the Appellant could not have afforded health insurance coverage from October 2021 through December 2021. 956 CMR § 6.08

Accordingly, the Appellant’s three-month penalty for 2021 shall be waived in full.

PENALTY ASSESSED

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

The Connector has notified the Department of Revenue that, pursuant to its decision, you should be assessed a penalty for Tax Year 2021 for the amount equal to one half of the lowest cost health insurance plan available to you for each month you have been assessed the penalty, as listed above, plus applicable interest back to the due date of the return without regard to extension.

OR

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

NOTIFICATION OF YOUR RIGHT TO APPEAL TO COURT

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

Hearing Officer

Cc: Connector Appeals Unit

Massachusetts Health Connector Appeals Unit

FINAL APPEAL DECISION: PA21-2072

Appeal Decision: Appeal Approved

Hearing Issue: Appeal of the 2021 Tax Year Penalty

Hearing Date: October 13, 2022

Decision Date: January 27, 2023

AUTHORITY

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

JURISDICTION

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

HEARING RECORD

The Appellant appeared at the hearing, which was held by telephone, on October 13, 2022. The Appellant offered testimony under oath or affirmation. At the end of the hearing, the record was closed.

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

- Exhibit 1: Appeal Case Information from 2021 Schedule HC (1 page)
- Exhibit 2: 4/16/22 Appeal (10 pages)
- Exhibit 3: 9/15/22 Hearing Notice (2 pages)

FINDINGS OF FACT

The record shows, and I so find:

1. The Appellant's filing status for 2021 was Single with no dependents. The Appellant's federal AGI in 2021 was \$38,250. The Appellant turned forty-five years old in 2021. (Exhibit 1)
2. The Appellant appeals from the assessment of a two-month penalty on his 2021 income tax return, checking off on the appeal form that: "During 2021, the expense of purchasing health insurance would have caused a serious deprivation of food, shelter, clothing or other necessities." (Exhibit 2)
3. The Appellant had health insurance coverage that met MCC standards from January 2021 to June 2021 and again in December 2021. (Exhibit 1)
4. The Appellant got a new job in November 2021 that offered health insurance coverage, and the Appellant enrolled immediately, with the cover effective in December 2021. (Exhibit 2; Appellant's testimony)
5. The Appellant's weekly income from June 20, 2021, through November 2021, was \$491 (or \$2028/monthly) from unemployment insurance. (Exhibit 2; Appellant's testimony)

6. The Appellant’s monthly expenses in 2021 for basic necessities included: child support in arrears, \$100; rent, \$1,020; heat/electricity, \$250; car payment, \$319; gas, \$300; M&R, \$30; and, Internet, \$106, for a total of \$2,125. (Exhibit 2; Appellant’s testimony)

ANALYSIS AND CONCLUSIONS OF LAW

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

Since the Appellant had health insurance coverage that met MCC standards during the first six months of 2021, he had a three-month grace period through September 2021 to obtain new coverage. As the Appellant obtained new health insurance coverage in December 2021, at issue here are the two months of October 2021 and November 2021, when the Appellant failed to have coverage.

The Appellant presented compelling evidence that he could not have afforded health insurance coverage in October 2021 and November 2021, as the Appellant’s only income during that time was from his unemployment months. These payments were not enough to cover his costs for basic necessities.

Accordingly, the Appellant’s two-month penalty for 2021 shall be waived in full.

PENALTY ASSESSED

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

The Connector has notified the Department of Revenue that, pursuant to its decision, you should be assessed a penalty for Tax Year 2021 for the amount equal to one half of the lowest cost health insurance plan available to you for each month you have been assessed the penalty, as listed above, plus applicable interest back to the due date of the return without regard to extension.

OR

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

NOTIFICATION OF YOUR RIGHT TO APPEAL TO COURT

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

Hearing Officer

Cc: Connector Appeals Unit

Massachusetts Health Connector Appeals Unit

FINAL APPEAL DECISION: PA21-2074

Appeal Decision: Appeal Approved

Hearing Issue: Appeal of the 2021 Tax Year Penalty

Hearing Date: October 13, 2022

Decision Date: January 30, 2023

AUTHORITY

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

JURISDICTION

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

HEARING RECORD

The Appellant appeared at the hearing, which was held by telephone, on October 13, 2022. The Appellant offered testimony under oath or affirmation. At the end of the hearing, the record was closed.

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

- Exhibit 1: Appeal Case Information from 2021 Schedule HC (1 page)
- Exhibit 2: 4/14/22 Appeal (5 pages)
- Exhibit 3: 9/15/22 Hearing Notice (2 pages)
- Exhibit 4: 9/30/22 Amended Tax Return (18 pages)

FINDINGS OF FACT

The record shows, and I so find:

1. The Appellants' tax filing status for 2021 was Married Filing Jointly with no dependents. The Appellants' federal AGI in 2021 was \$467,415. (Exhibit 1)
2. Their 2021 tax return showed a Rhode Island mailing address, as well as a part-year Massachusetts resident start date of 1/1/21 and a part-year resident end date of 6/4/21. (Exhibit 1)
3. The Appellants appeal from the assessment of a two-month tax penalty to the Appellant/wife on their 2021 income tax return, checking off "Other" on the appeal form as the basis for the appeal and stating that, "I have never lived in Massachusetts." (Exhibit 2)
4. The Appellant/wife has never lived in Massachusetts. (Exhibit 2; Appellant/wife's testimony)
5. The Appellants' 2021 tax preparer made a mistake in indicating on the Appellants' tax return that the Appellant/wife was a part-year resident of Massachusetts in 2021. (Appellant/wife's testimony)
6. The Appellant/wife was living in New York City in April 2021 and May 2021. (Appellant/wife's testimony)

ANALYSIS AND CONCLUSIONS OF LAW

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

As issue here is the two-month penalty assessed against the Appellant/wife for not having coverage in April 2021 and May 2021. I am persuaded by the Appellant’s testimony that she never resided in Massachusetts in 2021. Therefore, I conclude that the Appellant was not required to obtain health insurance coverage in Massachusetts under the individual mandate.

Accordingly, the Appellant’s two-month penalty for 2021 shall be waived in full.

PENALTY ASSESSED

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

The Connector has notified the Department of Revenue that, pursuant to its decision, you should be assessed a penalty for Tax Year 2021 for the amount equal to one half of the lowest cost health insurance plan available to you for each month you have been assessed the penalty, as listed above, plus applicable interest back to the due date of the return without regard to extension.

OR

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

NOTIFICATION OF YOUR RIGHT TO APPEAL TO COURT

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

Hearing Officer

Cc: Connector Appeals Unit

Massachusetts Health Connector Appeals Unit

FINAL APPEAL DECISION: PA21-2075

Appeal Decision: Appeal Approved

Hearing Issue: Appeal of the 2021 Tax Year Penalty

Hearing Date: October 13, 2022

Decision Date: January 30, 2023

AUTHORITY

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

JURISDICTION

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

HEARING RECORD

The Appellant appeared at the hearing, which was held by telephone, on October 13, 2022. The Appellant offered testimony under oath or affirmation. At the end of the hearing, the record was closed.

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

- Exhibit 1: Appeal Case Information from 2021 Schedule HC (1 page)
- Exhibit 2: 4/13/22 Appeal (8 pages)
- Exhibit 3: 9/15/22 Hearing Notice (2 pages)

FINDINGS OF FACT

The record shows, and I so find:

1. The Appellant's tax filing status for 2021 was Single with no dependents. The Appellant's federal AGI in 2021 was \$33,206. The Appellant resided in Middlesex County throughout 2021. The Appellant turned forty-two years old in 2021. (Exhibit 1)
2. The Appellant did not have health insurance coverage during any month of 2021. (Exhibit 1)
3. In his appeal, the Appellant checked off "Other" only as the basis for his appeal and, at hearing, stated that his only income in 2021 was from unemployment compensation that ended in September 2021. (Exhibit 2; Appellant's testimony)
4. Table 2 of the 2021 Massachusetts Schedule HC indicates that the Appellant qualified for government subsidized insurance in 2021, and Table 3 indicates that the Appellant could have afforded to pay up to \$138/monthly for health insurance coverage in 2021, based on his income and tax filing status.
5. The Appellant's 2021 monthly expenses for basic necessities included: rent/water, \$600; Internet, \$70; electric, \$300; phone, \$123; groceries, \$300; gas/insurance, \$550; clothing, \$250; trash pickup, \$35; and,

credit card minimum payment, \$160, for a total of \$2,388/monthly and \$28,656 for the year. (Appellant's testimony)

ANALYSIS AND CONCLUSIONS OF LAW

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

As issue here is the twelve-month penalty assessed against the Appellant for not having any health insurance coverage throughout 2021. I am not persuaded by the Appellant's argument that he could not have afforded to pay for health insurance coverage in 2021. After subtracting his 2021 expenses for basic necessities, the Appellant still had well over \$4,000 left with which he could have afforded to pay for health coverage throughout the year at a cost of \$138/monthly.

Nevertheless, as the Appellant likely would have reconsidered his options when his unemployment benefits expired at the end of September 2021 and, as a result, had no income during the last three months of 2021, the Appellant's 12-month tax penalty for 2021 should be reduced.

Accordingly, the Appellant's twelve-month penalty for 2021 shall be reduced to a nine-month penalty.

PENALTY ASSESSED

Number of Months Appealed: 12 Number of Months Assessed: 9

The Connector has notified the Department of Revenue that, pursuant to its decision, you should be assessed a penalty for Tax Year 2021 for the amount equal to one half of the lowest cost health insurance plan available to you for each month you have been assessed the penalty, as listed above, plus applicable interest back to the due date of the return without regard to extension.

OR

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

NOTIFICATION OF YOUR RIGHT TO APPEAL TO COURT

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

Hearing Officer

Cc: Connector Appeals Unit

Massachusetts Health Connector Appeals Unit

FINAL APPEAL DECISION: PA21-2189

Appeal Decision: Appeal Approved.

Hearing Issue: Appeal of the 2021 Tax Year Penalty

Hearing Date: January 13, 2023

Decision Date: January 18, 2023

AUTHORITY

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

JURISDICTION

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

HEARING RECORD

The Appellant appeared at the hearing, which was held by telephone, on January 13, 2023. The procedures to be followed during the hearing were reviewed with the Appellant who was then sworn in. Exhibits were marked and admitted into evidence with no objection from the Appellant. The hearing record consists of the Appellant's testimony and the following documents which were admitted into evidence:

- Exhibit 1: Health Connector Appeals Unit Notice of Hearing dated December 27, 2022.
- Exhibit 2: Appeal Case Information from Schedule HC 2021.
- Exhibit 3: The Statement of Grounds for Appeal signed by the Appellant on May 1, 2022.
- Exhibit 4: The Appellant's letter in support of the Appeal.

FINDINGS OF FACT

The record shows, and I so find:

1. The Appellant, age 28 in July 2021, filed their Federal Income Tax return as a single person with no dependents claimed (Exhibit 2).
2. The Appellant lived in Berkshire County, MA in 2021 (Exhibit 2).
3. The Appellant's Federal Adjusted Gross Income for 2021 was \$25,522 (Exhibit 2).
4. The Appellant did not have insurance for any months of tax year 2021 (Exhibit 2 and Appellant Testimony).
5. The Appellant has been assessed a twelve-month tax penalty for 2021. The Appellant filed an appeal of the assessment in May, 2022 (Exhibits 2, 3, 4).

6. I take administrative notice of the financial information set forth in Tables 1 through 6 in the DOR 2021 Massachusetts Schedule HC Health Care Instructions and Worksheets. Tables 3 and 4 incorporate affordability and premium schedules adopted by the Board of Directors for the Commonwealth Health Insurance Connector Authority for 2021. Table 2 sets forth income at 300% of the Federal poverty level and Tables 5 and 6 set forth tax penalties in effect for 2021.
7. In accordance with Table 3 of Schedule HC for 2021, the Appellant filing the Federal tax return as a single person with no dependents claimed, with an annual adjusted gross income of \$25,522 could afford to pay \$89 per month for health insurance. In accordance with Table 4, the Appellant, age 28, living in Berkshire County, could have purchased private insurance for \$271 per month for a plan (Schedule HC for 2021). Private insurance was not affordable for the Appellant in 2021.
8. The Appellant would have been eligible for ConnectorCare coverage in 2021 because the Appellant's income was less than 300% of the federal poverty level, which was \$38,280 for a household of one in 2021 (See Table 2 of Schedule HC-2021 and 956 CMR 12.04).
9. The Appellant testified that they were insured through MassHealth in tax year 2020. The Appellant explained that they moved and never received information from MassHealth indicating their insurance would stop. The Appellant said that in early 2022 they went to the dentist and found out that they no longer had coverage. The Appellant said that they did not know they did not have health insurance for all of tax year 2021 (Appellant Testimony).
10. The Appellant's 2021 monthly living expenses of \$1,773 included: rent-\$400, electricity-\$120; oil heat- \$500; telephone/internet -\$220; transportation-\$100; and food \$433. In addition to these expenses the Appellant said that he has a couple of monthly loan payments. I found the Appellant to be credible (Appellant Testimony).

ANALYSIS AND CONCLUSIONS OF LAW

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

The Appellant did not have health insurance for any months in tax year 2021 and consequently has been assessed a twelve-month penalty. The Appellant filed an appeal in May 2022.

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

In accordance with Table 3 of Schedule HC for 2021, the Appellant filing the Federal tax return as a single person with no dependents claimed with an adjusted gross income of \$25,522 could afford to pay \$89 per month for health insurance. According to Table 4, the Appellant, age 28, living in Berkshire County, could have purchased a private insurance plan for \$271 month. See Schedule HC for 2021. Private insurance was not affordable for the Appellant in tax year 2021.

The Appellant did not have access to employer sponsored health insurance in 2021. The Appellant would have been eligible for ConnectorCare coverage based upon the Appellant's income that was less than 300% of the federal poverty level which was \$38,280 for their household of one. See Table 2 of Schedule HC 2021 and 956 CMR 12.04 for eligibility criteria. Since affordable insurance was available to the Appellant in 2021, it must be determined whether the Appellant experienced a financial hardship pursuant to 956 CMR 6.08.

The Appellant testified that they had MassHealth insurance coverage in tax year 2020 and moved at the end of that year. The Appellant said that from what they could determine, mail sent from MassHealth was not forwarded to their new address and the Appellant had no idea that their MassHealth was ending. The Appellant said that they did not learn until the beginning of 2022 when they went to the Dentist that their coverage had been cancelled.

Given the Appellant's limited income and monthly living expenses of \$1,773, the Appellant has demonstrated that the cost of purchasing health insurance would have caused the Appellant to experience a significant financial hardship in tax year 2021. The Appellant's twelve-month penalty is waived. See 956 CMR 6.08(3).

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

PENALTY ASSESSED

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

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

NOTIFICATION OF YOUR RIGHT TO APPEAL TO COURT

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

cc: Health Connector Appeals Unit

Massachusetts Health Connector Appeals Unit

FINAL APPEAL DECISION: PA21-2190

Appeal Decision: Appeal Denied.

Hearing Issue: Appeal of the 2021 Tax Year Penalty

Hearing Date: January 13, 2023

Decision Date: January 18, 2023

AUTHORITY

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

JURISDICTION

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

HEARING RECORD

The Appellant appeared at the hearing, which was held by telephone, on January 13, 2023. Interpreter services were provided at the Appellant's request. 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 27, 2022.
- Exhibit 2: Appeal Case Information from Schedule HC 2021.
- Exhibit 3: Statement of Grounds for Appeal signed by the Appellant on April 28, 2022, with attachments.

FINDINGS OF FACT

The record shows, and I so find:

1. The Appellant, age 50 in June 2021, filed their Federal Income Tax return as a single person with no dependents (Exhibit 2).
2. The Appellant lived in Middlesex County, MA in 2021 (Exhibit 2).
3. The Appellant's Federal Adjusted Gross Income for 2021 was \$60,572 (Exhibit 2).
4. The Appellant had health insurance for the period of January through April but did not have health insurance for the period of May through December in tax year 2021 (Exhibits 2, 3 and Appellant Testimony).
5. The Appellant has been assessed a five-month tax penalty for 2021. The Appellant filed an appeal of the assessment in April 2022 (Exhibits 2, 3, 4).

6. I take administrative notice of the financial information set forth in Tables 1 through 6 in the DOR 2021 Massachusetts Schedule HC Health Care Instructions and Worksheets. Tables 3 and 4 incorporate affordability and premium schedules adopted by the Board of Directors for the Commonwealth Health Insurance Connector Authority for 2021. Table 2 sets forth income at 300% of the Federal poverty level and Tables 5 and 6 set forth tax penalties in effect for 2021.
7. In accordance with Table 3 of Schedule HC for 2021, the Appellant filing the Federal tax return as a single person with no dependents, with an annual adjusted gross income of \$60,572 could afford to pay \$404 per month for health insurance. In accordance with Table 4, the Appellant, age 50, living in Middlesex County, could have purchased private insurance for \$390 per month (Schedule HC for 2021). Private insurance was affordable for the Appellant.
8. The Appellant did not have employer sponsored health insurance for the period of May through December 2021. The Appellant was not financially eligible for ConnectorCare because their income of \$60,572 was greater than 300% of the federal poverty level which was \$38,280 for a household of one (Table 2 of Schedule HC-2021).
9. The Appellant testified that they had health insurance through their employer for the period of January through April but lost coverage because the job ended. The Appellant initially indicated they had no questions or other statement to make. The Appellant was asked if they were unemployed in tax year 2021 and the Appellant said they were not. The Appellant stated that they worked part time jobs that did not offer insurance. The Appellant acknowledged that they did not attempt to purchase private insurance when their employer sponsored insurance ended. The Appellant, when asked, testified that during the period of January through April they were paid \$390 weekly and said that for the period of May through December they earned \$20,000. This testimony was not credible given the Appellant's adjusted gross income of \$60,572 (Exhibit 2 and Appellant Testimony).
10. The Appellant's 2021 monthly living expenses of \$1,144 included: rent-\$600; heat-\$30; electricity-\$40; telephone-\$40; transportation-\$87; and food-\$347. The Appellant did not fall behind in their rent or utility payments. The Appellant did not offer any evidence or testimony of financial hardship (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 had health insurance for the period of January through April but did not have health insurance for the period of May through December in tax year 2021. The Appellant has consequently been assessed a five-month penalty. The Appellant submitted a statement of grounds for this appeal in April 2022 with proof of insurance for the period of January through April.

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

In accordance with Table 3 of Schedule HC for 2021, the Appellant filing the Federal tax return as a single person with no dependents claimed, with an adjusted gross income of \$60,572 could afford to pay \$404 per month for health insurance. In accordance with Table 4, the Appellant, age 50, living in Middlesex County, could have purchased private insurance for \$390 per month (Schedule HC for 2021). Private insurance was affordable for the Appellant in 2021.

The Appellant did not have access to employer sponsored health insurance for the period of May through December in tax year 2021. The Appellant would not have been eligible for ConnectorCare because their income of \$60,572 was greater than 300% of the federal poverty level of \$38,280 for a household of one. Since affordable insurance was available to the Appellant in 2021, it must be determined whether the Appellant experienced a financial hardship pursuant to 956 CMR 6.08 (1).

The Appellant testified that they lost their employer sponsored health insurance in April 2021 when their job ended. The Appellant indicated that they were not unemployed for any period in 2021 but worked at jobs that did not provide health insurance. The Appellant did not make any attempt to obtain health insurance after April 2021. The Appellant said that for the period of January through April they were paid \$390 weekly (average monthly of \$1,755) but was paid \$20,000 only for the nine-month period of May through December. This is not consistent with the adjusted gross income of \$60,572 reported on the Appellant's schedule HC-2021.

Given the Appellant's average monthly income of \$5,048 and their monthly living expenses of \$1,114, the Appellant has failed to demonstrate that purchasing private health insurance with a monthly premium of \$390 (see Table 4 Schedule HC- 2021) would have caused the Appellant to experience a serious financial hardship. The Appellant's five-month penalty is upheld. See 956 CMR 6.08.

PENALTY ASSESSED

Number of Months Appealed: 5 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 2021 for the amount equal to one half of the lowest cost health insurance plan available to you for each month you have been assessed the penalty, as listed above, plus applicable interest back to the due date of the return without regard to extension.

NOTIFICATION OF YOUR RIGHT TO APPEAL TO COURT

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

Cc: Connector Appeals Unit

Massachusetts Health Connector Appeals Unit

FINAL APPEAL DECISION: PA21-2191

Appeal Decision: Appeal Approved in Part and Denied in Part

Hearing Issue: Appeal of the 2021 Tax Year Penalty

Hearing Date: January 13, 2023

Decision Date: January 18, 2023

AUTHORITY

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

JURISDICTION

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

HEARING RECORD

The Appellant appeared at the hearing, which was held by telephone, on January 13, 2023. The procedures to be followed during the hearing were reviewed with the Appellant who was then sworn in. Exhibits were marked and admitted into evidence with no objection from the Appellant. The hearing record consists of the Appellant's testimony and the following documents which were admitted into evidence:

- Exhibit 1: Health Connector Appeals Unit Notice of Hearing dated December 27, 2022.
- Exhibit 2: Appeal Case Information from Schedule HC 2021.
- Exhibit 3: Statement of Grounds for Appeal, with attachments, signed by the Appellant on April 26, 2022.
- Exhibit 4: Appellant's letter in support of this appeal.

FINDINGS OF FACT

The record shows, and I so find:

1. The Appellant, age 38 in April 2021, filed their Federal Income Tax return as a single person with no dependents (Exhibit 2).
2. The Appellant lived in Bristol County, MA in 2021 (Exhibit 2 and Appellant Testimony).
3. The Appellant's Federal Adjusted Gross Income for 2021 was \$52,144 (Exhibit 2).
4. The Appellant did not have health insurance for any months of tax year 2021 (Exhibit 2 and Appellant Testimony).
5. The Appellant has been assessed a twelve-month tax penalty for 2021. The Appellant filed an appeal of the assessment in April 2022 citing circumstances other than financial hardship for failing to have health insurance (Exhibits 2, 3, 4).

6. I take administrative notice of the financial information set forth in Tables 1 through 6 in the DOR 2021 Massachusetts Schedule HC Health Care Instructions and Worksheets. Tables 3 and 4 incorporate affordability and premium schedules adopted by the Board of Directors for the Commonwealth Health Insurance Connector Authority for 2021. Table 2 sets forth income at 300% of the Federal poverty level and Tables 5 and 6 set forth tax penalties in effect for 2021.
7. In accordance with Table 3 of Schedule HC for 2021, the Appellant filing the Federal tax return as a single person with no dependents, with an annual adjusted gross income of \$52,144 could afford to pay \$348 per month for health insurance. In accordance with Table 4, the Appellant, age 38, living in Bristol County, could have purchased private insurance for \$275 per month (Schedule HC for 2021). Private insurance was affordable for the Appellant.
8. The Appellant was not financially eligible for ConnectorCare in tax year 2021 because their income of \$52,144 exceeded 300% of the federal poverty level which was \$38,280 for a household of one (Table 2 of Schedule HC-2021).
9. The Appellant testified that he began a new job in January 2021 and was told by their employer that they would be eligible for health insurance as of April. The Appellant said that they asked their employer about this several times and was told that it was all set. The Appellant stated that they did not check their wage stub to see if any premium payment was being deducted. The Appellant also stated that they believed the tax penalty for failing to have health insurance ended in tax year 2016 and they were surprised when they prepared to file taxes in April 2022 that they were subject to a tax penalty. The Appellant was asked if they attempted to purchase health insurance at any time in 2021 and the Appellant responded that they are healthy and was never hospitalized (Appellant Testimony).
10. I did not find the Appellant's testimony to be consistently credible. The Appellant's testimony that they never looked at their wage stub to see if a health care premium was being deducted was not believable. The Appellant also mentioned that they believed that the tax penalty ended in tax year 2016 and that they are healthy and have never been hospitalized. The Appellant had to know as of April 2021 that they were uninsured having never received an insurance card or other information. The Appellant did not attempt to obtain health insurance on the private market after their lack of insurance was obvious.
11. The Appellant did not offer any evidence to verify that they experienced significant financial hardship in tax year 2021 (Exhibits 3, 4).

ANALYSIS AND CONCLUSIONS OF LAW

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

The Appellant did not have health insurance for any months in tax year 2021. The Appellant has consequently been assessed a twelve-month penalty. The Appellant submitted a statement of grounds for this appeal and indicated that the reason they did not have health insurance was the fault of their former employer.

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

In accordance with Table 3 of Schedule HC for 2021, the Appellant filing the Federal tax return as a single person with no dependents claimed, with an adjusted gross income of \$52,144 could afford to pay \$348 per month for health insurance. In accordance with Table 4, the Appellant, age 38, living in Bristol County, could have purchased private insurance for \$275 per month (Schedule HC for 2021). Private insurance was affordable for the Appellant in 2021.

The Appellant would not have been eligible for ConnectorCare because their income of \$52,144 exceeded 300% of the federal poverty level, which was \$38,280 for a tax household of one in 2021. Since affordable insurance was available to the Appellant in 2021, it must be determined whether the Appellant experienced a financial hardship pursuant to 956 CMR 6.08 (1).

The Appellant testified that they began working for a new employer in January 2021 and was told that they would be eligible for health insurance in April. The Appellant said that they did not check their wage stubs to see if any premium payment was being deducted but did ask their employer and was told everything was all set. The Appellant had to know by the end of April 2021 that the insurance coverage was not forthcoming from their employer. The Appellant would have received some type of paperwork and it is not believable that they did not look at their wage stubs. The Appellant did not attempt to purchase health insurance on the private market. The Appellant testified that they believed the tax penalty for failing to have health insurance ended in 2016 and also mentioned that they are healthy and have never been hospitalized. Taking the testimony in the light most favorable to the Appellant, the Appellant should not be subject to a tax penalty for the months of January through April in 2021. As of May 2021, given the Appellant's income of \$52,144 and the fact that the Appellant could have purchased private health insurance at a cost of \$275 per month, the Appellant has failed to demonstrate that the cost of purchasing health insurance for the period of May through December in tax year 2021 would have caused the Appellant to experience a serious financial hardship. See 956 CMR 6.08. The Appellant is subject to an eight-month penalty.

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 2021 for the amount equal to one half of the lowest cost health insurance plan available to you for each month you have been assessed the penalty, as listed above, plus applicable interest back to the due date of the return without regard to extension.

NOTIFICATION OF YOUR RIGHT TO APPEAL TO COURT

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

Cc: Connector Appeals Unit

Massachusetts Health Connector Appeals Unit

FINAL APPEAL DECISION: PA21-2192

Appeal Decision: Appeal Approved.

Hearing Issue: Appeal of the 2021 Tax Year Penalty

Hearing Date: January 13, 2023

Decision Date: January 17, 2023

AUTHORITY

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

JURISDICTION

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

HEARING RECORD

The Appellant appeared at the hearing, which was held by telephone, on January 13, 2023. The procedures to be followed during the hearing were reviewed with the Appellant who was then sworn in. Exhibits were marked and admitted into evidence with no objection from the Appellant. The hearing record consists of the Appellant's testimony and the following documents which were admitted into evidence:

Exhibit 1: Health Connector Appeals Unit Notice of Hearing dated December 27, 2022.

Exhibit 2: Appeal Case Information from Schedule HC 2021.

Exhibit 3: Statement of Grounds for Appeal dated April 29, 2022.

FINDINGS OF FACT

The record shows, and I so find:

1. The Appellant age 50 in July 2021, filed their 2021 Federal Income Tax return as a single person with no dependents claimed (Exhibit 2).
2. The Appellant lived in Worcester County, MA in 2021 (Exhibit 2).
3. The Appellant's Federal Adjusted Gross Income for 2021 was \$51,022 (Exhibit 2).
4. The Appellant did not have health insurance for any months in tax year 2021 and consequently has been assessed a twelve-month tax penalty (Exhibit 2).
5. The Appellant filed an appeal of the assessment in April 2022 citing financial hardship (Exhibit 3).
6. I take administrative notice of the financial information set forth in Tables 1 through 6 in the DOR 2021 Massachusetts Schedule HC Health Care Instructions and Worksheets. Tables 3 and 4 incorporate affordability and premium schedules adopted by the Board of Directors for the

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

7. In accordance with Table 3 of Schedule HC for 2021, the Appellant filing the Federal tax return as a single person with no dependents claimed, with an annual adjusted gross income of \$51,022 could afford to pay \$340 per month for health insurance. In accordance with Table 4, the Appellant age 50, living in Worcester County, could have purchased private insurance for \$390 per month for a plan (Schedule HC for 2021). Private insurance was not affordable for the Appellant in tax year 2021.
8. The Appellant testified that they were employed by a company that did not offer health insurance in tax year 2021 (Appellant Testimony).
9. The Appellant would not have been eligible for ConnectorCare coverage in 2021 because the Appellant's income of \$51,022 was greater than 300% of the federal poverty level, which was \$38,280 for a tax household of one in 2021 (See Table 2 of Schedule HC-2021 and 956 CMR 12.04) (Exhibit 2).
10. In tax year 2021 the Appellant did not have access to affordable health insurance through the private market, their employer, or a government sponsored program. See Tables 3 and 4 of Schedule HC-2021 (Exhibits 2, 3 and Appellant Testimony).
11. The Appellant testified credibly that they could not afford health insurance in tax year 2021 (Appellant Testimony).

ANALYSIS AND CONCLUSIONS OF LAW

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

The Appellant filed their 2021 tax return as a single person with no dependents claimed. The Appellant did not have health insurance for any months in tax year 2021 and consequently has been assessed a twelve-month penalty. The Appellant appealed the penalty citing financial hardship.

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

In accordance with Table 3 of Schedule HC for 2021, the Appellant filing the Federal tax return as a single person with no dependents claimed, with an adjusted gross income of \$51,022 could afford to pay \$340 per month for

health insurance. In accordance with Table 4, the Appellant age 50 living in Worcester County, could have purchased private insurance for \$390 per month (Schedule HC for 2021). Private insurance was not affordable for the Appellant in 2021.

The Appellant's employer did not offer employer sponsored health insurance in tax year 2021. The Appellant would not have been eligible for ConnectorCare coverage in 2021 because the Appellant's income of \$51,022 was greater than 300% of the federal poverty level, which was \$38,280 for a tax household of one in 2021.

The Appellant had no affordable health insurance available to them in tax year 2021 through employment, the private market or through a government program such as ConnectorCare. Because of this, the twelve-month penalty for the Appellant must be waived in full. See Massachusetts General Laws, Chapter 111M, Section 2. Since the penalty is waived, there is no need to determine if Appellant experienced a financial hardship in 2021.

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

PENALTY ASSESSED

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

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

NOTIFICATION OF YOUR RIGHT TO APPEAL TO COURT

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

Cc: Connector Appeals Unit