

Massachusetts Health Connector Appeals Unit

Tax Penalty Appeal Decision—Docket No. PA22-1007

Appeal Decision: Appeal Approved -- 2022 tax penalty overturned.

Hearing Issue: Appeal of the 2022 Tax Year Penalty

Hearing Date: December 5, 2023

Decision Date: December 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

The Appellant (Wife) appeared for the hearing, which I conducted by telephone. The Co-Appellant (Husband) was not present. 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 Wife’s testimony under oath on behalf of herself and her Husband and the following documents that were admitted into evidence as exhibits.

1. DOR Appeal Case Information from Schedule HC (1 page);
2. Appellants’ Statement of Grounds for Appeal – 2022);
3. Health Connector’s Notice of Hearing (2 pages);
4. Husband’s Letter in Support of Appeal (1 page); and
5. DKV Insurance Membership Card (1 page).

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 Appellants (Husband and Wife) appealed from the Department of Revenue's (DOR) assessment of a 12 month penalty for 2022. Exhibit 2. The Wife and Husband filed a Massachusetts state income tax return for 2022 as a married couple filing jointly with two dependents. Exhibit 1.
2. The DOR did not assess a penalty against the Wife. The Wife, who resided in Massachusetts (Norfolk County) with her Husband and her two children in 2022, was insured all 12 months in 2022 through her Employer, which was headquartered in a Western state (the Wife worked remotely). The children were insured as dependents on the Wife's health insurance plan. Testimony and Exhibit 1. See also Exhibits 2 and 3 (Massachusetts address).
3. The DOR assessed a 12 month penalty against the Husband who was insured all 12 months. The basis for the penalty assessment is that the Husband's health insurance did not satisfy the Massachusetts Minimum Creditable Coverage standards ("MCC"). Exhibit 1.
4. The Husband is a German citizen who could not obtain employment in the United States in 2022 because his application for a Green Card had been delayed. Exhibit 4 and Testimony.
5. The Husband is an airplane pilot who flies international routes. In 2022, and for the past 15 years, the Husband has been covered by an international private insurance policy (DKV). I credit the Husband's statement, in Exhibit 4, that his private health insurance provides "full worldwide presentive and emergency coverage for both medical and dental." See also Testimony and Exhibit 5 (Husband's DVK insurance membership card).
6. For 2022 the Husband paid 6960 Euros for his health insurance coverage, or approximately \$7,564. By comparison, under DOR Table 4 (Region 2) the Husband would expect to pay approximately \$4,368 for individual coverage from a Massachusetts insurer at his age (48 years) and location (Norfolk County).
7. The circumstances for both Wife and Husband were short-lived. The family had resided overseas in 2021 before relocating to Massachusetts in 2022. At some point in 2023 the Wife had started to work for a Massachusetts employer, and she

and her children were insured by a Massachusetts insurer through her new employer. By mid-June 2023 the Husband had obtained his Green Card, he had started to work for a Massachusetts employer, and he was insured by a Massachusetts insurer. Testimony. (I note that the fact assertions in this paragraph are not documented in the hearing record because the penalty appeal concerned only 2022. The documentation can be presented in a 2023 tax penalty appeal if penalties are assessed for 2023.)

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 2022 Massachusetts income tax return.
9. I take administrative notice of the financial information set forth in Tables 1 through 6 of the DOR 2022 Massachusetts Schedule HC Health Care Instructions and Worksheet. Tables 3 and 4 incorporate the affordability schedules adopted by the board of directors for the Commonwealth Health Insurance Connector Authority (Health Connector or Connector) for 2021. See 956 Code Mass. Regs. 6.05. Table 1 sets forth income levels less than 150% of the federal poverty level that are exempt from the assessment of a state tax penalty. Table 2 sets forth income eligibility standards for various family sizes at 300% of the federal poverty level, which is the income eligibility standard for the ConnectorCare government subsidized health insurance program. Tables 5 and 6 set forth the tax penalties in effect for 2022. (The DOR instructions are published online at <http://www.mass.gov/dor/2022ScheduleHCInstructions> and are also available in the state income tax forms supplied to taxpayers. See also DOR Technical Information Release (TIR) 12-7: Individual Mandate Penalties for Tax Year 2022.)

ANALYSIS AND CONCLUSIONS OF LAW

The case is before me on the Appellants' appeal from the state Department of Revenue's (DOR) assessment of a 12 month tax penalty because the Husband's health insurance did not satisfy the Massachusetts Minimum Coverage standards ("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 – 2022 that the Appellant signed and filed in this case. See Exhibit 2.

This is an unusual appeal. In 2022 the household (Wife, Husband, and two children) relocated to Massachusetts from their prior residence overseas. This did not pose a problem for the Wife and children. She worked for a United States employer (located on the West Coast) and obtained health insurance through her employer as a job benefit.

The Husband’s situation was more complex due to his citizenship (German) and his job (international airplane pilot). In 2022 the Husband continued the broad-based medical and dental coverage he had for 15 years that provided coverage for him on a world-wide basis. The DOR imposed a 12 month penalty even though the Husband actually had health insurance for the entire year because in some respect – the hearing record does not specify how – the coverage did not meet the detailed MCC standards that are set forth in 956 Code Mass. Regs. 5.03.

After considering the circumstances I conclude that the entire penalty assessed by the DOR for 2022 should be waived.

First, the evidence indicates that the Husband actually had a “broad range of medical benefits” as prescribed by the state regulations. See 956 Code Mass. Regs. 5.03 (1) (a). Second, the Husband’s international private insurance coverage was substantially more expensive (\$7,564 per year) than the expected cost for Massachusetts coverage (\$4,368). This is not, in other words, a situation where the Husband sought to reduce the insurance premium he paid by shaving the MCC requirements. Moreover, there is no assurance that the typical Massachusetts insurance would provide coverage for the Husband’s international employment. Finally, 2022 was a transitional year for the Appellants. In the following year (2023) it appears that the unique circumstances that applied in 2022 no longer existed.

PENALTY ASSESSED

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

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

OR

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

NOTIFICATION OF YOUR RIGHT TO APPEAL TO COURT

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

Hearing Officer

Cc: Massachusetts Health Connector Appeals Unit

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

Hearing Issue: Appeal of the 2022 Tax Year Penalty

Hearing Date: November 2, 2023

Decision Date: December 2, 2023

AUTHORITY

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

JURISDICTION

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

HEARING RECORD

The Appellant appeared at the hearing, which was held by telephone, on November 2, 2023. The procedures to be followed during the hearing were reviewed with the Appellant who was then sworn in. Exhibits were marked and admitted into evidence with no objection from the Appellant. The hearing record consists of the Appellant's testimony and the following documents which were admitted into evidence:

- Exhibit 1: Health Connector Appeals Unit Notice of Hearing dated October 13, 2023.
- Exhibit 2: Appeal Case Information from Schedule HC 2022.
- Exhibit 3: Statement of Grounds for Appeal, with attachments, dated March 21, 2023.

FINDINGS OF FACT

The record shows, and I so find:

1. The Appellant, aged 26 in January 2022, filed his Federal Income Tax Return as Single with no dependents (Exhibit 2).
2. The Appellant lived in Norfolk County in 2022 (Exhibit 2, 3 and Appellant Testimony).
3. The Appellant's Federal Adjusted Gross Income for 2022 was \$26,873.00 (Exhibit 2).
4. The Appellant did not have health insurance for twelve-months of tax year 2022 (Exhibit 2 and Appellant Testimony).
5. The Appellant has been assessed a twelve-month tax penalty for 2022 (Exhibit 3).

6. I take administrative notice of the financial information set forth in Tables 1 through 6 in the DOR 2022 Massachusetts Schedule HC Health Care Instructions and Worksheets. Tables 3 and 4 incorporate affordability and premium schedules adopted by the Board of Directors for the Commonwealth Health Insurance Connector Authority for 2022. Table 2 sets forth income at 300% of the Federal poverty level and Tables 5 and 6 set forth tax penalties in effect for 2022.
7. In accordance with Table 3 of Schedule HC for 2022, the Appellant filing his Federal Tax Return as Single with no dependents, with an annual adjusted gross income of \$26,873.00 could afford to pay \$94 per month for health insurance. In accordance with Table 4, the Appellant, age 26, living in Norfolk County, could have purchased private insurance for \$277 per month. Private insurance was not affordable for the Appellant.
8. Appellant would have been eligible for ConnectorCare coverage in 2022, because the Appellant's income was less than 300% of the federal poverty level, which was \$38,640 for a household of one in 2022 (See Table 2 of Schedule HC-2022 and 956 CMR 12.04).
9. The Appellant testified that he worked part-time in 2022 and his employer did offer participation in a health care insurance plan, but added he could not afford the premiums in this plan. (Appellant Testimony).
10. Appellant credibly testified that he inquired into the Health Connector, but thought it was not the open enrollment season. He stated he may have applied to MassHealth and was sent a letter stating that his income was too high. (Appellant Testimony).
11. Appellant said his monthly estimated living expenses were \$1,800 and said he experienced problems with his vehicle that required repairs in 2022 (Appellant Testimony).

ANALYSIS AND CONCLUSIONS OF LAW

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

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

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

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

In accordance with Table 3 of Schedule HC for 2022, the Appellant filing his Federal tax return as single, with no dependents claimed and with an adjusted gross income of \$26,873.00 could afford to pay \$94 per month for health insurance (Appellant Testimony). According to Table 4, the Appellant, age 26, living in Norfolk County, could have purchased a private insurance plan for \$277 a month. See Schedule HC for 2022. Private insurance was not affordable for the Appellant in tax year 2022.

The Appellant would not have been eligible for MassHealth as his income was above the requirement for this program in 2022. He would have been eligible for Connector Care coverage based upon the Appellant’s income that was less than 300% of the federal poverty level which was \$38,640 for a household of one. See Table 2 of Schedule HC 2022 and 956 CMR 12.04 for eligibility criteria. Credible testimony was received from the Appellant that he was informed by letter that he did not qualify for MassHealth and that after learning he missed the open enrollment for the Health Connector, he did not get a quote (Appellant Testimony).

Appellant convincingly testified that he had monthly expenses of \$1,800 – including rent and auto repairs (Appellant Testimony and Exhibit 3). Appellant worked part time in 2022 and had significant monthly expenses which consumed most of his income. His income was low enough to qualify for Connector Care, he testified he lived “paycheck to paycheck”. The amount he could afford to pay for health insurance was very low (\$94) compared to the price of a health care plan (\$277). In light of these facts, it is determined that Appellant would have sustained a financial hardship as defined in 956 CMR 6.08 had he purchased health insurance in 2022. Accordingly, the penalty of twelve months is waived.

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

PENALTY ASSESSED

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

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

NOTIFICATION OF YOUR RIGHT TO APPEAL TO COURT

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

Cc: Connector Appeals Unit

FINAL APPEAL DECISION: PA22-997

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

Hearing Issue: Appeal of the 2022 Tax Year Penalty

Hearing Date: December 1, 2023

Decision Date: December 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

Appellant appeared at the hearing, which was held by telephone, on December 1, 2023. The procedures to be followed during the hearing were reviewed with Appellant who was then sworn in. Exhibits were marked and admitted into evidence with no objection from the Appellant. The hearing record consists of the Appellant's testimony and the following documents which were admitted into evidence:

- Exhibit 1: Health Connector Appeals Unit Notice of Hearing dated November 14, 2023.
- Exhibit 2: Appeal Case Information from Schedule HC 2022.
- Exhibit 3: Statement of Grounds for Appeal, with attachments, signed by the Appellant on April 11, 2023.

FINDINGS OF FACT

The record shows, and I so find:

1. The Appellant, age 25 in January 2022, filed a Federal Income Tax return as Single with no dependents (Exhibit 2).
2. The Appellant lived in Worcester County in 2022 (Exhibit 2, 3 and Appellant Testimony).
3. The Appellant's Federal Adjusted Gross Income for 2022 was \$55,838 (Exhibit 2).
4. According to his Schedule HC for Tax Year 2022, the Appellant did not have health insurance for twelve months of tax year 2022 (Exhibit 2 and Appellant Testimony).
5. The Appellant has been assessed a twelve-month tax penalty for 2022 (Exhibit 3).

6. I take administrative notice of the financial information set forth in Tables 1 through 6 in the DOR 2022 Massachusetts Schedule HC Health Care Instructions and Worksheets. Tables 3 and 4 incorporate affordability and premium schedules adopted by the Board of Directors for the Commonwealth Health Insurance Connector Authority for 2022. Table 2 sets forth income at 300% of the Federal poverty level and Tables 5 and 6 set forth tax penalties in effect for 2022.
7. In accordance with Table 3 of Schedule HC for 2022, the Appellant filing the Federal tax return as Single with no dependents, with an annual adjusted gross income of \$55,838 could afford to pay \$372 per month for health insurance. In accordance with Table 4, the Appellant, age 25, living in Worcester County, could have purchased private insurance for \$277 per month. Private insurance was affordable for the Appellant.
8. The Appellant testified that in Tax Year 2022 he was employed full-time and shared custody of a minor child. He added that his employer did offer participation in a health insurance plan as a benefit, but he did not participate because he said he could not afford the premiums -which he stated were up to \$360 a month for the least expensive plan (Appellant Testimony and Exhibit 3).
9. Appellant would not have been eligible for ConnectorCare coverage in 2022, because the Appellant's income was more than 300% of the federal poverty level, which was \$38,640 for a household of one in 2022 (See Table 2 of Schedule HC-2022 and 956 CMR 12.04, since Appellant testified that the mother of his child claims the child as a dependent on her taxes). He testified that he obtained a quote from the Health Connector and stated he could not afford even the least expensive plan. Appellant would not have been eligible for Mass-Health coverage in 2022 and believed he would not qualify and did not inquire (Appellant Testimony).
10. Appellant stated that he worked a great deal of overtime in 2022 -more than he expected. He said he did not enroll in a health insurance plan based on his economic situation at the end of 2021 and he unexpectedly was given the opportunity to work overtime later in 2022. Appellant testified that he does not currently have health care insurance, but will have it through his employer beginning in 2024 (Appellant Testimony and Exhibit 3).
11. Appellant testified that he had monthly living expenses that exceeded \$2,800 a month which included food and rent and expenses for his child. (Appellant Testimony and Exhibit 3).

ANALYSIS AND CONCLUSIONS OF LAW

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

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

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

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

Appellant testified credibly that he was employed full-time in 2022 and his employer offered a health insurance plan as a benefit of employment. He stated credibly that he chose not to participate in the health insurance benefit because he was basing this decision on his 2021 income, which did not include over- time compensation. In accordance with Table 3 of Schedule HC for 2022, the Appellant filing his Federal tax return as Single with no dependents claimed and with an adjusted gross income of \$55,838 could afford to pay \$372 per month for health insurance. According to Table 4, the Appellant, age 25, living in Worcester County, could have purchased a private insurance plan for \$277 a month. See Schedule HC for 2022. Private insurance was affordable for the Appellant in tax year 2022.

The Appellant would not have been eligible for ConnectorCare coverage based upon the Appellant's income that was more than 300% of the federal poverty level for a household of one. See Table 2 of Schedule HC 2022 and 956 CMR 12.04 for eligibility criteria. Appellant testified that he received quotes through ConnctorCare, but he found these too expensive. He would not have been eligible for MassHealth by the income requirements in place for 2022.

Although Appellant's full-time employer offered a health insurance plan and he could have afforded a plan on the private market, he testified to circumstances which would create a financial hardship. This hardship would preclude him from purchasing a health insurance policy that met MCC standards - with most of his after-tax income consumed for monthly living expenses, including expenses for a minor child. In 2022 he would not have qualified for MassHealth. In light of these facts, it is determined that Appellant would have sustained a financial hardship as defined in 956 CMR 6.08. Appellant's request to waive the penalty assessed against him of 12 months in Tax Year 2022 is granted.

The Appellant should note that the granting of a waiver of his penalty is based upon the facts that I have determined to be true in 2022. The Appellant should not assume that a similar determination will be

made for subsequent tax years should they again be assessed a penalty for failure to have health insurance.

PENALTY ASSESSED

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

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

NOTIFICATION OF YOUR RIGHT TO APPEAL TO COURT

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

Cc: Connector Appeals Unit

FINAL APPEAL DECISION: PA22-999

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

Hearing Issue: Appeal of the 2022 Tax Year Penalty

Hearing Date: December 1, 2023

Decision Date: December 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

Appellant appeared at the hearing, which was held by telephone, on December 1, 2023. The procedures to be followed during the hearing were reviewed with Appellant who was then sworn in. Exhibits were marked and admitted into evidence with no objection from the Appellant. The hearing record consists of the Appellant's testimony and the following documents which were admitted into evidence:

- Exhibit 1: Health Connector Appeals Unit Notice of Hearing dated November 14, 2023.
- Exhibit 2: Appeal Case Information from Schedule HC 2022.
- Exhibit 3: Statement of Grounds for Appeal, with attachments, signed by the Appellant on April 11, 2023.

FINDINGS OF FACT

The record shows, and I so find:

1. The Appellant, age 42 in January 2022, filed a Federal Income Tax return as Single with no dependents (Exhibit 2).
2. The Appellant lived in Middlesex County in 2022 (Exhibit 2, 3 and Appellant Testimony).
3. The Appellant's Federal Adjusted Gross Income for 2022 was \$137,735 (Exhibit 2).
4. According to his Schedule HC for Tax Year 2022, the Appellant did not have health insurance for seven months of tax year 2022 (Exhibit 2 and Appellant Testimony).
5. The Appellant has been assessed a four-month tax penalty for 2022 (Exhibit 3).

6. I take administrative notice of the financial information set forth in Tables 1 through 6 in the DOR 2022 Massachusetts Schedule HC Health Care Instructions and Worksheets. Tables 3 and 4 incorporate affordability and premium schedules adopted by the Board of Directors for the Commonwealth Health Insurance Connector Authority for 2022. Table 2 sets forth income at 300% of the Federal poverty level and Tables 5 and 6 set forth tax penalties in effect for 2022.
7. In accordance with Table 3 of Schedule HC for 2022, the Appellant filing the Federal tax return as Single with no dependents, with an annual adjusted gross income of \$137,735 could afford to pay \$918 per month for health insurance. In accordance with Table 4, the Appellant, age 42, living in Middlesex County, could have purchased private insurance for \$318 per month. Private insurance was affordable for the Appellant.
8. The Appellant testified that he moved to Massachusetts in the Summer of 2019 and for Tax Year 2022 he was employed full-time until May when he was laid off and lost his employer sponsored health insurance coverage. He stated that he refused the severance payment offered by this employer, believing it would hinder his ability to obtain new employment. He added that he had a difficult time finding employment and applied for and received unemployment compensation insurance in 2022 (Appellant Testimony and Exhibit 3).
9. Appellant credibly testified that he was a part-time graduate student in 2022 and did not work from May to December of 2022. He further added that when he received the notice of the penalty in March or April of this year, he immediately contacted the Health Connector and obtained a health insurance policy. He stated a member of the Health Connector staff informed him that this would relieve him of any penalty obligation (Appellant Testimony).
10. Appellant would not have been eligible for ConnectorCare coverage in 2022, because the Appellant's income was more than 300% of the federal poverty level, which was \$38,640 for a household of one in 2022 (See Table 2 of Schedule HC-2022 and 956 CMR 12.04). He testified that he obtained a quote from the Health Connector and stated he could not afford it. Appellant would not have been eligible for MassHealth coverage based on his income in 2022. He testified that he does not recall if his employer notified him of health care insurance coverage options after his employment ended (COBRA Continuation for example) (Appellant Testimony and Exhibit 3).
11. Appellant testified that he had monthly living expenses that exceeded \$3,200 a month which included food and rent. He added credibly that he suffered a large capital gain loss which exceeded the amount of his income in 2022 (Appellant Testimony and Exhibit 3).

ANALYSIS AND CONCLUSIONS OF LAW

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

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

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

Appellant testified credibly that he was employed full-time in 2022 and lost this job in May of 2022. In accordance with Table 3 of Schedule HC for 2022, the Appellant filing his Federal tax return as Single with no dependents claimed and with an adjusted gross income of \$137,735 could afford to pay \$918 per month for health insurance. According to Table 4, the Appellant, age 42, living in Middlesex County, could have purchased a private insurance plan for \$318 a month. See Schedule HC for 2022. Private insurance was affordable for the Appellant in tax year 2022.

The Appellant would not have been eligible for ConnectorCare coverage based upon the Appellant’s income that was more than 300% of the federal poverty level for a household of one. See Table 2 of Schedule HC 2022 and 956 CMR 12.04 for eligibility criteria. He would not have been eligible for MassHealth by the income requirements in place for 2022. He testified credibly that he received a quote from the Health Connector and could not afford the amount quoted.

Appellant credibly testified that he moved to Massachusetts in the Summer of 2022 due to his employer relocating him. Appellant did not testify to or provide documents supporting circumstances which would create a financial hardship precluding him from purchasing a health insurance policy that met MCC standards. In 2022 he would not have qualified for MassHealth. Appellant would not have sustained a financial hardship as defined in 956 CMR 6.08 by purchasing health insurance on the private market.

Although no financial hardship was demonstrated by Appellant and private insurance was affordable; he was terminated from his employment and was a relatively new resident of Massachusetts. In addition, he testified to a large capital gain loss in 2022. He also testified that he did get insured this year after learning of the penalty for not having health insurance¹. He stated that he explored the Health Connector for a policy and found it too expensive. Appellant demonstrated a certain level of good faith in his actions, thus I am exercising my discretion as the Hearing Officer and reducing the number of months of Appellant's penalty. Appellant's penalty of four months is reduced to a two-month penalty.

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

PENALTY ASSESSED

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

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

NOTIFICATION OF YOUR RIGHT TO APPEAL TO COURT

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

Cc: Connector Appeals Unit

¹ Appellant testified that in March or April of 2023 a staff member of the Health Connector informed him that if he obtained health insurance coverage, it would relieve him of any penalty due (See Appellant Testimony). While it is not possible to determine what the Appellant was told by a Health Connector staff member, the relief granted to Appellant in this case is not determined by or linked to his applying for health insurance coverage in 2023 through the Health Connector. Appellant's testimony was only used to determine his intent to be insured.

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

Hearing Issue: Appeal of the 2022 Tax Year Penalty

Hearing Date: December 1, 2023

Decision Date: January 26, 2024

AUTHORITY

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

JURISDICTION

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

HEARING RECORD

Appellant appeared at the hearing, which was held by telephone, on December 1, 2023. The procedures to be followed during the hearing were reviewed with Appellant who was then sworn in. Exhibits were marked and admitted into evidence with no objection from the Appellant. The hearing record consists of the Appellant's testimony and the following documents which were admitted into evidence:

- Exhibit 1: Health Connector Appeals Unit Notice of Hearing dated November 14, 2023.
- Exhibit 2: Appeal Case Information from Schedule HC 2022.
- Exhibit 3: Statement of Grounds for Appeal, with attachments, signed by the Appellant on April 16, 2023.
- Exhibit 4: 2022 Form 1095-C in Appellant's father's name received in response to an Open Record Request by the Hearing Officer.

FINDINGS OF FACT

The record shows, and I so find:

1. The Appellant, age 21 in January 2022, filed a Federal Income Tax return as Single with no dependents (Exhibit 2).
2. The Appellant lived in Middlesex County in 2022 (Exhibit 2, 3 and Appellant Testimony).
3. The Appellant's Federal Adjusted Gross Income for 2022 was \$37,865 (Exhibit 2).
4. According to his Schedule HC for Tax Year 2022, the Appellant did not have health insurance for twelve months of tax year 2022 (Exhibit 2 and Appellant Testimony).

5. The Appellant has been assessed a four-month tax penalty for 2022 (Exhibit 3).
6. I take administrative notice of the financial information set forth in Tables 1 through 6 in the DOR 2022 Massachusetts Schedule HC Health Care Instructions and Worksheets. Tables 3 and 4 incorporate affordability and premium schedules adopted by the Board of Directors for the Commonwealth Health Insurance Connector Authority for 2022. Table 2 sets forth income at 300% of the Federal poverty level and Tables 5 and 6 set forth tax penalties in effect for 2022.
7. In accordance with Table 3 of Schedule HC for 2022, the Appellant filing the Federal tax return as Single with no dependents, with an annual adjusted gross income of \$37,865 could afford to pay \$158 per month for health insurance. In accordance with Table 4, the Appellant, age 21, living in Middlesex County, could have purchased private insurance for \$277 per month. Private insurance was not affordable for the Appellant.
8. The Appellant testified that he moved to Massachusetts in mid-2022 and he was employed Full-time, but did not inquire into health insurance coverage since he felt he had coverage as he was covered by his father's employer's health insurance plan (Appellant Testimony and Exhibits 2 and 3). He referred to an Identification Card from Health Partners in his name which he submitted which he said proves he was covered in 2022. (Appellant Testimony and Exhibit 3). He stated he moved from another state to attend college and when he filed his taxes for 2022 the software he used would not allow him to enter the information for his health insurance (Appellant Testimony and Exhibit 3).
9. Appellant would have been eligible for ConnectorCare coverage in 2022, because the Appellant's income was less than 300% of the federal poverty level, which was \$38,640 for a household of one in 2022 (See Table 2 of Schedule HC-2022 and 956 CMR 12.04).
10. Appellant credibly testified that he believed he was insured and in compliance with the Massachusetts Law in 2022. He said he believed there was no reason to make inquiries to obtain a health care insurance premium quote from the Health Connector or MassHealth (Appellant Testimony and Exhibit 3).
11. Appellant's monthly expenses were not analyzed since an economic hardship was not an issue in this case.

ANALYSIS AND CONCLUSIONS OF LAW

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

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

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

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

This is a case of mistake of fact. Appellant testified credibly that he was employed full-time in 2022 and he was insured by his father's employer's health plan. He provided documentation towards this and further information in response to an Open Records Request from the Hearing Officer. The Tax information he provided clearly identifies him as insured via his father's health care plan in 2022. He stated credibly that he chose not to participate in the health insurance benefit of his employer because he believed he was insured.

In accordance with Table 3 of Schedule HC for 2022, the Appellant filing his Federal tax return as Single with no dependents claimed and with an adjusted gross income of \$37,865 could afford to pay \$158 per month for health insurance. According to Table 4, the Appellant, age 21, living in Middlesex County, could have purchased a private insurance plan for \$277 a month. See Schedule HC for 2022. Private insurance was not affordable for the Appellant in tax year 2022.

The Appellant would have been eligible for ConnectorCare coverage based upon the Appellant's income that was less than 300% of the federal poverty level for a household of one. See Table 2 of Schedule HC 2022 and 956 CMR 12.04 for eligibility criteria. He would not have been eligible for MassHealth by the income requirements in place for 2022. He did not apply for or inquire into either since he believed he was insured with a MCC compliant plan in 2022.

Appellant believably testified to and provided documentation to support the fact that he was insured in 2022. He testified that his tax filing software could not let him enter the correct information showing him as insured. He provided an IRS form demonstrating he was covered under his father's employer's health care plan in 2022 as well as a membership card in his name. He testified that he is currently insured as a full-time student in Massachusetts. In light of these facts, it is determined that Appellant was covered by a MCC compliant health insurance plan in 2022. Appellant's request to waive the penalty assessed against him of four months in Tax Year 2022 is granted.

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

PENALTY ASSESSED

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

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

NOTIFICATION OF YOUR RIGHT TO APPEAL TO COURT

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

Cc: Connector Appeals Unit

FINAL APPEAL DECISION: PA22-1171

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

Hearing Issue: Appeal of the 2022 Tax Year Penalty

Hearing Date: January 8, 2024

Decision Date: January 27, 2024

AUTHORITY

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

JURISDICTION

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

HEARING RECORD

Appellant appeared at the hearing, which was held by telephone, on January 8, 2024. The procedures to be followed during the hearing were reviewed with Appellant who was then sworn in. Exhibits were marked and admitted into evidence with no objection from the Appellant. The hearing record consists of the Appellant's testimony and the following documents which were admitted into evidence:

- Exhibit 1: Health Connector Appeals Unit Notice of Hearing dated December 1, 2023.
- Exhibit 2: Appeal Case Information from Schedule HC 2022.
- Exhibit 3: Statement of Grounds for Appeal, with attachments, signed by the Appellant on May 8, 2023.

FINDINGS OF FACT

The record shows, and I so find:

1. The Appellant, age 43 in January 2022, filed a Federal Income Tax return as Single with no dependents (Exhibit 2).
2. The Appellant lived in Middlesex County in 2022 (Exhibit 2, 3 and Appellant Testimony).
3. The Appellant's Federal Adjusted Gross Income for 2022 was \$40,637.00 (Exhibit 2).
4. According to his Schedule HC for Tax Year 2022, the Appellant did not have health insurance for nine months of tax year 2022 (Exhibit 2 and Appellant Testimony).
5. The Appellant has been assessed a six month tax penalty for 2022 (Exhibit 3).

6. I take administrative notice of the financial information set forth in Tables 1 through 6 in the DOR 2022 Massachusetts Schedule HC Health Care Instructions and Worksheets. Tables 3 and 4 incorporate affordability and premium schedules adopted by the Board of Directors for the Commonwealth Health Insurance Connector Authority for 2022. Table 2 sets forth income at 300% of the Federal poverty level and Tables 5 and 6 set forth tax penalties in effect for 2022.
7. In accordance with Table 3 of Schedule HC for 2022, the Appellant filing the Federal tax return as Single with no dependents, with an annual adjusted gross income of \$40,637 could afford to pay \$252 per month for health insurance. In accordance with Table 4, the Appellant, age 43, living in Middlesex County, could have purchased private insurance for \$318 per month. Private insurance was not affordable for the Appellant.
8. The Appellant testified that she was employed full-time as subcontractor on a per diem status and was not offered health insurance through her employer. She said she took a new position that has a health insurance benefit in November of 2022 and she is currently insured (Appellant Testimony and Exhibits 2 and 3).
9. Appellant would not have been eligible for ConnectorCare coverage in 2022, because the Appellant's income was more than 300% of the federal poverty level, which was \$38,640 for a household of one in 2022 (See Table 2 of Schedule HC-2022 and 956 CMR 12.04).
10. Appellant credibly testified that she was insured in previous years through the Health Connector and the premium became too expensive for her to afford - she did not pay the premium in early 2022, thus lost her coverage (Appellant Testimony and Exhibit 3).
11. Appellant estimated her monthly living expenses in 2022 exceeded \$2,100 - including child support payments and miscellaneous expenses for her children. She testified to various medical ailments and expenses for 2022. (Appellant Testimony)

ANALYSIS AND CONCLUSIONS OF LAW

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

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

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

In accordance with Table 3 of Schedule HC for 2022, the Appellant filing her Federal tax return as Single with no dependents claimed and with an adjusted gross income of \$40,637 could afford to pay \$252 per month for health insurance. According to Table 4, the Appellant, age 43, living in Middlesex County, could have purchased a private insurance plan for \$318 a month. See Schedule HC for 2022. Private insurance was not affordable for the Appellant in tax year 2022.

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

Appellant believably testified to and provided documentation to support the fact that she was insured through the ConnectorCare in previous years ending in January 2022. Appellant credibly testified to health issues and other financial hardships which credibly could be believed to create a financial hardship if she purchased health insurance. She had no access to health insurance through her employer for most of 2022, health insurance was not affordable to her on the private market, nor was she eligible for ConnectorCare Coverage or MassHealth. In light of these facts, it is determined that Appellant would have endured a financial hardship by purchasing a health insurance policy in 2022. Appellant’s request to waive the penalty assessed against her of six months in Tax Year 2022 is granted.

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

PENALTY ASSESSED

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

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

NOTIFICATION OF YOUR RIGHT TO APPEAL TO COURT

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

Cc: Connector Appeals Unit

FINAL APPEAL DECISION: PA22-1172

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

Hearing Issue: Appeal of the 2022 Tax Year Penalty

Hearing Date: January 8, 2024

Decision Date: January 27, 2024

AUTHORITY

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

JURISDICTION

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

HEARING RECORD

Appellant appeared at the hearing, which was held by telephone, on January 8, 2024. The procedures to be followed during the hearing were reviewed with Appellant who was then sworn in. Exhibits were marked and admitted into evidence with no objection from the Appellant. The hearing record consists of the Appellant's testimony and the following documents which were admitted into evidence:

- Exhibit 1: Health Connector Appeals Unit Notice of Hearing dated December 1, 2023.
- Exhibit 2: Appeal Case Information from Schedule HC 2022.
- Exhibit 3: Statement of Grounds for Appeal, with attachments, signed by the Appellant on May 4, 2023.

FINDINGS OF FACT

The record shows, and I so find:

1. The Appellant, age 40 in January 2022, filed a Federal Income Tax return as Single with one dependent (Exhibit 2).
2. The Appellant lived in Norfolk County in 2022 (Exhibit 2, 3 and Appellant Testimony).
3. The Appellant's Federal Adjusted Gross Income for 2022 was \$63,642.00 (Exhibit 2).
4. According to his Schedule HC for Tax Year 2022, the Appellant did not have health insurance for ten months of tax year 2022 (Exhibit 2 and Appellant Testimony).
5. The Appellant has been assessed a six month tax penalty for 2022 (Exhibit 3).

6. I take administrative notice of the financial information set forth in Tables 1 through 6 in the DOR 2022 Massachusetts Schedule HC Health Care Instructions and Worksheets. Tables 3 and 4 incorporate affordability and premium schedules adopted by the Board of Directors for the Commonwealth Health Insurance Connector Authority for 2022. Table 2 sets forth income at 300% of the Federal poverty level and Tables 5 and 6 set forth tax penalties in effect for 2022.
7. In accordance with Table 3 of Schedule HC for 2022, the Appellant filing the Federal tax return as Single with no dependents, with an annual adjusted gross income of \$63,642 could afford to pay \$403 per month for health insurance. In accordance with Table 4, the Appellant, age 40, living in Norfolk County, could have purchased private insurance for \$798 (family plan) per month. Private insurance was not affordable for the Appellant.
8. The Appellant testified that he was divorced in 2021 and part of his divorce settlement mandated by the court was that he was to remain on his wife's employers health insurance plan throughout 2022. He said he was unemployed for part of 2022 and the employer he did have did not offer health insurance to him. He also referred to a document he submitted from Anthem Blue Cross which he stated verifies he had health insurance coverage in 2022. He said he obtained this documentation from Anthem after he filed his taxes. He added that he made a mistake when filing his 2022 tax return and should have indicated that he had health insurance, but his divorce possibly confused him since it was the first full year for tax purposes. (Appellant Testimony and Exhibits 2 and 3).
9. Appellant would not have been eligible for ConnectorCare coverage in 2022, because the Appellant's income was more than 300% of the federal poverty level, which was \$52,260 for a household of two in 2022 (See Table 2 of Schedule HC-2022 and 956 CMR 12.04). He stated that he did not make any inquiries into ConnectorCare or MassHealth in 2022 since he believed he was insured in compliance with Massachusetts law.
10. Appellant credibly testified that he currently is employed full time and has health insurance that meets the Massachusetts requirements. (Appellant Testimony and Exhibit 3).
11. Appellant estimated his monthly living expenses exceeding \$3,000 - including child support payments and miscellaneous expenses for his minor children which he shares custody with his ex-wife. (Appellant Testimony)

ANALYSIS AND CONCLUSIONS OF LAW

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

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

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

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

In accordance with Table 3 of Schedule HC for 2022, the Appellant filing his Federal tax return as Single with one dependent¹ claimed and with an adjusted gross income of \$63,642 could afford to pay \$403 per month for health insurance. According to Table 4, the Appellant, age 40, living in Norfolk County, could have purchased a private insurance plan for \$798 a month. See Schedule HC for 2022. Private insurance was not affordable for the Appellant in tax year 2022.

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

Appellant believably testified to and provided documentation to support the fact that he was insured through a health insurance plan that met MCC requirements. Appellant credibly testified that he errantly filed his tax return in 2022 and did not indicate that he was insured. Appellant can amend his tax return to adjust for this oversight, since he testified he obtained proof of coverage after he filed his 2022 return. He had no access to health insurance through his employer for most of 2022, health insurance was not affordable to him on the private market (family plan), nor was he eligible for ConnectorCare Coverage or MassHealth. In light of these facts, it is determined that Appellant was properly insured in 2022. Appellant’s request to waive the penalty assessed against him of six months in Tax Year 2022 is granted.

The Appellant should note that the granting of a waiver of his penalty is based upon the facts that I have determined to be true in 2022. The Appellant should not assume that a similar determination will be

¹ Appellant testified that in addition to the health insurance requirement of the divorce settlement he and his ex-wife agreed to each claim one of their children as dependents for tax purposes.

made for subsequent tax years should they again be assessed a penalty for failure to have health insurance.

PENALTY ASSESSED

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

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

NOTIFICATION OF YOUR RIGHT TO APPEAL TO COURT

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

Cc: Connector Appeals Unit

Massachusetts Health Connector Appeals Unit

FINAL APPEAL DECISION: PA 21-2428

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

Hearing Issue: Appeal of the 2021 Tax Year Penalty

Hearing Date: May 8, 2023

Decision Date: December 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

Appellant appeared at the hearing, which was held by telephone, on May 8, 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) (7 pages)

Additionally, Appellant submitted a two-page letter after the hearing, which was dated May 19, 2023. I will consider this letter as Exhibit 4.

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 Suffolk County in 2021. Exhibit 2.
3. Appellant filed her 2021 taxes as married filing separate 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's household income in 2021, as reported on her 2021 state income tax returns, was \$83,299.
5. However, Appellant stated at the hearing that the majority of the reported 2021 income was earned by her former husband, whom she had married in September 2021 and from whom she was separated at the time of the filing of her 2021 taxes.
6. 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 in January 2021, but did not have such insurance for the remaining 11 months of 2021. Exhibit 2.
7. In 2021, Appellant was studying in the United States as a foreign student with a student visa. She had obtained health insurance through her school.
8. She completed her course of study in December 2020. The insurance she had obtained through her school covered her for January of 2021.
9. After finishing school, Appellant was unable to obtain any work until June 2021 when she began working part-time as a receptionist in a medical office. That employment did not offer her health insurance.
10. Appellant testified that, of the \$83,299 income reported on her 2021 taxes, \$65,000 was earned by her husband and the balance came from her part-time job between the months of June and December.
11. Appellant and her husband separated after a few months of marriage. Thus, when they filed their 2021 income taxes, they filed as married filing separately.
12. During all of 2021, Appellant was not a citizen or a legal permanent resident. She began seeking to obtain a "green card," which is legal permanent resident status, after her marriage in September 2021. She ultimately obtained her green card in 2023.
13. In 2022, Appellant obtained health insurance, which she paid for herself. She remained insured through 2022.

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 creditable coverage insurance for eleven months in 2021. Because she is given a three-month grace period, she has been assessed a penalty for only eight months.

Because Appellant did not have MCC-compliant health insurance for part of 2021, 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 3-4.

During 2021, Appellant either did not work or worked at a part-time job that did not offer her health insurance. Accordingly, she did not have access to 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 be eligible to receive advance premium tax credits, which are federal subsidies for the purchase of health insurance available under the Affordable Care Act. See 956 C.M.R. § 12.04 (Connector Care eligibility requirements.) However, under the Affordable Care Act, those advance premium tax credits are only available to U.S. citizens or legal permanent residents. This is so because the tax credits are only available to persons who purchase "qualified health plans." 26 U.S.C. § 36B(b)(2)(A). In turn, "qualified health plan" is defined as, in pertinent part, a plan offered through a health insurance exchange. 26 U.S.C. § 36B(3)(C)(3)(A), incorporating the definition in 42 U.S.C. § 18021(a)(1)(A). Further, under the Affordable Care Act, only citizens or legal permanent residents are eligible to obtain health insurance through an exchange. 42 U.S.C. § 18032(f)(3). In 2021, Appellant had not yet obtained legal permanent resident status. Accordingly, she could not obtain insurance through a health insurance exchange and so would not have been eligible to receive advance premium tax credits or Connector Care. Thus, she did not have access to government-subsidized insurance in 2021.

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 married filing separately with no dependents and had annual income of over \$83,299 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 \$6,663 annually or \$555 a month. During 2021, a person like Appellant who lived in Suffolk 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 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 this case, strict application of the affordability standards would be inequitable. Appellant testified credibly that the 2021 income reported on her tax return was largely earned by her husband. This is corroborated by the fact that Appellant did not have a visa in early 2021 that permitted her to work in the United States. In fact, for the first six months of the year, Appellant was unable to find work and thus had no income. Further, once she obtained a job, she was working only part time. Her actual income for the period from June through December was only about \$15,000. At that level, health insurance would have been unaffordable. Further, Appellant would have been unable to purchase insurance in the non-group market in June 2021 because the annual open enrollment period was over for the year. Even when she married in September and had access to more income as a result of her husband's earnings, she would not have been able to purchase insurance. Instead, she would have had to wait until the next open enrollment period, during which she could purchase insurance for 2022. This is in fact what she did. As a result, she was insured and covered in 2022.

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

PENALTY ASSESSED

Number of Months Appealed: 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

Tax Penalty Appeal Decision—Docket No. PA22- 1004

Appeal Decision: Appeal Approved -- 2022 tax penalty overturned.

Hearing Issue: Appeal of the 2022 Tax Year Penalty

Hearing Date: December 5, 2023

Decision Date: December 6, 2023

AUTHORITY

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

JURISDICTION

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

HEARING RECORD

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

1. DOR Appeal Case Information from Schedule HC (1 page);
2. Appellant’s Statement of Grounds for Appeal – 2022); 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 2022. The basis for the penalty was that in 2022 the Appellant did not

have health insurance coverage that satisfied the Massachusetts Minimum Creditable coverage standards (“MCC”). See Exhibits 1 and 2.

2. The Appellant filed a Massachusetts personal income tax return for 2022 as a single person with no dependents. The Appellant’s federal adjusted gross income (AGI) for 2022 was \$65,928. Exhibit 1.
3. The Appellant was 21 years old at the beginning of 2022 and resided in [name of city or town omitted] in Worcester County, Massachusetts. Exhibit 1.
4. The Appellant’s 2022 AGI (\$65,928) was more than 300% of the federal poverty level (\$38,640 for a one- person household). DOR Table 2. On this basis I infer that it is likely that the Appellant would not satisfy the financial eligibility requirements for government-subsidized health insurance.
5. Based on DOR Table 3 the Appellant could afford to pay 8.00% of his income -- or \$440 per month -- for health insurance coverage in 2022. (The calculation is 8.00 % multiplied by \$65,928 AGI = \$5,274.24 per year divided by 12 months = \$439.52 per month.)
6. Based on DOR Table 4 (Region 2) the Appellant could obtain individual health insurance coverage at his age (less than 30 years) and location (Worcester County) for \$277 per month in 2022.
7. The Appellant worked for a small employer that did not offer health insurance coverage as a job benefit. The other employees insured themselves as dependents on their wives’ health plans – an option that was not available to the Appellant as a single person. Testimony.
8. To insure himself, the Appellant contacted the Health Connector, and he received multiple return calls seeking his insurance business over the next several days. Testimony.
9. The Appellant insured himself with the Evolve Health Plan after Evolve quoted a premium (\$320 per month), reviewed its coverage, and represented that it met the Massachusetts health insurance requirements (MCC). Testimony.

10. The Appellant subsequently had problems obtaining medical care, as neither his primary care physician, his dentist, nor his massage therapist accepted Evolve as an insurer. In addition, the Appellant never received an Evolve membership care as promised. Testimony.
11. The Appellant paid out-of-pocket for medical care since his medical providers would not accept Evolve. Testimony.
12. The Appellant worked with his employer to find an alternative to the Evolve insurance policy. The outcome was that the Appellant enrolled in a Tufts health plan with coverage that started earlier in 2023. The Appellant expects to continue the Tufts coverage in 2024. 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 2022 Massachusetts income tax return.
14. I take administrative notice of the financial information set forth in Tables 1 through 6 of the DOR 2022 Massachusetts Schedule HC Health Care Instructions and Worksheet. Tables 3 and 4 incorporate the affordability schedules adopted by the board of directors for the Commonwealth Health Insurance Connector Authority (Health Connector or Connector) for 2021. See 956 Code Mass. Regs. 6.05. Table 1 sets forth income levels less than 150% of the federal poverty level that are exempt from the assessment of a state tax penalty. Table 2 sets forth income eligibility standards for various family sizes at 300% of the federal poverty level, which is the income eligibility standard for the ConnectorCare government subsidized health insurance program. Tables 5 and 6 set forth the tax penalties in effect for 2022. (The DOR instructions are published online at <http://www.mass.gov/dor/2022ScheduleHCInstructions> and are also available in the state income tax forms supplied to taxpayers. See also DOR Technical Information Release (TIR) 12-7: Individual Mandate Penalties for Tax Year 2022.)

ANALYSIS AND CONCLUSIONS OF LAW

The case is before me on the Appellant's appeal from the state Department of Revenue's (DOR) assessment of a 12 month tax penalty because the Appellant did not have health insurance coverage in 2022 that satisfied the Massachusetts Minimum Coverage standards ("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 – 2022 that the Appellant signed and filed in this case. See Exhibit 2.

In this case, the Appellant sought to obtain health insurance through the Health Connector since his employer did not offer health insurance. The result is that the Appellant enrolled in insurance coverage offered by Evolve Health Plan for which he paid a monthly premium. The Appellant subsequently learned that his health care providers

did not accept Evolve as an insurer, and the Appellant consequently paid out-of-pocket for his care (including primary care physician, dentist, and massage therapist).

After considering the circumstances in which the Appellant found himself I conclude that it is not appropriate to impose a penalty in this case. Admittedly, the Evolve coverage did not meet MCC standards, but the Appellant was misled. He has already sustained financial losses for the premium payments and out-of-pocket payments. In addition, the Appellant took steps to resolve the situation by arranging Tufts coverage starting in 2023.

PENALTY ASSESSED

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

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

OR

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

NOTIFICATION OF YOUR RIGHT TO APPEAL TO COURT

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

Hearing Officer

Cc: Massachusetts Health Connector Appeals Unit

Massachusetts Health Connector Appeals Unit

Tax Penalty Appeal Decision—Docket No. PA22- 1085

Appeal Decision: Appeal Approved in Part -- 2022 tax penalty overturned in Part

Hearing Issue: Appeal of the 2022 Tax Year Penalty

Hearing Date: December 18, 2023

Decision Date: December 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 (Husband) appeared for the hearing, which I conducted by telephone. The Co-Appellant (Wife) was not present. 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 Husband’s testimony under oath on behalf of himself and his Wife and the following documents that were admitted into evidence as exhibits.

1. DOR Appeal Case Information from Schedule HC (1 page);
2. Appellant’s Statement of Grounds for Appeal – 2022);
3. Health Connector’s Notice of Hearing (2 pages); and
4. Appellants’ Letter in Support of Appeal (1 page).

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 Appellants (Husband and Wife) appealed from the Department of Revenue's assessment of a 24 month penalty for 2022 (12 months for Husband and 12 months for Wife). The basis for the penalty was that the Appellants were not insured at any time in 2022. Exhibits 1 and 2. Based on Exhibit 1 and the Husband's hearing testimony, I find that the penalty assessment is accurate.
2. The Appellants filed a Massachusetts personal income tax return for 2022 as a married couple filing jointly with no dependents. Although they are not claimed as tax dependents the Appellants have 3 young adult sons (one lives with them) for whom they provide some financial support. The Appellants' federal adjusted gross income (AGI) for 2022 was \$139,082. Exhibit 1.
3. The Husband was 52 years old at the beginning of 2022 (the Wife is younger), and they resided in [name of city or town omitted] in Worcester County, Massachusetts. Exhibit 1.
4. The Appellant's 2022 AGI (\$139,082) was more than 300% of the federal poverty level (\$52,260 for a two-person household). DOR Table 2. On this basis I infer that it is likely that the Appellants would not satisfy the financial eligibility requirements for government-subsidized health insurance.
5. Based on DOR Table 3 the Appellants could afford to pay 8.00 % of their income -- or \$927 per month -- for health insurance coverage in 2022. (The calculation is 8.00 % multiplied by \$139,082 AGI = \$11,126.56 per year divided by 12 months = \$927.21 per month.)
6. Based on DOR Table 4 (Region 2) the Appellants could obtain health insurance coverage at their age and location for \$422 per month for one person or \$844 for a married couple in 2022.
7. The Appellants were both insured in 2021 under the Wife's health insurance at her job. The employer went out of business, and both Wife (as member) and Husband (as dependent) lost their health insurance coverage. Testimony.
8. For 2023, the Husband was insured through the health plan maintained by his employer as a job benefit for which he pays \$106 every two weeks by payroll deduction (\$229.66 per month or \$2,756 per year). The Wife was not insured

under her Husband's policy. (It would have been helpful if the Appellants had provided some documentary evidence to support what years they did – and did not—have health insurance.0

9. The Wife is in the process of obtaining a Green Card, which she expects to finally accomplish at some point in 2024 after a necessary trip to her country of birth. Immigration imposes a substantial out-of-pocket expense for the Appellants. They estimate a \$8,000 expense for lawyer's fees last year. Testimony and Exhibit 4.
10. For living expenses the Husband points to a general increase in household expenses, consistent with increased inflation. Living expenses include two car loans (\$650 + \$540 per month), car insurance (\$266 per month), commuting expenses, rent (\$800 per month), cable service (\$230 per month), electricity (\$400 per month in winter), and groceries.
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 2022 Massachusetts income tax return.
12. I take administrative notice of the financial information set forth in Tables 1 through 6 of the DOR 2022 Massachusetts Schedule HC Health Care Instructions and Worksheet. Tables 3 and 4 incorporate the affordability schedules adopted by the board of directors for the Commonwealth Health Insurance Connector Authority (Health Connector or Connector) for 2021. See 956 Code Mass. Regs. 6.05. Table 1 sets forth income levels less than 150% of the federal poverty level that are exempt from the assessment of a state tax penalty. Table 2 sets forth income eligibility standards for various family sizes at 300% of the federal poverty level, which is the income eligibility standard for the ConnectorCare government subsidized health insurance program. Tables 5 and 6 set forth the tax penalties in effect for 2022. (The DOR instructions are published online at <http://www.mass.gov/dor/2022ScheduleHCInstructions> and are also available in the state income tax forms supplied to taxpayers. See also DOR Technical Information Release (TIR) 12-7: Individual Mandate Penalties for Tax Year 2022.)

ANALYSIS AND CONCLUSIONS OF LAW

The case is before me on the Appellants' (Husband and Wife) appeal from the state Department of Revenue's (DOR) assessment of a 24 month tax penalty because the Appellants did not have health insurance coverage in 2022. See Exhibits 1 and 2. The issue to be decided is whether the penalty should be waived, either in whole or in part.

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

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

The Health Connector's regulations also provide for a "hardship" appeal from the assessment of a penalty. 956 Code Mass. Regs. 6.07 and 6.08. The grounds for a hardship appeal are summarized in the Statement of Grounds for Appeal – 2022 that the Appellant signed and filed in this case. See Exhibit 2.

This appeal is not easily decided because the DOR penalty assessment is substantial yet the evidence presented by the Appellants is limited -- lacking detail, clarity, and support.

After considering the circumstances I have concluded that it is appropriate to reduce the 24 month DOR penalty assessment to 3 months. I recognize that both Wife

and Husband were insured through her job before the employer went out of business. Consequently, both Wife and Husband were not insured in 2022 – the year at issue in this appeal. Though the evidence is uncertain, the Husband asserts that he was insured in 2023, and he represents that both he and his Wife will be insured in 2024 (starting at approximately the same time that the Appellants will receive this Decision in the mail from the Health Connector). I have decided not to impose the additional financial burden of a large tax penalty while we wait to see if the Appellants accomplish what they say they will do. I also appreciate the financial burden of immigration proceedings, although the Appellants should have done a better job proving what it has cost. See 956 Code Mass. Regs. 6.08 (1) (e).

RECOMMENDATION. Although I have substantially reduced the DOR tax penalty assessment for 2022 the Appellants should not assume that similar reductions will be available in future years. If you encounter difficulties with your health insurance for 2024 I recommend that you promptly contact the Health Connector at 1-877-623-6765 or consult the website at www.mahealthconnector.org. as the open enrollment period is about to close.

Health Care For All, a private, non-profit organization, is another source of help. You can call the free consumer hotline at 1-800-272-4232 or consult the website at www.hcfama.org.

PENALTY ASSESSED

Number of Months Appealed: 24 Number of Months Assessed: 3

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

OR

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

NOTIFICATION OF YOUR RIGHT TO APPEAL TO COURT

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

Hearing Officer

Cc: Massachusetts Health Connector Appeals Unit

Massachusetts Health Connector Appeals Unit

Tax Penalty Appeal Decision—Docket No. PA22-1166

Appeal Decision: Appeal Approved -- 2022 tax penalty overturned.

Hearing Issue: Appeal of the 2022 Tax Year Penalty

Hearing Date: January 2, 2024

Decision Date: January 13, 2024

AUTHORITY

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

JURISDICTION

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

HEARING RECORD

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

1. DOR Appeal Case Information from Schedule HC (1 page);
2. Appellant’s Statement of Grounds for Appeal – 2022;
3. Health Connector’s Notice of Hearing (2 pages); and
4. Health Connector’s Letter to Appellant (dated 4/18/23) (1 page).

FINDINGS OF FACT

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

1. The Appellant appealed from the Department of Revenue's assessment of a 12 month penalty for 2022. The basis for the penalty was that the Appellant was not insured at any time in 2022. Exhibits 1 and 2. Based on Exhibit 1 and the Appellant's hearing testimony, I find that the penalty assessment is accurate.
2. The Appellant filed a Massachusetts personal income tax return for 2022 as a single person with no dependents. The Appellant's federal adjusted gross income (AGI) for 2022 was \$32,385. Exhibit 1.
3. The Appellant was 25 years old at the beginning of 2022 and resided in [name of city or town omitted] in Essex County, Massachusetts. Exhibit 1.
4. The Appellant's 2022 AGI (\$32,385) was less than 300% of the federal poverty level (\$38,640 for a one-person household). DOR Table 2. On this basis I infer that it is likely that the Appellant would satisfy the financial eligibility requirements for government-subsidized health insurance.
5. Based on DOR Table 3 the Appellant could afford to pay 5.00% of her income -- or \$135 per month -- for health insurance coverage in 2022. (The calculation is 5.00% multiplied by \$32,385 AGI = \$1,619.25 per year divided by 12 months = \$134.93 per month.)
6. Based on DOR Table 4 (Region 2) the Appellant could obtain individual health insurance coverage at her age and location for \$277 per month in 2022.
7. By a letter dated April 18, 2023, the Health Connector Processing Center informed the Appellant that the Appellant needed a "qualifying event" to enroll in health insurance with the Health Connector because the Appellant's effort to obtain health insurance was outside the open enrollment period. Exhibit 4. This information, which was submitted by the Appellant in support of her taxpayer penalty appeal (see Exhibit 2), is the only documentary information in the appeal hearing record that addresses the Appellant's efforts to enroll in health insurance through the Health Connector.
8. The Appellant was previously insured as a dependent on her parent's health plan. The Appellant thereafter attempted, without success, to obtain her own health insurance through the Health Connector. Testimony.

9. The Appellant telephoned the Health Connector in mid-December 2023 (approximately two weeks before the January 2, 2024, hearing in this appeal) concerning her continuing effort to obtain health insurance coverage. The Appellant was told that her application had been denied but she was not told why. The Appellant was also told that the Health Connector had two applications on file from the Appellant and that one file was being destroyed. The Appellant was not told what further steps she needed to take. Testimony. **[My recommendation to the Appellant during her January 2 hearing was to continue her efforts to contact the Health Connector customer relations (tel. 1-877-623-6765 or www.mahealthconnector.org) since the open enrollment period for 2023 coverage was about to expire. I also recommended that the Appellant contact Health Care For All for help (tel. 1-800-272-4232 or www.hcfama.org). The Health Connector website states that open enrollment ends on January 23 for health insurance coverage in 2024.]**
10. I find, based on the evidence in the hearing record, that the Appellant cannot afford health insurance based on the objective standards set forth in the DOR Tables 3 and 4. See Findings of Fact, Nos. 5 and 6, above. I also find, based on DOR Table 2, that the Appellant's 2022 federal adjusted gross income is less than 300% of the federal poverty level, which would presumptively make her eligible for government-subsidized health insurance through the Health Connector. See Findings of Fact, No. 4, above.
11. I also find that the Appellant has made efforts to obtain health insurance coverage. I cannot determine why the Appellant's efforts have not been successful, especially since this appeal is from the state Department of Revenue penalty assessment for 2022, and not a Health Connector eligibility appeal. See Findings of Fact, Nos. 1 and 2, above.
12. Based on the Appellant's hearing testimony, I find that she attempted to obtain health insurance through her employer (a major retail store, name omitted). Her effort was not successful because the employer did not schedule the Appellant to work the minimum number of hours required for insurance as a job benefit.
13. The Appellant does not own a car, due to her income. Her outstanding credit card balance is approximately \$1,600. 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 2022 Massachusetts income tax return.
15. I take administrative notice of the financial information set forth in Tables 1 through 6 of the DOR 2022 Massachusetts Schedule HC Health Care Instructions and Worksheet. Tables 3 and 4 incorporate the affordability schedules adopted by the board of directors for the Commonwealth Health Insurance Connector Authority (Health Connector or Connector) for 2021. See 956 Code Mass. Regs. 6.05. Table 1 sets forth income levels less than 150% of the federal poverty level that are exempt from the assessment of a state tax penalty. Table 2 sets forth income eligibility standards for various family sizes at 300% of the federal poverty level, which is the income eligibility standard for the ConnectorCare government subsidized health insurance program. Tables 5 and 6 set forth the tax penalties in effect for 2022. (The DOR instructions are published online at <http://www.mass.gov/dor/2022ScheduleHCInstructions> and are also available in the state income tax forms supplied to taxpayers. See also DOR Technical Information Release (TIR) 12-7: Individual Mandate Penalties for Tax Year 2022.)

ANALYSIS AND CONCLUSIONS OF LAW

The case is before me on the Appellant's appeal from the state Department of Revenue's (DOR) assessment of a 12 month tax penalty because the Appellant did not have health insurance coverage in 2022. See Exhibits 1 and 2. The issue to be decided is whether the penalty should be waived, either in whole or in part.

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

creditable coverage standards (“MCC”) in order to avoid the penalty. Mass. Gen. Laws c. 111M, sec. 2(b). See also 956 Code Mass Regs. 501 and 5.03.

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

The Health Connector’s regulations also provide for a “hardship” appeal from the assessment of a penalty. 956 Code Mass. Regs. 6.07 and 6.08. The grounds for a hardship appeal are summarized in the Statement of Grounds for Appeal – 2022 that the Appellant signed and filed in this case. See Exhibit 2.

The evidence presented in this case clearly establishes that the Appellant could not afford health insurance in 2022 based on her income. See, e.g., Findings of Fact, Nos. 4, 5 and 6, above. The evidence also shows that the Appellant has attempted to obtain government-subsidized health insurance through the Health Connector for which it appears she should satisfy the financial eligibility standards (assuming her application was timely and complete).

After considering all the circumstances, I conclude that it is appropriate to waive the entire penalty assessed against the Appellant for 2022. 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 2022 for the amount equal to one half of the lowest cost health insurance plan available to you for each month you have been

assessed the penalty, as listed above, plus applicable interest back to the due date of the return without regard to extension.

OR

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

NOTIFICATION OF YOUR RIGHT TO APPEAL TO COURT

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

Hearing Officer

Cc: Massachusetts Health Connector Appeals Unit

Massachusetts Health Connector Appeals Unit

FINAL APPEAL DECISION: PA 21-2427

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

Hearing Issue: Appeal of the 2021 Tax Year Penalty

Hearing Date: May 8, 2023

Decision Date: December 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

Appellant appeared at the hearing, which was held by telephone, on May 8, 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) (14 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 44 at the end of 2021. Exhibit 2.
2. Appellant lived in Worcester County in 2021. Exhibit 2.
3. Appellant filed his 2021 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 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.

4. Appellant's household income in 2021, as reported on his 2021 state income tax returns, was \$54,470.
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. During 2021, Appellant worked in the retail industry. His employer offered health insurance as a benefit at a cost of about \$300 a month. See Exhibit 3, page 12. Appellant considered this too expensive, and he did not take the insurance.
7. Appellant was divorced. He was required to pay child support of \$150 a week or \$600 a month in 2021.
8. Additionally, Appellant had incurred considerable credit card at the time of his divorce and was still paying that debt down in 2021. He estimated that his monthly credit card payment was about \$700 a month.
9. Appellant detailed typical household expenses such as rent of \$1300 a month (which included utilities), food of approximately \$260 a month, and car insurance of \$200 a month.
10. Appellant had been assessed a penalty for not having health insurance in 2020. He appealed that penalty, and the penalty was waived. See Exhibit 3, pages 11-14.
11. Appellant obtained insurance through his job in 2022.
12. Appellant claimed at the hearing that he might have been covered in 2021 under his former wife's health insurance which he said was offered through MassHealth. He based that supposition on the fact that he had received emergency treatment and did not get a bill for that. He was given the opportunity to provide proof of coverage after the hearing, but he did not do so.
13. I find as fact that he was not covered. He claims he was a "dependent" of his ex-wife, but that is unlikely because his ex-wife was not supporting him. The fact that he was not billed for emergency room treatment can be explained by the fact that he might have been eligible for Health Safety Net, which is a limited program offered by MassHealth, the state's Medicaid agency, for certain lower-income people who do not qualify for full coverage. The Health Safety Net covers only emergency expenses. It is not health insurance. Accordingly, I find that Appellant was not covered with health insurance at all in 2021.

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.

Because Appellant did not have MCC-compliant health insurance in 2021, he is subject to a penalty under M.G.L. c. 111M if he could have afforded to purchase such health insurance. In order to determine whether he had access to affordable health insurance, I must consider whether he could have obtained affordable insurance from any of the following three sources: (1) employment-based insurance; (2) government-subsidized insurance; or (3) unsubsidized insurance purchased on the non-group market. See 2021 Schedule HC instructions at pages HC 3-4.

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, that figure was \$38,280. (I obtain the figure of \$38,280 from Table 3 of the 2021 instructions for the Schedule HC.) Appellant's income in 2021 was \$54,470. Thus, he was not eligible to receive Connector Care and so did not have access to government-subsidized insurance in 2021.

However, Appellant could have obtained affordable insurance, both through his employment and by purchase on the private non-group market. During 2021, Appellant's employer offered him health insurance at a cost of about \$300 a month. That amount would be deemed affordable to him 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 single with no dependents and had annual income of over \$54,470 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 \$4,357 annually or \$363 a month. Accordingly, Appellant could have afforded the insurance offered by his employer.

Moreover, Appellant would have been able to afford to purchase unsubsidized health insurance on the non-group market. During 2021, a person like Appellant who lived in Worcester County and was 44 years of age could have obtained health insurance meeting minimum creditable coverage standards in the non-group market 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.

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 claimed that the purchase of health insurance would have caused him a serious deprivation of the necessities of life. This constitutes one ground for waiver of the penalty under Health Connector regulations. In 2021, Appellant had two unusually high expenses that he was obligated to meet. He had to pay \$600 a month in child support and was retiring credit card debt with monthly payments of \$700 a month. Combined, these two high expenses more than wiped out the margin between the cost of insurance, either through employment or on the private non-group market, and what Appellant could afford. Thus, the additional cost of health insurance would have caused him to suffer a deprivation that would have prevented him from meeting the cost of the necessities of life. I also note that, under

essentially identical facts in 2020, his penalty was waived. Finally, I take into consideration the fact that Appellant did obtain health insurance in 2022.

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

PENALTY ASSESSED

Number of Months Appealed: 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 21-2431

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

Hearing Issue: Appeal of the 2021 Tax Year Penalty

Hearing Date: May 8, 2023

Decision Date: December 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

Appellant appeared at the hearing, which was held by telephone, on May 8, 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) (5 pages)

FINDINGS OF FACT

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

1. Appellant was 49 at the end of 2021. Exhibit 2.
2. Appellant lived in Middlesex County in 2021. Exhibit 2.
3. Appellant filed his 2021 taxes as single with no dependents. Exhibit 2.
4. Appellant's household income in 2021, as reported on his 2021 state income tax returns, was \$63,712.

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. In 2020, Appellant was unemployed and also experienced financial losses on investments.
7. As a result of his financial hardship, Appellant withdrew \$100,000 from his individual retirement account (IRA) in 2020.
8. Under Section 2022 of the Coronavirus Aid, Relief, and Economic Security (CARES) Act, Pub. Law 116-136, which was passed by Congress to provide financial relief to people who were financially affected by the coronavirus pandemic, individuals who took a withdrawal from an IRA in 2020 were allowed to report the withdrawal over three years. Doing this reduced the amount of taxes owed on the income realized from the withdrawal.
9. Appellant took advantage of this provision in federal law and reported one-third of the \$100,000 withdrawal in 2020, and another third in 2021.
10. The only income Appellant actually received in 2021 was \$32,000 in unemployment compensation.

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.

Because Appellant did not have MCC-compliant health insurance in 2021, he is subject to a penalty under M.G.L. c. 111M if he could have afforded to purchase such health insurance. In order to determine whether he had access to affordable health insurance, I must consider whether he could have obtained affordable insurance from any of the following three sources: (1) employment-based insurance; (2) government-subsidized insurance; or (3) unsubsidized insurance purchased on the non-group market. See 2021 Schedule HC instructions at pages HC 3-4.

Appellant was unemployed throughout 2021. Therefore, he 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 2021, that figure was \$38,280. (I obtain the figure of \$38,280 from Table 3 of the 2021 instructions for the Schedule HC.) Appellant’s reported taxable income

in 2021 was \$63,717. Because of that amount, he was not eligible to receive Connector Care and so did not have access to government-subsidized insurance in 2021.

However, Appellant could have obtained health insurance by purchase on the private non-group market under affordability standards established by the Health Connector board under Chapter 111M. Under those standards, an individual like Appellant who was single with no dependents and had annual income of over \$63,717 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 \$5,097 annually or \$424 a month. During 2021, a person like Appellant who lived in Middlesex County and was 49 years of age could have obtained health insurance meeting minimum creditable coverage standards for a monthly premium of \$336. (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.

In this case, I conclude that strict application of the affordability standards to Appellant would be inequitable. This is so because the amount of taxable income that he reported for 2021 was significantly higher than what he actually received that year, because he was taking advantage of a provision in the CARES Act allowing him to report in 2021 one-third of the IRA withdrawal that he actually received in 2020. In other words, he reported about \$30,000 in income in 2021 that he had received and used a year earlier. In fact, his only actual income in 2021 was about \$32,000 in unemployment compensation. If that figure were used as his base income, he would not have been able to afford health insurance. An individual with \$32,000 in income is deemed able to afford only 5 percent of income. See Table 3 of the 2021 instructions for the Schedule HC. That amounts to \$1,600 annually or \$133 a month, which is considerably below the \$336 needed to purchase insurance.

Based on the foregoing, I will allow the appeal and 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 22-1104

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

Hearing Issue: Appeal of the 2022 Tax Year Penalty

Hearing Date: December 18, 2023

Decision Date: December 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

Appellant appeared at the hearing, which was held by telephone, on December 18, 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 27 at the end of 2022. Exhibit 2.
2. Appellant lived in Plymouth County in 2022. Exhibit 2.
3. Appellant filed his 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 his 2022 Massachusetts tax return. The Schedule HC is the form on which Massachusetts taxpayers report information relevant to the individual mandate penalty, which is the subject of this appeal.

4. Appellant reported on the Schedule HC that he filed with his state income taxes, and confirmed at the hearing, that his annual income for 2022 was \$44,851. Exhibit 2.
5. Appellant reported in the Schedule HC that he filed with his 2022 state income taxes, and confirmed at the hearing, that he did not have health insurance meeting minimum creditable coverage standards at any point in 2022. Exhibit 2.
6. Before his 26th birthday in 2021, Appellant had been covered under his parent's health insurance plan.
7. Throughout 2022, he worked at a full-time job in the food and beverage industry. The job offered insurance, but the cost was about \$500 a month. Appellant considered this too expensive given his earnings and so did not take it.
8. Appellant experienced financial problems in 2022 because his car, which he needed to get to work, broke down. For a period of time, he was unable to afford repairs and so he had to use private rideshare services to get to work. During this time, he felt he was unable to get health insurance.
9. In November, Appellant went to the hospital for emergency services. At that time, he tried to sign up for health insurance through the Health Connector, but he was not able to purchase insurance because it was outside open enrollment period.
10. Appellant applied again during the 2023 open enrollment period. He enrolled in insurance through the Health Connector at the start of 2023 and was enrolled as of the date of the hearing.

In addition to the foregoing, I take administrative notice of the 2022 Schedule HC Instructions and Worksheets, available at <https://www.mass.gov/doc/2022-schedule-hc-instructions/download>, which, as discussed below, include the Affordability Schedule and other financial information used in making 2022 individual mandate tax penalty determinations.

ANALYSIS AND CONCLUSIONS OF LAW

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

Because Appellant did not have health insurance in 2022, he is subject to a penalty under M.G.L. c. 111M if he could have afforded to purchase such health insurance. In order to determine whether he had access to affordable health insurance, I must consider whether he could have obtained affordable insurance from any of the following three sources: (1) employment-based insurance; (2) government-subsidized insurance; or (3) unsubsidized insurance purchased on the non-group market. See 2022 Schedule HC instructions at pages HC 4-5.

Appellant was employed during 2022 and his employer offered him insurance. However, the cost of that insurance was \$500 a month. Appellant would not have been able to afford to purchase that insurance 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 \$44,851 was deemed able to afford 7.45 percent of income on insurance. (I obtain that figure from Table 3 of the 2022 instructions for the Schedule HC.) In this case, that amounts to \$3,341 annually or \$278 a month. Thus, the \$500 a month premium for the employer's insurance would not have been affordable.

Further, Appellant would not have been eligible to receive Connector Care, which is government-subsidized health insurance in Massachusetts. To be eligible for Connector Care, an individual must have household income below 300 percent of the federal poverty limit. See 956 C.M.R. § 12.04 (Connector Care eligibility requirements.) In 2022, 300 percent of the federal poverty limit for a household of one person like Appellant's was \$38,640. (I obtain the figure of \$38,640 from Table 2 to the instructions for the 2022 Schedule HC.) In this case, Appellant's income during 2022 was \$44,851 and therefore he was not income-eligible for Connector Care.

However, Appellant would have been able to afford to purchase insurance on the non-group market. During 2022, a person like Appellant who lived in Plymouth County and was 27 years of age could have obtained health insurance meeting state standards for a premium of \$277 a month. (I obtain the premium figure from Table 4 to the instructions for the 2022 Schedule HC). Thus, under state standards, this amount would have been affordable, given the fact that he was deemed able to afford \$278 a month, as discussed above.

Because Appellant could have obtained affordable insurance in 2022, but did not, I am required to consider whether he has stated grounds sufficient to waive the penalty under Health Connector regulations. 956 C.M.R. § 6.08. I conclude that he has.

First, I note that the non-group insurance would have been only marginally affordable, by an amount of \$1 a month. Further, during 2022, Appellant experienced unusual financial stress because his car broke down and required expensive repairs. During the time that he did not have a working vehicle, he was forced to rely on ride-share services to get to work, which further strained his budget. Finally, I take into consideration the fact that Appellant did apply for and obtain health insurance at the start of 2023 and was insured as of the date of the hearing. Given all these factors, I conclude that he has stated a hardship under the Health Connector regulations.

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: 12 Number of Months Assessed: 0

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

NOTIFICATION OF YOUR RIGHT TO APPEAL TO COURT

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

Hearing Officer

Cc: Connector Appeals Unit

Massachusetts Health Connector Appeals Unit

FINAL APPEAL DECISION: PA 22-1106

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

Hearing Issue: Appeal of the 2022 Tax Year Penalty

Hearing Date: December 18, 2023

Decision Date: December 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

Appellant appeared at the hearing, which was held by telephone, on December 18, 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) (12 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 28 at the end of 2022. Exhibit 2.
2. Appellant lived in Hampshire County in 2022. Exhibit 2.
3. Appellant filed her taxes as single with no dependents. Exhibit 2.
4. Appellant's household income in 2022, as reported on her 2022 state income tax returns and confirmed at the hearing, equaled \$52,572.

¹ Exhibit 2 is a computer printout containing information extracted from the Schedule HC that Appellant submitted as part of her 2022 Massachusetts tax return. The Schedule HC is the form on which Massachusetts taxpayers report information relevant to the individual mandate penalty, which is the subject of this appeal.

5. Appellant reported in the Schedule HC that she filed with her 2022 state income taxes, and confirmed at the hearing, that she did health insurance meeting minimum creditable coverage standards from January through May 2022, but did not have it from June through December of that year. Exhibit 2.
6. At the start of 2022, Appellant worked for a Massachusetts company, which offered her insurance through work. She took that insurance and was enrolled in it until May when she changed jobs.
7. At her new job, she was also offered health insurance. There were several insurance plans to choose from. She chose one plan offered by Aetna, which is a national health insurer.
8. Plan documents for the Aetna plan show that the plan covered a wide range of medical services. The plan had a \$3,000 deductible, which means that the insured had to pay the first \$3,000 of covered medical services before the insurance started to cover expenses. The insurance plan capped the insured individual's maximum out-of-pocket expenses at \$9,100 annually. Exhibit 3 (attachment.)
9. When Appellant went to file her 2022 income taxes, she learned that the plan that she was enrolled in did not meet minimum creditable coverage standards. She was able in early 2023 to switch to another plan offered by her employer, which did meet those standards.

In addition to the foregoing, I take administrative notice of the 2022 Schedule HC Instructions and Worksheets, available at <https://www.mass.gov/doc/2022-schedule-hc-instructions/download>, which, as discussed below, include the Affordability Schedule and other financial information used in making 2022 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 creditable coverage insurance for seven months in 2022. Because she is given a three-month grace period, she has been assessed a penalty for only four 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 requirements that an insurance plan must meet. Among these is a requirement that the plan not have a deductible that exceeds an amount

set annually by the Health Connector. 956 C.M.R. § 5.03(2)(b)(3.) (A deductible is the amount that a covered person must pay out-of-pocket for medical services before the insurance plan begins to cover expenses.) Further, the regulations provide that this amount will be adjusted upward annually by a percentage amount determined by the U.S. Department of Health and Human Services (HHS) and used by HHS to regulate cost-sharing increases for plans that meet federal coverage standards. *Id.* For 2022, the adjusted limit for deductibles under the MCC regulations was \$2,850. *See* Health Connector Administrative Bulletin 03-21, “Guidance Regarding Minimum Creditable Coverage Regulations for Calendar Year 2022,” (issued March 12, 2021) (available at <https://betterhealthconnector.com/wp-content/uploads/rules-and-regulations/AdminBulletin03-21.pdf>). The Aetna plan, in which Appellant was enrolled, had a deductible of \$3,000, which slightly exceeded this amount. Thus, it was not MCC-compliant insurance.

Because Appellant did not have MCC-compliant health insurance for part of 2022, she is subject to a penalty under M.G.L. c. 111M if she could have afforded to purchase such health insurance. In order to determine whether she had access to affordable health insurance, I must consider whether she could have obtained affordable insurance from any of the following three sources: (1) employment-based insurance; (2) government-subsidized insurance; or (3) unsubsidized insurance purchased on the non-group market. *See* 2022 Schedule HC instructions at pages HC 7-9

Appellant would not have been eligible to receive Connector Care, which is government-subsidized health insurance in Massachusetts. To be eligible for Connector Care, an individual must have household income below 300 percent of the federal poverty limit. *See* 956 C.M.R. § 12.04 (Connector Care eligibility requirements.) In 2022, 300 percent of the federal poverty limit for a household of one person like Appellant’s was \$38,640. (I obtain the figure of \$38,640 from Table 2 to the instructions for the 2021 Schedule HC.) In this case, Appellant’s household income during 2022 was \$52,752 and therefore she was not income-eligible for Connector Care.

However, Appellant would have been able to obtain affordable MCC-compliant insurance either through her employment or by purchasing it in the non-group market. During the latter part of 2022, Appellant was offered a choice of health insurance plans through her employer. At least one of those plans met MCC standards, because Appellant stated that she switched to a MCC-compliant plan in 2023 when she realized that her plan was not compliant. Further, I find that Appellant could have afforded this MCC-compliant plan in 2022, because she afforded it, while working at the same job, in 2023. Thus, she could have obtained affordable MCC-compliant insurance through employment.

Additionally, 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 single with no dependents and had annual income of over \$52,752 was deemed able to afford 8 percent of income on insurance. (I obtain that figure from Table 3 of the 2022 instructions for the Schedule HC.) In this case, that amounts to \$4,220 annually or \$351 a month. During 2022, a person like Appellant who lived in Hampshire County and was 28 years of age could have obtained health insurance meeting minimum creditable coverage standards for a monthly premium of \$295. (I obtain the premium figure from Table

4 to the instructions for the 2022 Schedule HC). Thus, under state standards, this amount would have been affordable.

Because Appellant could have obtained affordable insurance in 2022, but did not, I am required to consider whether 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 actually purchased. See 956 CMR § 6.08(2)(b). In this case, Appellant unknowingly was enrolled in a product that did not meet MCC standards under state law. The plan’s deviation from MCC standards, however, was slight, in that the deductible under the plan was \$3,000, while the maximum deductible permitted under MCC regulations is \$2,850. In other regards, the Appellant’s plan more than satisfied MCC standards. For instance, the maximum out-of-pocket limit, i.e., the maximum amount an insured would have to pay in deductibles and copayments for medical services during the year, was capped at \$7,000 under Appellant’s plan. By contrast, the MCC regulations permitted out-of-pocket maximums of up to \$9,100 in 2022. See Health Connector Administrative Bulletin 03-21, “Guidance Regarding Minimum Creditable Coverage Regulations for Calendar Year 2022,” (issued March 12, 2021) (available at <https://betterhealthconnector.com/wp-content/uploads/rules-and-regulations/AdminBulletin03-21.pdf>).

Thus, I conclude that Appellant did not obtain a non-MCC compliant product because she was seeking to avoid cost. Rather, it was an honest mistake based on lack of knowledge about Massachusetts insurance regulations. Further Appellant corrected this error when she learned about it, and switched to a MCC-compliant plan when she could.

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: 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 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 22-1107

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

Hearing Issue: Appeal of the 2022 Tax Year Penalty

Hearing Date: December 18, 2023

Decision Date: December 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

Appellant appeared at the hearing, which was held by telephone, on December 18, 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) (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 26 at the end of 2022. Exhibit 2.
2. Appellant lived in Middlesex County in 2022. Exhibit 2.
3. Appellant filed his taxes as single with no dependents. Exhibit 2.
4. Appellant's household income in 2022, as reported on his 2022 state income tax returns and confirmed at the hearing, equaled \$33,104.

¹ Exhibit 2 is a computer printout containing information extracted from the Schedule HC that Appellant submitted as part of his 2022 Massachusetts tax return. The Schedule HC is the form on which Massachusetts taxpayers report information relevant to the individual mandate penalty, which is the subject of this appeal.

5. Appellant reported in the Schedule HC that he filed with his 2022 state income taxes that he did not have health insurance meeting minimum creditable coverage standards at any point in 2022.
6. Despite that, Appellant testified credibly that he had been covered under his parents' health insurance plan until he turned 26 in October 2022. He did not prepare his own taxes and so could not explain why he had reported that he was not insured from January through October.
7. Through most of 2022, Appellant had a part-time job at a supermarket. As a part-time worker, he was not offered insurance.
8. He became full-time right before his 26th birthday. He was offered insurance at that point but did not take it.

In addition to the foregoing, I take administrative notice of the 2022 Schedule HC Instructions and Worksheets, available at <https://www.mass.gov/doc/2022-schedule-hc-instructions/download>, which, as discussed below, include the Affordability Schedule and other financial information used in making 2022 individual mandate tax penalty determinations.

ANALYSIS AND CONCLUSIONS OF LAW

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

In this case, Appellant was assessed a penalty for a full year in 2022, because he reported that he did not have insurance coverage at any point during the year. However, he testified credibly that he was covered under his parents' health insurance until he turned 26 in October 2022. This credible testimony is corroborated by the fact that, under the Affordable Care Act, insurance companies are required to provide dependent coverage to the children of the primary insured until those children reach the age of 26. See 42 U.S.C. § 300gg-14. Thus, I conclude that Appellant should not have been assessed a penalty for the first 10 months of 2022.

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 creditable coverage insurance for only two months in 2022. Because he is given a three-month grace period, he should not have been assessed a penalty for being uninsured in the last two months of 2022.

Because I conclude that, due to Appellant's incorrect reporting on his 2022 state income taxes, he was erroneously assessed a tax penalty for 2022, I am not required to determine whether he could have obtained affordable insurance. Further, I am not required to determine whether he has stated grounds

to waive the penalty under the Health Connector's regulations. 956 C.M.R. § 6.08. Instead, I am going to allow the appeal and waive the penalty in full.

PENALTY ASSESSED

Number of Months Appealed: 12

Number of Months Assessed: 0

If the number of months assessed is zero (0) because your penalty has been overturned, the Connector has notified the Department of Revenue that you should NOT be assessed a penalty for Tax Year 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 22-1108

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

Hearing Issue: Appeal of the 2022 Tax Year Penalty

Hearing Date: December 18, 2023

Decision Date: December 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

Appellant appeared at the hearing, which was held by telephone, on December 18, 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) (26 pages)

FINDINGS OF FACT

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

1. Appellant was 31 at the end of 2022. Exhibit 2.
2. Appellant lived in Bristol County until the end of August 2022. After that, he moved to another state. Exhibit 2. He filed his 2022 taxes as a part-year Massachusetts resident, stating that he had been a resident for eight months.
3. Appellant filed his 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 his 2022 Massachusetts tax return. The Schedule HC is the form on which Massachusetts taxpayers report information relevant to the individual mandate penalty, which is the subject of this appeal.

4. Appellant's household income in 2022, as reported on his 2022 state income tax returns and confirmed at the hearing, equaled \$46,321.
5. Appellant reported in the Schedule HC that he filed with his 2022 state income taxes, and confirmed at the hearing, that he did health insurance meeting minimum creditable coverage standards from January through August 2022, while he was a Massachusetts resident. Exhibit 2.
6. At the start of 2022, Appellant worked for a Massachusetts company. His employer did not offer him health insurance.
7. Appellant considered applying for Connector Care, which is a program of subsidized health insurance offered by the Health Connector, but his income was too high to qualify.
8. During the time he lived in Massachusetts, Appellant had financial stress. He was paying off significant amounts of credit card debt. Those payments amounted to about \$1,000 a month. Additionally, he had student loan payments amounting to \$265 a month.
9. When Appellant moved out-of-state, he obtained a job that offered him health insurance, which he took. He was insured as of the date of the hearing.

In addition to the foregoing, I take administrative notice of the 2022 Schedule HC Instructions and Worksheets, available at <https://www.mass.gov/doc/2022-schedule-hc-instructions/download>, which, as discussed below, include the Affordability Schedule and other financial information used in making 2022 individual mandate tax penalty determinations.

ANALYSIS AND CONCLUSIONS OF LAW

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

The individual mandate applies only to residents of Massachusetts. In this case, Appellant resided in Massachusetts from January through August 2022. Thus he was only subject to the individual mandate for eight months.

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 creditable coverage insurance for eight months in 2022. Because he is given a three-month grace period, he has been assessed a penalty for only five months.

Because Appellant did not have MCC-compliant health insurance for part of 2022, he is subject to a penalty under M.G.L. c. 111M if he could have afforded to purchase such health insurance. In order to determine whether he had access to affordable health insurance, I must consider whether he could have

obtained affordable insurance from any of the following three sources: (1) employment-based insurance; (2) government-subsidized insurance; or (3) unsubsidized insurance purchased on the non-group market. See 2021 Schedule HC instructions at pages HC 7-9

During the time that Appellant lived in Massachusetts and was uninsured, he worked for an employer who did not offer him health insurance. Thus, he did not have access to 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 2022, 300 percent of the federal poverty limit for a household of one person like Appellant's was \$38,640. (I obtain the figure of \$38,640 from Table 2 to the instructions for the 2021 Schedule HC.) In this case, Appellant's household income during 2022 was \$46,321 and therefore he was not income-eligible for Connector Care.

However, Appellant would have been able to afford to purchase unsubsidized health insurance on the non-group market under state affordability standards established by the Health Connector Board under M.G.L. c. 111M. Under those standards, an individual like Appellant who was single with no dependents and had annual income of over \$46,321 was deemed able to afford 7.6 percent of income on insurance. (I obtain that figure from Table 3 of the 2022 instructions for the Schedule HC.) In this case, that amounts to \$3,520 annually or \$293 a month. During 2022, a person like Appellant who lived in Bristol County and was 31 years of age could have obtained health insurance meeting minimum creditable coverage standards for a monthly premium of \$290. (I obtain the premium figure from Table 4 to the instructions for the 2022 Schedule HC). Thus, under state standards, this amount would have been affordable.

Because Appellant could have obtained affordable insurance in 2022, but did not, I am required to consider whether he has stated grounds sufficient to waive the penalty under Health Connector regulations. 956 C.M.R. § 6.08. I conclude that she has. First, I note that, under the affordability standards, health insurance was only barely affordable to him. He was deemed able to afford \$293 a month, and would have had to spend \$290 for insurance. Thus, he did not have much of a margin in his budget. Further, Appellant testified credibly that he experienced significant financial strain in 2022 because he was paying down student loan debt and significant credit card debt. Together, these payments amounted to over \$1200 a month. This would have more than exceeded the amount of money that Appellant could have spent on insurance. Further, I take note of the fact that, when Appellant obtained a job that offered him health insurance as a benefit, he took it.

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

PENALTY ASSESSED

Number of Months Appealed: 5

Number of Months Assessed: 0

If the number of months assessed is zero (0) because your penalty has been overturned, the Connector has notified the Department of Revenue that you should NOT be assessed a penalty for Tax Year 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 22-1109

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

Hearing Issue: Appeal of the 2022 Tax Year Penalty

Hearing Date: December 18, 2023

Decision Date: December 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

Appellant appeared at the hearing, which was held by telephone, on December 18, 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) (29 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 38 at the end of 2022. Exhibit 2.
2. Appellant lived in Bristol County in 2022. Exhibit 2.
3. Appellant filed his 2022 taxes as single with no dependents. Exhibit 2.
4. Appellant's household income in 2022, as reported on his 2022 state income tax returns and confirmed at the hearing, equaled \$64,330.

¹ Exhibit 2 is a computer printout containing information extracted from the Schedule HC that Appellant submitted as part of his 2022 Massachusetts tax return. The Schedule HC is the form on which Massachusetts taxpayers report information relevant to the individual mandate penalty, which is the subject of this appeal.

5. Appellant reported in the Schedule HC that he filed with his 2022 state income taxes, and confirmed at the hearing, that he did not have health insurance meeting minimum creditable coverage standards at any point in 2022. Exhibit 2.
6. During 2022, Appellant worked at three different jobs, two of them part-time and one full-time. None of them offered him health insurance as a benefit.
7. Appellant's earnings varied throughout the year depending on the number of hours that he was able to work at his various jobs. Due to the availability of extra work shifts, Appellant made more money in 2022 than he had anticipated at the start of the year.
8. During 2022, Appellant was paying down a considerable amount of debt. He had credit card debt that required monthly payments of between \$400 and \$600.
9. At the start of 2023, Appellant signed up for health insurance through the Health Connector. He remained on that coverage for the first six months of the year. At that point, he obtained a new job that offered him health insurance and he took that insurance. He was insured as of the date of the hearing.

In addition to the foregoing, I take administrative notice of the 2022 Schedule HC Instructions and Worksheets, available at <https://www.mass.gov/doc/2022-schedule-hc-instructions/download>, which, as discussed below, include the Affordability Schedule and other financial information used in making 2022 individual mandate tax penalty determinations.

ANALYSIS AND CONCLUSIONS OF LAW

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

Because Appellant did not have MCC-compliant health insurance for part of 2022, he is subject to a penalty under M.G.L.c. 111M if he could have afforded to purchase such health insurance. In order to determine whether he had access to affordable health insurance, I must consider whether he could have obtained affordable insurance from any of the following three sources: (1) employment-based insurance; (2) government-subsidized insurance; or (3) unsubsidized insurance purchased on the non-group market. See 2022 Schedule HC instructions at pages HC 7-9

During 2022, Appellant worked at three different jobs, but none of them offered him health insurance as a benefit. Thus, he did not have access to 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 2022, 300 percent of the federal poverty limit for a household of one person like Appellant's was \$38,640. (I obtain the figure of \$38,640 from Table 2 to

the instructions for the 2022 Schedule HC.) In this case, Appellant’s household income during 2022 was \$64,330 and therefore he was not income-eligible for Connector Care.

However, Appellant would have been able to afford to purchase unsubsidized health insurance on the non-group market under state affordability standards established by the Health Connector Board under M.G.L. c. 111M. Under those standards, an individual like Appellant who was single with no dependents and had annual income of over \$64,330 was deemed able to afford 8 percent of income on insurance. (I obtain that figure from Table 3 of the 2022 instructions for the Schedule HC.) In this case, that amounts to \$5,146 annually or \$428 a month. During 2022, a person like Appellant who lived in Bristol County and was 38 years of age could have obtained health insurance meeting minimum creditable coverage standards for a monthly premium of \$298. (I obtain the premium figure from Table 4 to the instructions for the 2022 Schedule HC). Thus, under state standards, this amount would have been affordable.

Because Appellant could have obtained affordable insurance in 2022, but did not, I am required to consider whether he has stated grounds sufficient to waive the penalty under Health Connector regulations. 956 C.M.R. § 6.08. I conclude that he has. Appellant testified credibly that he experienced significant financial strain in 2022 because he was paying down a significant amount of debt, requiring payments of between \$400 and \$600 a month. This would have more than exceeded the amount of money Appellant had to pay for his insurance. Further, Appellant made the decision not to purchase insurance at the start of 2022 during the annual open enrollment season. He would not have been able to purchase insurance in the non-group market after that. At the time, Appellant anticipated that his income would be less than what he actually made in 2022 because his income depended on the number of hours he worked, which was variable and which exceeded his expectations. Finally, I take note of the fact that, when Appellant obtained a job that offered him health insurance as a benefit, he took it. He was covered in 2023.

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: 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 22-1188

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

Hearing Issue: Appeal of the 2022 Tax Year Penalty

Hearing Date: January 8, 2024

Decision Date: January 16, 2024

AUTHORITY

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

JURISDICTION

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

HEARING RECORD

Appellant appeared at the hearing, which was held by telephone, on January 8, 2024. The hearing record consists of the testimony of Appellant, and the following documents, which were admitted into evidence:

- Exhibit 1: Health Connector Hearing Notice (2 pages)
- Exhibit 2: Appeal Case Information sheet¹ (1 page)
- Exhibit 3: Statement of Grounds (with attachments) (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 27 at the end of 2022. Exhibit 2.
2. Appellant lived in Middlesex County in 2022. Exhibit 2.
3. Appellant filed his taxes as single with no dependents. Exhibit 2.
4. Appellant's household income in 2022, as reported on his 2022 state income tax returns and confirmed at the hearing, equaled \$63,839.

¹ Exhibit 2 is a computer printout containing information extracted from the Schedule HC that Appellant submitted as part of his 2022 Massachusetts tax return. The Schedule HC is the form on which Massachusetts taxpayers report information relevant to the individual mandate penalty, which is the subject of this appeal.

5. Appellant reported in the Schedule HC that he filed with his 2022 state income taxes, and confirmed at the hearing, that he did not have health insurance meeting minimum creditable coverage standards at any point in 2022. Exhibit 2.
6. In 2022, Appellant worked for a temporary staffing agency. That agency offered him several coverage options. He chose the one that he thought was the better plan. The plan he chose cost him about \$70 a month or about \$832 a year.
7. The plan he chose was a “fixed indemnity” plan. Under that plan, the covered person would get a discount of between 25 and 30 percent of the cost of medical services if those services were received from a health care provider that was within the plan’s network. See Exhibit 3, at page 6. The covered individual would be responsible for the remainder of the cost. There was no maximum set on the amount of out-of-pocket cost a covered individual would have during the coverage year. *Id.*
8. Appellant did not realize until he prepared to pay his 2022 taxes in early 2023 that the plan he had chosen did not meet Massachusetts minimum creditable coverage standards.
9. In early 2023, Appellant switched jobs. His new job was with a Massachusetts company, which offered him insurance that met minimum creditable coverage standards. He enrolled in that insurance and was covered as of the date of the hearing.

In addition to the foregoing, I take administrative notice of the 2022 Schedule HC Instructions and Worksheets, available at <https://www.mass.gov/doc/2022-schedule-hc-instructions/download>, which, as discussed below, include the Affordability Schedule and other financial information used in making 2022 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.

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 requirements that an insurance plan must meet. The indemnity plan that Appellant chose through his employer in 2022 failed to meet several of these requirements. For instance, the regulations stated that insurance coverage must establish a maximum amount of out-of-pocket expense that a covered individual would have to pay during the year. *Id.* § 5.03(2)(c). Additionally, under the regulations, it is impermissible for the insurer to limit its liability to an indemnity schedule of benefits for covered services. *Id.* § 5.03(1)(d). But that is how the plan chosen by Appellant operated. As a consequence, the plan that Appellant chose did not meet MCC requirements and thus Appellant did not satisfy the individual mandate in 2022.

Because Appellant did not have MCC-compliant health insurance in 2022, he is subject to a penalty under M.G.L. c. 111M if he could have afforded to purchase such health insurance. In order to determine whether he had access to affordable health insurance, I must consider whether he could have obtained affordable insurance from any of the following three sources: (1) employment-based insurance; (2) government-subsidized insurance; or (3) unsubsidized insurance purchased on the non-group market. See 2022 Schedule HC instructions at pages HC 7-9

Appellant did not have MCC-compliant insurance offered through his employment. Appellant offered into evidence a document provided by his employer outlining the insurance options available to him in 2022, and none of the options for which he was eligible satisfied MCC requirements. Thus, Appellant did not have affordable MCC-compliant insurance available through his employment in 2022.

Further, Appellant would not have been eligible to receive Connector Care, which is government-subsidized health insurance in Massachusetts. To be eligible for Connector Care, an individual must have household income below 300 percent of the federal poverty limit. See 956 C.M.R. § 12.04 (Connector Care eligibility requirements.) In 2022, 300 percent of the federal poverty limit for a household of one person like Appellant's was \$38,640. (I obtain the figure of \$38,640 from Table 2 to the instructions for the 2021 Schedule HC.) In this case, Appellant's household income during 2022 was \$63,839 and therefore he was not income-eligible for Connector Care.

However, Appellant would have been able to obtain affordable MCC-compliant insurance on the private, 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 single with no dependents and had annual income of over \$63,829 was deemed able to afford 8 percent of income on insurance. (I obtain that figure from Table 3 of the 2022 instructions for the Schedule HC.) In this case, that amounts to \$5,109 annually or \$425 a month. During 2022, a person like Appellant who lived in Middlesex County and was 27 years of age could have obtained health insurance meeting minimum creditable coverage standards for a monthly premium of \$277. (I obtain the premium figure from Table 4 to the instructions for the 2022 Schedule HC). Thus, under state standards, this amount would have been affordable.

Because Appellant could have obtained affordable insurance in 2022, but did not, I am required to consider whether he has stated grounds sufficient to waive the penalty under Health Connector regulations. 956 C.M.R. § 6.08. I conclude that he has. In reaching that determination, I may consider a range of financial factors, including the cost of insurance that Appellant actually purchased. See 956 CMR § 6.08(2)(b). In this case, Appellant unknowingly enrolled in a product that did not meet MCC standards under state law. The information provided by his employer before he selected the plan did not alert him to the fact that this choice would not meet Massachusetts standards. Further, Appellant did not pick the cheapest plan offered by the employer; thus, I conclude he was not seeking to avoid cost by avoiding or minimizing insurance coverage. Rather, it was an honest mistake based on lack of knowledge about Massachusetts insurance regulations. Further Appellant corrected this error when he learned about it, and switched to a MCC-compliant plan when he could.

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: 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 22-1190

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

Hearing Issue: Appeal of the 2022 Tax Year Penalty

Hearing Date: January 8, 2024

Decision Date: January 16, 2024

AUTHORITY

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

JURISDICTION

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

HEARING RECORD

Appellant appeared at the hearing, which was held by telephone, on January 8, 2024. The hearing record consists of the testimony of Appellant, and the following documents, which were admitted into evidence:

- Exhibit 1: Health Connector Hearing Notice (2 pages)
- Exhibit 2: Appeal Case Information sheet¹ (1 page)
- Exhibit 3: Statement of Grounds (with attachments) (7 pages)

FINDINGS OF FACT

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

1. Appellant was 45 at the end of 2022. Exhibit 2.
2. During 2022, Appellant was a resident of Middlesex County. Exhibit 2.
3. Appellant filed his 2022 Massachusetts 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 his 2022 Massachusetts tax return. The Schedule HC is the form on which Massachusetts taxpayers report information relevant to the individual mandate penalty, which is the subject of this appeal.

4. Appellant reported on the Schedule HC that he filed with his state income taxes, and confirmed at the hearing, that his annual income for 2022 was \$49,000. Exhibit 2.
5. Appellant reported in the Schedule HC that he filed with his 2022 state income taxes, and confirmed at the hearing, that he did not have health insurance meeting minimum creditable coverage (MCC) standards at any point in 2022. Exhibit 2.
6. During 2022, Appellant worked for an employer that offered insurance coverage through a plan that would cost the covered employee \$474 a month. Exhibit 3 at page 3.
7. Appellant considered that amount too expensive and so did not enroll in the plan.
8. During 2022, Appellant had monthly credit card payments of about \$1,100 a month. This large payment reflected the fact that Appellant was attending a professional school part-time and was paying for the tuition through a credit card.
9. Appellant was assessed a penalty for not having insurance in 2021. He appealed that penalty, and the appeal was allowed on facts that are essentially the same as those presented in this appeal.

In addition to the foregoing, I take administrative notice of the 2022 Schedule HC Instructions and Worksheets, available at <https://www.mass.gov/doc/2022-schedule-hc-instructions-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 he could have obtained affordable insurance from any of the following three sources: (1) employment-based insurance; (2) government-subsidized insurance; or (3) unsubsidized insurance purchased on the non-group market. See 2022 Schedule HC instructions at pages HC 7-9

First, Appellant was not eligible to receive Connector Care, which is government-subsidized health insurance in Massachusetts. To be eligible for Connector Care, an individual must have household income below 300 percent of the federal poverty limit. See 956 C.M.R. § 12.04 (Connector Care eligibility requirements.) In 2022, 300 percent of the federal poverty limit for a household of one person like Appellant’s was \$38,640. (I obtain the figure of \$38,640 from Table 2 to the instructions for the 2022 Schedule HC.) Appellant’s annual income during 2022 was \$49,000 and so was too high for him to receive Connector Care. Thus, Appellant could not have obtained government-subsidized insurance in 2022.

Further, using affordability standards established by the Health Connector Board under M.G.L. c. 111M, Appellant would not have been able to afford the insurance offered by his employer. Under those standards, an individual like Appellant who was in a household of one person and had annual income of

\$49,000 was deemed able to afford 7.6 percent of income for insurance. (I obtain that figure from Table 3 of the 2022 instructions for the Schedule HC.) In this case, that amounts to \$3,724 annually or \$310 a month. The insurance offered by his employer would have cost him \$474 a month and would not be affordable. Thus, Appellant did not have access to affordable insurance through employment.

Finally, Appellant would not have been able to afford to purchase insurance in the private, non-group market. During 2022, a person like Appellant who lived in Middlesex County and was 45 years of age would have had to pay at least \$364 a month for insurance. (I obtain the premium figure from Table 4 to the instructions for the 2022 Schedule HC). Thus, under state standards, this amount would not have been affordable.

Because Appellant could not have obtained affordable health insurance in 2022, he is not subject to the individual mandate penalty. Therefore, I am not required to consider whether he has stated grounds sufficient to avoid the penalty under Health Connector regulations. 956 C.M.R. § 6.08. Further, I take note of the fact that, under essentially the same facts, Appellant's appeal of his 2021 penalty was allowed.

Thus, I will allow the appeal and waive the penalty against him 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 22-1197

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

Hearing Issue: Appeal of the 2022 Tax Year Penalty

Hearing Date: January 17, 2024

Decision Date: January 19, 2024

AUTHORITY

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

JURISDICTION

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

HEARING RECORD

Appellant appeared at the hearing, which was held by telephone, on January 17, 2024. The hearing record consists of the testimony of Appellant, and the following documents, which were admitted into evidence:

- Exhibit 1: Health Connector Hearing Notice (2 pages)
- Exhibit 2: Appeal Case Information sheet¹ (1 page)
- Exhibit 3: Statement of Grounds (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 37 at the end of 2022. Exhibit 2.
2. During 2022, Appellant was a resident of Essex County. Exhibit 2.
3. Appellant filed her 2022 Massachusetts taxes as single with no dependents. Exhibit 2.
4. Appellant was a citizen of the United States.

¹ Exhibit 2 is a computer printout containing information extracted from the Schedule HC that Appellant submitted as part of her 2022 Massachusetts tax return. The Schedule HC is the form on which Massachusetts taxpayers report information relevant to the individual mandate penalty, which is the subject of this appeal.

5. Appellant reported on the Schedule HC that she filed with her state income taxes, and confirmed at the hearing, that her annual income for 2022 was \$19,554. Exhibit 2.
6. Appellant reported in the Schedule HC that she filed with her state income taxes, and confirmed at the hearing, that she did not have health insurance meeting minimum creditable coverage (MCC) standards at any point in 2022. Exhibit 2.
7. At the end of 2021, Appellant left a job that had offered her health insurance. She took a new job, which did not offer health insurance. She remained in that job for all of 2022.
8. In March of 2022, Appellant was notified that she was being evicted from the apartment she was renting. It took her several months to find a new apartment.
9. Appellant stated that she had trouble meeting all her necessary expenses, given her income and the challenge of trying to find new housing.

In addition to the foregoing, I take administrative notice of the 2022 Schedule HC Instructions and Worksheets, available at <https://www.mass.gov/doc/2022-schedule-hc-instructions-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 2022 Schedule HC instructions at pages HC 7-9

First, during 2022, Appellant worked at a job that did not offer health insurance as a benefit. Therefore, she did not have access to employment-based insurance.

Further, Appellant would not have been able to afford to purchase unsubsidized insurance on the non-group market under affordability standards set by the Health Connector board in accordance with 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 \$19,554 was deemed able to afford only 2.9 percent of income for insurance. (I obtain that figure from Table 3 of the 2022 instructions for the Schedule HC.) In this case, that amounts to \$567 annually or \$47.25 a month. During 2022, a person like Appellant who lived in Essex County and was 37 years of age would have had to pay at least \$298 a month in premiums for insurance. (I obtain the premium figure from Table 4 to the instructions for the 2022 Schedule HC). Thus, under state standards, this amount would not have been affordable.

However, Appellant was eligible to receive Connector Care, which is government-subsidized health insurance offered by the Health Connector in Massachusetts. To be eligible for Connector Care, an individual must have household income below 300 percent of the federal poverty limit and meet the other eligibility requirements, which include being a citizen or legal permanent resident of the United States and a resident of Massachusetts, and not having access to affordable employment-based insurance. See 956 C.M.R. § 12.04 (Connector Care eligibility requirements.) In 2022, 300 percent of the federal poverty limit for a household of one person like Appellant's was \$38,640. (I obtain the figure of \$38,640 from Table 2 to the instructions for the 2022 Schedule HC.) Appellant's annual income during 2022 was \$19,554 and so was within the income limits to receive Connector Care. Further, based on Appellant's testimony, I find she was a citizen of the United States and a resident of Massachusetts, and she did not have access to employment-based insurance. Thus, Appellant was eligible for and could have obtained government-subsidized insurance in 2022. This insurance would have been affordable and would have offered her comprehensive health coverage. Appellant stated that she was aware of the Health Connector and its health insurance program, but she was not sure if she qualified. As a result, she never applied.

Because Appellant could have obtained affordable health insurance in 2022, but didn't, I must determine whether she has stated grounds sufficient to avoid the penalty under Health Connector regulations. 956 C.M.R. § 6.08. I conclude that she has. She testified credibly that she was evicted from her apartment in early 2023. Under Health Connector regulations, receiving a notice of eviction constitutes a ground for waiving the individual mandate penalty. 956 C.M.R. § 6.08(1)(a). Thus, I conclude that Appellant has met that requirement.

I note, however, that this decision applies only to the 2022 penalty. It does not determine whether Appellant will be subject to the penalty in future years. At the hearing, she stated that she is still uninsured, and thus she will be likely be assessed a penalty again for years after 2022. Appellant was urged to apply for Connector Care through the Health Connector, which would provide her with low-cost, comprehensive insurance. She can do so by applying on-line at www.mahealthconnector.org or by calling the Health Connector's customer service line at 877-623-6765.

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 22-1199

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

Hearing Issue: Appeal of the 2022 Tax Year Penalty

Hearing Date: January 17, 2024

Decision Date: January 19, 2024

AUTHORITY

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

JURISDICTION

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

HEARING RECORD

Appellants, who were a married couple and will be identified herein as Husband and Wife, appeared at the hearing, which was held by telephone, on January 17, 2024. 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 (with attachments) (7 pages)

FINDINGS OF FACT

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

1. Appellants are a married couple. Husband was 36 and Wife was 34 at the end of 2022. Exhibit 2.
2. At the start of 2022, Appellants lived in Florida. However, they were offered new positions at the company where they both worked, which required them to move to Massachusetts. Starting in March 2022, they lived in Suffolk County in 2022. Exhibit 2.
3. Appellants filed their taxes as married filing jointly with one dependent. Exhibit 2. The dependent was a child who was born during 2022.

¹ Exhibit 2 is a computer printout containing information extracted from the Schedule HC that Appellants submitted as part of their 2022 Massachusetts tax return. The Schedule HC is the form on which Massachusetts taxpayers report information relevant to the individual mandate penalty, which is the subject of this appeal.

4. Appellants filed their Massachusetts taxes as part-year residents for the period from March through December 2022.
5. Appellants' household income in 2022, as reported on their 2022 state income tax returns and confirmed at the hearing, equaled \$220,641.
6. Appellants reported in the Schedule HC that they filed with their 2022 state income taxes, and confirmed at the hearing, that they did not have health insurance meeting minimum creditable coverage standards at any point in 2022. Exhibit 2.
7. During the open enrollment period for the 2022 coverage year, Appellants' employer offered them a choice of three different health insurance coverage options. One of those options, the so-called "Core" plan, had an annual deductible of \$6,000 for a family. See Exhibit 3 at page 6. A deductible is the amount of money a covered individual must spend out-of-pocket on medical services before the insurance begins to cover the cost.
8. Appellants picked the Core plan because they thought it made the most economic sense for them of the three choices. The plan documents provided by their employer stated that the Core plan did *not* meet Massachusetts coverage requirements. *Id.* However, at the time Appellants chose the plan, in November 2021, they had no intention of moving to Massachusetts.
9. Appellants did not decide to move to Massachusetts until early 2022 when they were offered jobs in Boston. By the time they moved to Massachusetts, they could not change their health insurance options because their employer's annual open enrollment period, during which employees could switch plans, had passed.
10. Appellants were not able to change plans until the next open enrollment period at the end of 2022, for a January 1, 2023 effective date. At that time, they did switch to a coverage option that satisfied Massachusetts requirements. They were covered under that plan at the time of the hearing.

In addition to the foregoing, I take administrative notice of the 2022 Schedule HC Instructions and Worksheets, available at <https://www.mass.gov/doc/2022-schedule-hc-instructions/download>, which, as discussed below, include the Affordability Schedule and other financial information used in making 2022 individual mandate tax penalty determinations.

ANALYSIS AND CONCLUSIONS OF LAW

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

The individual mandate applies only to residents of Massachusetts. In this case, Appellants resided in Massachusetts from March through December 2022. Thus, they were only subject to the individual mandate for ten months.

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 Appellants’ case, they were without creditable coverage insurance while living in Massachusetts for ten months in 2022. Because they are given a three-month grace period, he has been assessed a penalty for only seven months.

Insurance coverage satisfies the individual mandate requirement only if it constitutes “creditable coverage” as defined by the statute. M.G.L. c. 111M, § 2(a). “Creditable coverage” is defined as a plan that meets the standards for “minimum creditable coverage” (MCC) under regulations promulgated by the Health Connector’s board. *Id.* § 1. These regulations contain requirements that an insurance plan must meet. Specifically, the regulations provide that a plan must not have an annual deductible that exceeds an amount set by the Health Connector annually. 956 C.M.R. § 5.03(2)(b)(2). In 2022, that amount was \$5,700 for family coverage. *See* Administrative Bulletin 03-21 (March 12, 2021) (available at <https://betterhealthconnector.com/wp-content/uploads/rules-and-regulations/AdminBulletin03-21.pdf>.) The Core plan chosen by Appellants had a \$6,000 deductible for family coverage and so did not satisfy that requirement.

Because Appellants did not have MCC-compliant health insurance in 2022, they are subject to a penalty under M.G.L. c. 111M if they could have afforded to purchase such health insurance. In order to determine whether they had access to affordable health insurance, I must consider whether they could have obtained affordable insurance from any of the following three sources: (1) employment-based insurance; (2) government-subsidized insurance; or (3) unsubsidized insurance purchased on the non-group market. *See* 2022 Schedule HC instructions at pages HC 7-9

Appellants would not have been eligible to receive Connector Care, which is government-subsidized health insurance in Massachusetts. To be eligible for Connector Care, an individual must have household income below 300 percent of the federal poverty limit. *See* 956 C.M.R. § 12.04 (Connector Care eligibility requirements.) In 2022, 300 percent of the federal poverty limit for a household of three persons like Appellants’ was \$65,880. (I obtain the figure of \$65,880 from Table 2 to the instructions for the 2022 Schedule HC.) In this case, Appellant’s household income during 2022 was \$220,641 and therefore they were not income-eligible for Connector Care.

However, Appellants could have afforded MCC-compliant insurance offered through employment or for purchase on the private, non-group market. Appellants’ employer offered them a MCC-compliant insurance option. I conclude that they could have afforded this option in 2022, because they signed up for it in 2023 and remained in it at the time of the hearing. Further, Appellants testified that there was not a significant cost difference between the Core plan, which they chose in 2022, and the other plan, which they switched to in 2023. Thus, Appellants did have affordable MCC-compliant insurance available through his employment in 2022.

Further, Appellants would have been able to obtain affordable MCC-compliant insurance on the private, non-group market under state affordability standards established by the Health Connector Board under M.G.L. c. 111M. Under those standards, individuals like Appellants who were married with one

dependent and had annual income of \$220,641 were deemed able to afford 8 percent of income on insurance. (I obtain that figure from Table 3 of the 2022 instructions for the Schedule HC.) In this case, that amounts to \$17,651 annually or \$1,470 a month. During 2022, persons like Appellants who lived in Suffolk County and who were in a married couple in which the older spouse was 36 years of age could have obtained health insurance for a family that met minimum creditable coverage standards for a monthly premium of \$756. (I obtain the premium figure from Table 4 to the instructions for the 2022 Schedule HC). Thus, under state standards, this amount would have been affordable.

Because Appellants could have obtained affordable insurance in 2022, but did not, I am required to consider whether they have stated grounds sufficient to waive the penalty under Health Connector regulations. 956 C.M.R. § 6.08. I conclude that they have. In reaching that determination, I may consider a range of financial factors, including the cost of insurance that Appellants actually purchased. See 956 CMR § 6.08(2)(b). In this case, Appellants chose a plan that did not meet MCC standards during a time when they were not contemplating living in Massachusetts. Once they obtained transfers to Massachusetts, it was too late for them to switch plans because open enrollment had passed. Further, I take into consideration the fact that the Core plan, which they chose, did not have a price significantly different from the MCC-compliant option offered by their employer. Thus, they were not motivated to avoid MCC requirements in order to save money. Finally, I note that the deviation of the Core plan from MCC standards was that it exceeded the maximum permissible deductible of \$5,700 by only \$300 or a little over 5 percent. This is a relatively minor deviation. Finally, when Appellants were able to switch to a MCC-compliant plan during their employers' next open enrollment, they did so.

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:	Number of Months Assessed:
Husband: 12	Husband: 0
Wife: 12	Wife: 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 22-1200

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

Hearing Issue: Appeal of the 2022 Tax Year Penalty

Hearing Date: January 17, 2024

Decision Date: January 19, 2024

AUTHORITY

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

JURISDICTION

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

HEARING RECORD

Appellant appeared at the hearing, which was held by telephone, on January 17, 2024. The hearing record consists of the testimony of Appellant, and the following documents, which were admitted into evidence:

Exhibit 1: Health Connector Hearing Notice (2 pages)

Exhibit 2: Appeal Case Information sheet¹ (1 page)

Exhibit 3: Statement of Grounds (with attachments) (16 pages)

FINDINGS OF FACT

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

1. Appellant was 34 at the end of 2022. Exhibit 2.
2. Appellant lived in Worcester County in 2022. Exhibit 2.
3. Appellant filed her taxes as single with no dependents. Exhibit 2.
4. Appellant's household income in 2022, as reported on her 2022 state income tax returns and confirmed at the hearing, equaled \$53,573.

¹ Exhibit 2 is a computer printout containing information extracted from the Schedule HC that Appellant submitted as part of her 2022 Massachusetts tax return. The Schedule HC is the form on which Massachusetts taxpayers report information relevant to the individual mandate penalty, which is the subject of this appeal.

5. Appellant reported in the Schedule HC that she filed with her 2022 state income taxes, and confirmed at the hearing, that she did not have health insurance meeting minimum creditable coverage standards at any point in 2022. Exhibit 2.
6. In 2021, Appellant was covered under insurance purchased through the Health Connector. She thought that she might be able to get a plan with a lower premium. She searched for insurance and called the first company whose name appeared at the top of her on-line search.
7. This company sold her a plan that covered only preventive care and two outpatient visits annually. See Exhibit 3 at page 5. Thus, a wide range of medical services, including procedures and hospitalizations, were not covered.
8. The cost of this plan was about \$250 a month. Exhibit 3 at page 6. This was only somewhat less than Appellant had been paying for her Health Connector plan.
9. Appellant did not realize that the company that sold her the coverage was not the Health Connector. She did not realize this until it was time to pay her 2022 taxes and she learned that she did not have coverage that met Massachusetts standards.
10. During the course of 2022, Appellant incurred medical costs that were not covered by the plan she had purchased and so she was required to pay for those services out of pocket.
11. When Appellant realized that her plan did not meet Massachusetts coverage standards, she switched to a compliant plan purchased through the Health Connector during the annual open enrollment at the end of 2022. She was covered in that plan at the time of the hearing.

In addition to the foregoing, I take administrative notice of the 2022 Schedule HC Instructions and Worksheets, available at <https://www.mass.gov/doc/2022-schedule-hc-instructions/download>, which, as discussed below, include the Affordability Schedule and other financial information used in making 2022 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.

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 requirements that an insurance plan must meet. The plan that Appellant chose in 2022 failed to meet several of these requirements. For instance, the regulations state that the plan must cover a broad range of services, including hospitalization, outpatient procedures, and prescription drugs. 956 C.M.R. § 5.03(1)(a). Further, the regulations provide that the plan cannot impose an annual limit on the number of times that a service may be utilized during the year. *Id.* § 5.03(1)(c)(2). The plan chosen by Appellant did not cover a number of services, such as hospitalizations or prescription drugs, and, with regard to the services it did cover,

i.e., outpatient doctor's visits, it imposed an annual cap of two instances. Thus, the plan Appellant chose did not meet minimum creditable coverage standards.

Because Appellant did not have MCC-compliant health insurance in 2022, she is subject to a penalty under M.G.L. c. 111M if she could have afforded to purchase such health insurance. In order to determine whether she had access to affordable health insurance, I must consider whether she could have obtained affordable insurance from any of the following three sources: (1) employment-based insurance; (2) government-subsidized insurance; or (3) unsubsidized insurance purchased on the non-group market. See 2022 Schedule HC instructions at pages HC 7-9

Appellant's employer in 2022 did not offer her health insurance as a benefit. Thus, Appellant did not have affordable MCC-compliant insurance available through her employment in 2022.

Further, Appellant would not have been eligible to receive Connector Care, which is government-subsidized health insurance in Massachusetts. To be eligible for Connector Care, an individual must have household income below 300 percent of the federal poverty limit. See 956 C.M.R. § 12.04 (Connector Care eligibility requirements.) In 2022, 300 percent of the federal poverty limit for a household of one person like Appellant's was \$38,640. (I obtain the figure of \$38,640 from Table 2 to the instructions for the 2021 Schedule HC.) In this case, Appellant's household income during 2022 was \$53,573 and therefore she was not income-eligible for Connector Care.

However, Appellant would have been able to obtain affordable MCC-compliant insurance on the private, 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 single with no dependents and had annual income of \$53,573 was deemed able to afford 8 percent of income on insurance. (I obtain that figure from Table 3 of the 2022 instructions for the Schedule HC.) In this case, that amounts to \$4,285 annually or \$357 a month. During 2022, a person like Appellant who lived in Worcester County and was 34 years of age could have obtained health insurance meeting minimum creditable coverage standards for a monthly premium of \$290. (I obtain the premium figure from Table 4 to the instructions for the 2022 Schedule HC). Thus, under state standards, this amount would have been affordable.

Because Appellant could have obtained affordable insurance in 2022, but did not, I am required to consider whether 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 actually purchased. See 956 CMR § 6.08(2)(b). In this case, Appellant unknowingly enrolled in a product that did not meet MCC standards under state law. This was an unfortunate choice because Appellant did not save very much money in comparison to the Health Connector plan that she had previously, and the plan she purchased for 2022 provided very little coverage for the money. Further Appellant corrected this error when she learned about it, and switched to an MCC-compliant plan when she could.

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: 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 22-1201

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

Hearing Issue: Appeal of the 2022 Tax Year Penalty

Hearing Date: January 17, 2024

Decision Date: January 19, 2024

AUTHORITY

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

JURISDICTION

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

HEARING RECORD

Appellant appeared at the hearing, which was held by telephone, on January 17, 2024. The hearing record consists of the testimony of Appellant, and the following documents, which were admitted into evidence:

Exhibit 1: Health Connector Hearing Notice (2 pages)

Exhibit 2: Appeal Case Information sheet¹ (1 page)

Exhibit 3: Statement of Grounds (7 pages)

FINDINGS OF FACT

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

1. Appellant was 52 at the end of 2022. Exhibit 2.
2. Appellant lived in Suffolk County in 2022. Exhibit 2.
3. Appellant filed her taxes as a head of household with one dependent. Exhibit 2. Appellant was divorced. Her dependent was a son who lived with her and attended school.
4. Appellant's household income in 2022, as reported on her 2022 state income tax returns and confirmed at the hearing, equaled \$45,353.

¹ Exhibit 2 is a computer printout containing information extracted from the Schedule HC that Appellant submitted as part of her 2022 Massachusetts tax return. The Schedule HC is the form on which Massachusetts taxpayers report information relevant to the individual mandate penalty, which is the subject of this appeal.

5. Appellant reported in the Schedule HC that she filed with her 2022 state income taxes, and confirmed at the hearing, that she did not have health insurance meeting minimum creditable coverage standards at any point in 2022. Exhibit 2.
6. At some point before 2022, Appellant had obtained health insurance through her husband's employment. That ended after her divorce.
7. Appellant did not know how to obtain health insurance and so didn't take steps to enroll.
8. In the middle of 2023, Appellant went to an emergency room for treatment and, while she was there, a financial counselor helped her to sign up for state-subsidized coverage.
9. In 2024, Appellant enrolled in insurance coverage through her employer. She was covered as of the date of the hearing.

In addition to the foregoing, I take administrative notice of the 2022 Schedule HC Instructions and Worksheets, available at <https://www.mass.gov/doc/2022-schedule-hc-instructions/download>, which, as discussed below, include the Affordability Schedule and other financial information used in making 2022 individual mandate tax penalty determinations.

ANALYSIS AND CONCLUSIONS OF LAW

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

Because Appellant did not have MCC-compliant health insurance in 2022, she is subject to a penalty under M.G.L. c. 111M if she could have afforded to purchase such health insurance. In order to determine whether she had access to affordable health insurance, I must consider whether she could have obtained affordable insurance from any of the following three sources: (1) employment-based insurance; (2) government-subsidized insurance; or (3) unsubsidized insurance purchased on the non-group market. See 2022 Schedule HC instructions at pages HC 7-9

Appellant would not have been able to obtain affordable MCC-compliant insurance on the private, 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 a head of household with one dependent and had annual income of over \$45,353 was deemed able to afford 6.2 percent of income on insurance. (I obtain that figure from Table 3 of the 2022 instructions for the Schedule HC.) In this case, that amounts to \$2,811 annually or \$234 a month. During 2022, a person like Appellant who lived in Suffolk County and was 52 years of age would have had to pay \$1,006 a month in premium for coverage for herself and her dependent child. (I obtain the premium figure from Table 4 to the instructions for the 2022 Schedule HC). Thus, under state standards, this amount would not have been affordable.

However, Appellant's employer did offer her health insurance as a benefit. I conclude she could have afforded it because she was able to afford it in 2024 when she signed up.

Further, Appellant would have been eligible to receive Connector Care, which is government-subsidized health insurance in Massachusetts. To be eligible for Connector Care, an individual must have household income below 300 percent of the federal poverty limit. See 956 C.M.R. § 12.04 (Connector Care eligibility requirements.) In 2022, 300 percent of the federal poverty limit for a household of two person like Appellant's was \$52,260. (I obtain the figure of \$52,260 from Table 2 to the instructions for the 2021 Schedule HC.) In this case, Appellant's household income during 2022 was \$45,353 and therefore she was not income-eligible for Connector Care.

Because Appellant could have obtained affordable insurance in 2022, but did not, I am required to consider whether she has stated grounds sufficient to waive the penalty under Health Connector regulations. 956 C.M.R. § 6.08. I conclude that she has. Appellant's income was low and she reported that she was having trouble covering her necessary expenses. Further, Appellant did not know how to apply for subsidized coverage and was only able to do it in 2023 when she had assistance from a hospital financial counselor. Further, I take into consideration the fact that Appellant was insured as of the hearing.

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: 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

Tax Penalty Appeal Decision—Docket No. PA22- 1038

Appeal Decision: Appeal Approved -- 2022 tax penalty overturned.

Hearing Issue: Appeal of the 2022 Tax Year Penalty

Hearing Date: December 13, 2023

Decision Date: December 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 – 2022);
3. Appellant's Handwritten Comment on Exhibit 2;
4. United Healthcare Statement of Coverage (1 page); 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 12 month penalty for 2022. The basis for the penalty was that the Appellant was not insured at any time in 2022. Exhibits 1 and 2. As set forth below, I find that this statement is not accurate.
2. As the reason for his appeal the Appellant added the following handwritten statement to the pre-printed statement of grounds for appeal (Exhibit 2): "Still covered by parent's health insurance." Exhibit 3.
3. The Appellant, who had not reached his 26th birthday, testified under oath that he was insured on his parents' health insurance policy. In support of his testimony, the Appellant submitted a document prepared by United Healthcare that shows his mother as member and his father, sister, and the Appellant as dependents who are covered by his mother's policy. Exhibit 4 and Testimony. See also Exhibit 3, above.
4. Based on all the evidence that the Appellant submitted on appeal I find that the Appellant was insured for all 12 months in 2022.
5. The Appellant was no longer in Massachusetts while he pursued his 2022 tax penalty appeal. See Exhibits 1, 2, and 5 (listing out-of-state address) and Testimony.
6. Except as set forth in the foregoing findings of fact, I adopt the facts set forth in Exhibit 1 as my own findings of fact. Exhibit 1 is a computer printout prepared by the Massachusetts Department of Revenue (DOR) that extracts information submitted by the Appellant on Schedule HC as part of the Appellant's 2022 Massachusetts income tax return.
7. I take administrative notice of the financial information set forth in Tables 1 through 6 of the DOR 2022 Massachusetts Schedule HC Health Care Instructions and Worksheet. Tables 3 and 4 incorporate the affordability schedules adopted by the board of directors for the Commonwealth Health Insurance Connector Authority (Health Connector or Connector) for 2021. See 956 Code Mass. Regs. 6.05. Table 1 sets forth income levels less than 150% of the federal poverty level that are exempt from the assessment of a state tax penalty. Table 2 sets forth income eligibility standards for various family sizes at 300% of the federal poverty level, which is the income eligibility standard for the ConnectorCare government

subsidized health insurance program. Tables 5 and 6 set forth the tax penalties in effect for 2022. (The DOR instructions are published online at <http://www.mass.gov/dor/2022ScheduleHCInstructions> and are also available in the state income tax forms supplied to taxpayers. See also DOR Technical Information Release (TIR) 12-7: Individual Mandate Penalties for Tax Year 2022.)

ANALYSIS AND CONCLUSIONS OF LAW

The case is before me on the Appellant’s appeal from the state Department of Revenue’s (DOR) assessment of a 12 month tax penalty because the Appellant did not have health insurance coverage in 2022. See Exhibits 1 and 2. The issue to be decided is whether the penalty should be waived, either in whole or in part.

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

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

The Health Connector’s regulations also provide for a “hardship” appeal from the assessment of a penalty. 956 Code Mass. Regs. 6.07 and 6.08. The grounds for a hardship appeal are summarized in the Statement of Grounds for Appeal – 2022 that the Appellant signed and filed in this case. See Exhibit 2.

The appeal in this case is resolved favorably to the Appellant based on the facts.

The DOR assessed a 12 month penalty based on information submitted on the Appellant's state income tax return for 2022. On appeal, the Appellant presented persuasive evidence that he was, in fact, insured all 12 months in 2022 as a dependent on his mother's United Healthcare health insurance policy. See Exhibit 4. See also Exhibit 1 (DOB 1998).

Accordingly, I vacate the entire penalty assessed by the DOR for 2022. See, e.g., Findings of Fact, No. 4, above.

PENALTY ASSESSED

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

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

OR

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

NOTIFICATION OF YOUR RIGHT TO APPEAL TO COURT

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

Hearing Officer

Cc: Massachusetts Health Connector Appeals Unit

FINAL APPEAL DECISION: PA22-985

Appeal Decision: The penalty is overturned in full.

Hearing Issue: Appeal of the 2022 Tax Year Penalty

Hearing Date: November 29, 2023

Decision Date: December 21, 2023

AUTHORITY

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

JURISDICTION

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

HEARING RECORD

The Appellant, (consisting of both spouses), appeared at the hearing, which was held by telephone on December 15, 2023. The procedures to be followed during the hearing were reviewed with the Appellant who was then sworn in. Exhibits were marked and admitted in evidence with no objection from the Appellant. The Appellant testified.

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

Exhibit 1:	Appeal Case Information from Schedule HC.	(1 P).
Exhibit 2:	Statement of Grounds for Appeal 2022 Signed by Appellant on 4/6/23.	(2 PP).
Exhibit 2(a):	Appellant's Statement in Support of the Appeal dated 4/4/23	(1 PP).
Exhibit 2(b)	Aetna Medical and Reliance Hospital Indemnity Plan	(8 PP).
Exhibit 3:	Health Connector's Notice of Hearing dated 10/25/2021	(2 PP).

The Record was left open until December 15, 2023, for the Appellant to submit additional documentation. including: Premium payments, plan summaries, benefits and deductible information. On December 11, 2023, the Appellant submitted the following:

Exhibit 4:	An email referencing AETNA amounts buy up plan, critical care, accident and indemnity plan.	(1P).
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FINDINGS OF FACT

The record shows, and I so find:

1. The Appellant filed a 2022 Massachusetts tax return reported they were married, filing joint, had 0 dependents in 2022, lived in Middlesex County, and had a family size of 2. (Exhibit 1, Testimony of Appellant).
2. The Appellant Spouse purchased employer sponsored insurance("ESI) in 2022. (Exhibit 2(A), Testimony of Appellant).
3. The Employer had a different plan that changed to AETNA in 2022. (Exhibit 2(A), Testimony of Appellant).
4. The Appellant Husband was self-employed and did not have access to ESI. (Testimony of Appellant).

5. The Appellant's assumed that the new plan would provide minimal creditable coverage. (Appellant Testimony, Exhibits 2(a).
6. The Appellant testified they chose to obtain additional coverage including a buy up plan with the hospital indemnity plan, accident, and critical illness(bundled) that was included with the major medical plan which should have brought their overall coverage in compliance with the state mandate.
7. The Appellant paid approximately \$9,426.00 in 2022. (Exhibits (2),2(a), and 4).
8. The Appellant credibly testified that he did not realize the plan did not meet the meet minimal credible coverage ("MCC") standards for Massachusetts residents. (Testimony of Appellant).
9. The Appellant credibly testified the plan with the additional coverage meets the rationale and purpose of the mandate. (Testimony of Appellant, 2(a)).
10. Appellant's Federal Adjusted Gross Income for 2022 was \$273,658 (Exhibit 1).
11. Appellant has been assessed a tax penalty for twelve (12) months in 2022. The Appellant has appealed this assessment (Exhibits 1, 2).
12. According to Table 3 Appellant could have afforded \$1,824.38 per month for health insurance in 2022. According to Table 4 Appellant could have purchased insurance for \$869 per month.
13. In addition to the foregoing, I take administrative notice of the 2022 Schedule HC Instructions and Worksheets, available at <http://www.mass.gov/dor/docs/dor/health-care/2022>, and in particular, Tables 1-6 which, as discussed below, include the Affordability Schedule and other financial information used in making 2022 individual mandate tax penalty determinations.

ANALYSIS AND CONCLUSIONS OF LAW

The issue on appeal is whether the tax penalty assessed by the Massachusetts Department of Revenue for 2022 should be waived, either in whole or in part. Appellant has been assessed a tax penalty for twelve (12) months in 2022. Appellant has appealed the penalty. (See Exhibits 1 and 2).

The Appellant submitted grounds with their appeal that during 2022: they purchased health insurance that didn't meet minimum creditable coverage standards because that is what the employer offered, and their circumstances prevented them from buying other insurance that met the requirements. (Exhibit 2).

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

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

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

The evidence provided by the Appellant established that their income for 2022, \$273,658 was more than 300% of the federal poverty level, which for 2022 was \$52,260 for an individual with a family size of two (2). According to Table 3 of Schedule HC for 2022, the Appellant could have afforded \$1,824.395 per month. According to Table 4, Appellant, ages 60, and with no dependents and living in Middlesex County during the time they were being penalized for not having insurance, could have purchased insurance for \$869.00 per month. Individual coverage was affordable through the individual market for the Appellant in 2022 (Schedule HC for 2022).

The next issue to consider is whether the Appellant had access to affordable employer health insurance (“ESI”). The Appellant credibly testified that health insurance was offered through his employer, the plan and insurer changed in 2022, and did not meet minimal credible coverage. (Appellant’s Testimony). The Appellant’s testimony, which I find credible that she paid ESI extra premiums including a buy up plan with the hospital indemnity plan, accident, and critical illness(bundled). See 956 CMR 12.05 and 45 CFR section 155.305 (f)(1)(ii)(B). Pursuant to 26 IRC section 36B and 45 CFR section 155.305(f), applicants are eligible for an Advanced Premium Tax Credit (APTC) if they meet qualifying income levels and other eligibility requirements. Massachusetts residents may also be eligible for additional state premium assistance through the Health Connector’s ConnectorCare program if: a) their household income does not exceed 300 percent of the Federal Poverty Level (FPL) and b) they are eligible for an APTC. 956 CMR 12.09(1). An applicant who has access to other qualifying health insurance, including insurance through an employer, will be blocked from eligibility for an APTC if the coverage is affordable and meets minimum value standards, as those terms are defined by the law. See 26 CFR section 1.36B-2(c)(3). Coverage for plan year 2022 is considered to be affordable if the employee’s contribution for an individual plan is 9.61 percent or less of the employee’s projected household modified adjusted income (MAGI). In this case, the Appellant had an adjusted gross income of \$273,658 in 2022 and the ESI premium was less than 9.61% of the employees MAGI. ESI was affordable. However, although the ESI was affordable, as referenced above, the coverage is not considered to meet minimum value standards. Appellant was advised and should note that if this issue has continued in 2023, they will have the same penalty issues and should be addressed with the Employer, and they should purchase MCC compliant insurance.

Based upon the facts summarized above, I find that where the Appellant ESI Insurer changed in 2022 and became non MCI compliant and they paid for ESI that did not meet minimum creditable coverage offered by the employer, purchased a buy up plan with the hospital indemnity plan, accident, and critical illness(bundled) at additional cost to further come in to compliance, they have met the intent and rationale for the mandate, and thus their circumstances prevented them from buying other insurance that met the requirements, they are not subject to a penalty within the meaning of 956 CMR 6.08 (2) and (3).

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

PENALTY ASSESSED

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

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

NOTIFICATION OF YOUR RIGHT TO APPEAL TO COURT

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

Cc: Connector Appeals Unit

Hearing Officer

ADDENDUM

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

Massachusetts Health Connector Appeals Unit

FINAL APPEAL DECISION: PA 22-987

Appeal Decision: The penalty is overturned in full.

Hearing Issue: Appeal of the 2022 Tax Year Penalty

Hearing Date: November 29, 2023

Decision Date: December 21, 2023

AUTHORITY

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

JURISDICTION

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

HEARING RECORD

The Appellant appeared at the hearing, which was held by telephone on November 29, 2023. The procedures to be followed during the hearing were reviewed with the Appellant who was then sworn in. Exhibits were marked and admitted in evidence with no objection from the Appellant. The Appellant testified.

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

Exhibit 1:	Appeal Case Information from Schedule HC.	(1 P).
Exhibit 2:	Statement of Grounds for Appeal 2022 Signed by Appellant on 4/8/2023.	(2 PP).
Exhibit 2(a):	2022 Penalty Worksheet/Form 1 and Schedule HC	(8 PP).
Exhibit 2(b)	Utilities Shutoff Notices and Outstanding Utilities Bills	(9 PP).
Exhibit 3:	Health Connector's Notice of Hearing dated 10/25/2021	(2 PP).

The record was left open until December 15, 2023, for the Appellant to submit evidence of utility payments. The Appellant submitted the following documents on December 18, 2024

Exhibit 4: Payment of utility.

The record shows, and I so find:

1. Appellant, single filing filed a 2022 Massachusetts tax return filed with a family size of 1, was age 27 a in 2022, lived in Essex County, and had zero (0) dependents. (Exhibit 1).
2. Appellants' Federal Adjusted Gross Income for 2022 was \$58,053. (Exhibit 1).

3. The Appellant testified that his weekly net pay was approximately \$750 a pay period (Appellant Testimony).
4. Appellant credibly testified he could not afford Employer Sponsored Insurance (ESI) of approximately \$240 per month because he was paying basic household expenses for a family member who was sick. (Appellant Testimony, Exhibit 1).
5. According to Table 3 Appellant could have afforded \$387.02 per month for health insurance in 2022. According to Table 4 Appellant could have purchased an individual plan insurance for \$277.00 per month. (See Tables 3 and 4 of Schedule HC 2022).
6. The Appellant would not have been eligible for ConnectorCare coverage in 2022 because the Appellant's income was more than 300% of the poverty level, which was \$38,640.00 for a family of (1). (See Table 2 of Schedule HC 2022).
7. The Appellant's monthly living expenses in 2022 included: Utilities \$ 325, Property Insurance \$ 300, Cable Internet: \$350, Car Insurance \$150, Gas/Transportation \$100, , totaling \$ 1,225. (Appellant's Testimony).
8. The Appellant had a \$1,400 for an overdue electric bill to avoid a shutoff (Appellant's Testimony, Exhibit 2, 2(a-c). (Appellant's Testimony, Exhibits 2(a), (b),4).
9. The Appellant's Family member was ill and not able to afford the above payments. (Appellant's Testimony).
10. The Appellant took his ill family member to medical appointments and was out of pocket. (Appellant's Testimony).
11. The Appellant's ill family member had to sell a vehicle to pay for basic monthly necessities. (Appellant's Testimony).
12. In addition to the foregoing, I take administrative notice of the 2022 Schedule HC Instructions and Worksheets, available at <http://www.mass.gov.dor/docs/dor/health-care/2022>, and in particular, Tables 1-6 which, as discussed below, include the Affordability Schedule and other financial information used in making 2022 individual mandate tax penalty determinations.

ANALYSIS AND CONCLUSIONS OF LAW

The issue on appeal is whether the tax penalty assessed by the Massachusetts Department of Revenue for 2022 should be waived, either in whole or in part. Appellant has been assessed a tax penalty for six (6) months in 2022. Appellant has appealed the penalty. (See Exhibits 1 and 2).

The Appellant adduced evidence at the hearing submitted a statement of grounds for appeal (Ex. 2) with the appeal and checked that during 2022 that the individual mandate did not apply to him because of receipt of a shutoff notice of essential utilities, incurred a significant unexpected increase in essential expenses resulting from the sudden responsibility of caring for a family member, and other hardship that

the expense of purchasing health insurance during 2022 would have caused him a deprivation of food and other necessities. (Exhibits 2, 2(a)-(c)) and Appellants' Testimony).

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

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

The evidence provided by the Appellant established that his income for 2022, \$58,053 was more than 300% of the federal poverty level, which for 2022 was \$38,640.00 for a family of one (1). According to Table 3 of Schedule HC for 2022, the Appellant could have afforded \$387.02 per month. According to Table 4, Appellant, age 27 in Essex County during the time he was being penalized for not having insurance, could have purchased an individual insurance plan for \$277 per month. Individual coverage was affordable through the individual market for the Appellant in 2022 (Schedule HC for 2022).

The next issue to consider is whether the Appellant had access to affordable employer health insurance ("ESI") in 2022. The Appellant credibly testified that he could not afford the ESI premiums of \$240 a month. (Appellant's Testimony, Exs. 2, 2(a-b)). Pursuant to 26 IRC section 36B and 45 CFR section 155.305(f), applicants are eligible for an Advanced Premium Tax Credit (APTC) if they meet qualifying income levels and other eligibility requirements. Massachusetts residents may also be eligible for additional state premium assistance through the Health Connector's ConnectorCare program if: a) their household income does not exceed 300 percent of the Federal Poverty Level (FPL) and b) they are eligible for an APTC. 956 CMR 12.09(1) An applicant who has access to other qualifying health insurance, including insurance through an employer, will be blocked from eligibility for an APTC if the coverage is affordable and meets minimum value standards, as those terms are defined by the law. See 26 CFR section 1.36B-2(c)(3). Coverage for plan year 2022 is considered to be affordable if the employee's contribution for an individual plan is 9.61 percent or less of the employee's projected household modified adjusted income (MAGI). The coverage is considered to meet minimum value standards if it has an actuarial value of at least 60 percent. In this case, as referenced above, the Appellant had access to affordable ESI. (Appellant's Testimony).

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

The Appellant's testified and provided corroborating evidence that the cost of purchasing insurance was a hardship due to shutoff of the utilities and being forced to make household payments for a sick family member. The Appellant credibly testified he incurred substantial out of pocket monthly expenses for assuming the utilities and other payments, in addition to his own basic necessity expenses, that would have resulted in and would have caused the Appellant to experience a financial hardship. 956 CMR 6.08 (1) (b),(d),(3),(e) & (3). Thus, the Appellant's assessed tax penalty of twelve (12) months is waived entirely for this reason also.

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

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

PENALTY ASSESSED

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

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

NOTIFICATION OF YOUR RIGHT TO APPEAL TO COURT

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

Cc: Connector Appeals Unit

Hearing Officer

ADDENDUM

If the Appellant still does not have health insurance, and if 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: PA22-990

Appeal Decision: The penalty is overturned in full.

Hearing Issue: Appeal of the 2022 Tax Year Penalty

Hearing Date: November 29, 2023

Decision Date: December 29, 2023

AUTHORITY

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

JURISDICTION

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

HEARING RECORD

The Appellant, (consisting of both spouses), appeared at the hearing, which was held by telephone on December 15, 2023. The procedures to be followed during the hearing were reviewed with the Appellant who was then sworn in. Exhibits were marked and admitted in evidence with no objection from the Appellant. The Appellant testified.

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

Exhibit 1:	Appeal Case Information from Schedule HC.	(1 P).
Exhibit 2:	Statement of Grounds for Appeal 2022 Signed by Appellant on 4/12/2023	(2 PP).
Exhibit 2(a):	Appellant's 2022 1095-C	(2 PP).
Exhibit 2(b):	Appellant's 2022 1099-HC	(2 PP).
Exhibit 2(c):	United Health Care Deductibles and Maximums	(2 PP).
Exhibit 3:	Health Connector's Notice of Hearing dated 10/25/2021	(2 PP).

The Record was left open until December 15, 2023, for the Appellant to submit additional documentation. including: Premium payments and benefits and deductible information. On November 30, 2023, the Appellant submitted the following:

- Exhibit 4: 2022 Employer Employee Benefits Guide.
- Exhibit 5: 2023 Employer Employee Benefits Guide.
- Exhibit 6: 5498-HSA showing total 2022 maximum contribution.

FINDINGS OF FACT

The record shows, and I so find:

1. The Appellant filed a 2022 Massachusetts tax return reported they were married, filing joint, had 0 dependents in 2022, lived in Hampden County, and had a family size of 2. (Exhibit 1, Testimony of Appellant).
2. The Appellant Husband worked full time and was enrolled in an employer sponsored insurance("ESI") in 2022. (Testimony of Appellant).

3. The Appellant testified they moved in December 2021 from Michigan, that his employer was a National Company headquartered in Minnesota, he was the only Massachusetts employee, and that his family was covered under the United Health Plan. (Appellant Testimony, Exhibits 2(a)-(c)).
4. The Appellant testified they paid additional premiums to reduce the amount of the deductible for a qualified Health Savings Account (HSA) in addition to premiums of approximately \$445 per month. (Testimony of Appellant).
5. The Appellant was enrolled in ESI beginning on January 1, 2022. (Exhibit 4).
6. The Appellant credibly testified that he did not realize the plan did not meet the meet minimal credible coverage (“MCC”) standards for Massachusetts residents until he did his taxes through Turbo Tax. (Testimony of Appellant, Exhibit 2(a)-(c)).
7. The Appellant credibly testified the plan meets the necessary coverage requirements, except the \$8,000 deductible is has an annual deductible above the Massachusetts limit. (Testimony of Appellant).
8. Appellant’s Federal Adjusted Gross Income for 2022 was \$155,333 (Exhibit 1).
9. Appellant has been assessed a tax penalty for twelve (12) months in 2022. The Appellant has appealed this assessment (Exhibits 1, 2).
10. According to Table 3 Appellant could have afforded \$1,035.55 per month for health insurance in 2022. According to Table 4 Appellant could have purchased insurance for \$931 per month.
11. In addition to the foregoing, I take administrative notice of the 2022 Schedule HC Instructions and Worksheets, available at <http://www.mass.gov/dor/docs/dor/health-care/2022>, and in particular, Tables 1-6 which, as discussed below, include the Affordability Schedule and other financial information used in making 2022 individual mandate tax penalty determinations.

ANALYSIS AND CONCLUSIONS OF LAW

The issue on appeal is whether the tax penalty assessed by the Massachusetts Department of Revenue for 2022 should be waived, either in whole or in part. Appellant has been assessed a tax penalty for twelve (12) months in 2022. Appellant has appealed the penalty. (See Exhibits 1 and 2).

The Appellant submitted grounds with their appeal that during 2022: they purchased health insurance that didn’t meet minimum creditable coverage standards because that is what the employer offered, and their circumstances prevented them from buying other insurance that met the requirements. (Exhibit 2).

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

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

NOTIFICATION OF YOUR RIGHT TO APPEAL TO COURT

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

Cc: Connector Appeals Unit

Hearing Officer

ADDENDUM

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

FINAL APPEAL DECISION: PA 22-1068

Appeal Decision: The penalty is overturned in full.

Hearing Issue: Appeal of the 2022 Tax Year Penalty

Hearing Date: December 14, 2023

Decision Date: December 21, 2023

AUTHORITY

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

JURISDICTION

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

HEARING RECORD

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

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

Exhibit 1:	Appeal Case Information from Schedule HC.	(1 P).
Exhibit 2:	Statement of Grounds for Appeal 2022 Signed by Appellant on 4/19/2023.	(2 PP).
Exhibit 2(a):	Appellant's 2022 Schedule HC	(2 PP).
Exhibit 3:	Health Connector's Notice of Hearing dated 11/16/2023	(2 PP).

The record was left open until December 29, 2023, for the Appellant to submit evidence of enrollment in her student' health plan.

The Appellant submitted the following documents on December 18, 2023.

Exhibit 4: Email regarding coverage with attachments including: Letter of Credible Coverage and Enrollment in Student Health Plan

The record shows, and I so find:

1. Appellant, single filing filed a 2022 Massachusetts tax return filed with a family size of 1, was age 28 a in 2022, lived in Hampshire County, and had zero (0) dependents. (Exhibit 1).
2. Appellants' Federal Adjusted Gross Income for 2022 was \$72,066. (Exhibit 1).
3. Appellant testified she was full time student in 2022 and had coverage through her university plan. (Appellant Testimony).
4. Appellant testified and provided documentation that she had health insurance coverage from her university plan for the period which she was being penalized. (Appellant Testimony, Exhibit 4).
5. Appellant testified she obtained Employer Sponsored Insurance (ESI) in October 2022. (Appellant Testimony, Exhibit 1).
6. According to Table 3 Appellant could have afforded \$480.44 per month for health insurance in 2022. According to Table 4 Appellant could have purchased an individual plan insurance for \$295.00 per month. (See Tables 3 and 4 of Schedule HC 2022).
7. The Appellant would not have been eligible for ConnectorCare coverage in 2022 because the Appellant's income was more than 300% of the poverty level, which was \$38,640.00 for a family of (1). (See Table 2 of Schedule HC 2022).
8. In addition to the foregoing, I take administrative notice of the 2022 Schedule HC Instructions and Worksheets, available at <http://www.mass.gov.dor/docs/dor/health-care/2022>, and in particular, Tables 1-6 which, as discussed below, include the Affordability Schedule and other financial information used in making 2022 individual mandate tax penalty determinations.

ANALYSIS AND CONCLUSIONS OF LAW

The issue on appeal is whether the tax penalty assessed by the Massachusetts Department of Revenue for 2022 should be waived, either in whole or in part. Appellant has been assessed a tax penalty for five (5) months in 2022. Appellant has appealed the penalty. (See Exhibits 1 and 2).

The Appellant adduced evidence at the hearing and submitted a statement of grounds for appeal (Ex. 2) with the appeal that during 2022 that the individual mandate did not apply to her because Other: she didn't had other coverage. (Exhibits 2, and Appellant Testimony).

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

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

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

The evidence provided by the Appellant established that his income for 2022, \$ 72,066 was more than 300% of the federal poverty level, which for 2022 was \$38,640.00 for a family of one (1). According to Table 3 of Schedule HC for 2022, the Appellant could have afforded \$480.40 per month. According to Table 4, Appellant, age 28 in Hampshire County during the time she was being penalized for not having insurance, could have purchased an individual insurance plan for \$295 per month. Individual coverage was affordable through the individual market for the Appellant in 2022 (Schedule HC for 2022).

The next issue to consider is whether the Appellant had access to affordable employer health insurance ("ESI") in 2022. The Appellant testified and provided documentation that she was a student and had coverage through her school until August 14, 2022, for the period which she was being penalized. (Appellant Testimony, Exhibit 4). Pursuant to 26 IRC section 36B and 45 CFR section 155.305(f), applicants are eligible for an Advanced Premium Tax Credit (APTC) if they meet qualifying income levels and other eligibility requirements. Massachusetts residents may also be eligible for additional state premium assistance through the Health Connector's ConnectorCare program if: a) their household income does not exceed 300 percent of the Federal Poverty Level (FPL) and b) they are eligible for an APTC. 956 CMR 12.09(1) An applicant who has access to other qualifying health insurance, including insurance through an employer, will be blocked from eligibility for an APTC if the coverage is affordable and meets minimum value standards, as those terms are defined by the law. See 26 CFR section 1.36B-2(c)(3). Coverage for plan year 2022 is considered to be affordable if the employee's contribution for an individual plan is 9.61 percent or less of the employee's projected household modified adjusted income (MAGI). The coverage is considered to meet minimum value standards if it has an actuarial value of at least 60 percent. In this case, as referenced above, the Appellant was not eligible for ESI where she was a student. (Appellant Testimony, Exhibits 4).

Based upon the facts summarized and on the totality of the evidence, I find that the Appellant had insurance through her school during the time she was being penalized in 2022, and that mandate has not been lost on the Appellant as she obtained ESI. Therefore, it is concluded that the Appellant's request for a waiver from the penalty is **approved** pursuant to 956 CMR 6.08(2)(c, d).

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

PENALTY ASSESSED

Number of Months Appealed: 5

Number of Months Assessed: 0

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

NOTIFICATION OF YOUR RIGHT TO APPEAL TO COURT

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

Cc: Connector Appeals Unit

Hearing Officer

ADDENDUM

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

Appeal Decision: The penalty is overturned in full.

Hearing Issue: Appeal of the 2022 Tax Year Penalty

Hearing Date: December 14, 2023

Decision Date: December 20, 2023

AUTHORITY

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

JURISDICTION

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

HEARING RECORD

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

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

Exhibit 1:	Appeal Case Information from Schedule HC.	“(1 P).
Exhibit 2:	Statement of Grounds for Appeal 2022 Signed by Appellant on 4/27/2023(2 PP).	
Exhibit 2(a):	Appellant's Statement in Support of Appeal	(2 PP).
Exhibit 2(b)	Denver Medicaid Card	(2 PP).
Exhibit 2(c)	Correspondence from the Health Connector (5/7/22)	(1 P).
Exhibit 2(d)	Correspondence from the Health Connector (6/2/22)	(1 P).
Exhibit 2(e)	Correspondence from the Commonwealth of Mass (6/2/22)	(1 P).
Exhibit 2(f)	MassGeneral Brigham Card	(1 P).
Exhibit 3:	Health Connector's Notice of Hearing dated 11/16/2023	(2 PP).

The record shows, and I so find:

1. Appellant, single filing filed a 2022 Massachusetts tax return filed with a family size of 1, was age 25 a in 2022, lived in Middlesex County, and had zero (0) dependents. (Exhibit 1).
2. Appellants' Federal Adjusted Gross Income for 2022 was \$47,007. (Exhibit 1).
3. Appellant testified he moved to Massachusetts from Denver in November 2021. (Appellant Testimony).
4. Appellant testified and provided documentation that he had health insurance coverage for part of the year from his Colorado plan for the period which he was being penalized. (Appellant Testimony, Exhibit 2(b)).

5. Appellant testified he attempted to obtain Employer Sponsored Insurance (ESI) but was unable to because of a waiting period and was unable to obtain ESI later in 2022 because he had to wait for open enrollment. (Appellant Testimony, Exhibit 1).
6. Appellant testified he attempted to obtain Connectorcare but was unable to enroll because of the following reasons: a request to submit documents, his income was too high, and he did not have a qualifying event and not able to enroll outside of open enrollment. (Appellant Testimony, Exhibits 2, 2(c)-(d)).
7. According to Table 3 Appellant could have afforded \$297.71 per month for health insurance in 2022. According to Table 4 Appellant could have purchased an individual plan insurance for \$277.00 per month. (See Tables 3 and 4 of Schedule HC 2022).
8. The Appellant would not have been eligible for ConnectorCare coverage in 2022 because the Appellant's income was more than 300% of the poverty level, which was \$38,640.00 for a family of (1). (See Table 2 of Schedule HC 2022).
9. The Appellant testified that his biweekly net pay was approximately \$36,000 annually, or \$3,000 a month. (Appellant's Testimony).
10. The Appellant's monthly living expenses in 2022 included: Rent \$1,200, Utilities \$110, Cell Phone \$50, Food \$350, Transportation \$50, Credit Cards \$850, totaling \$2,610. (Appellant's Testimony).
11. The Appellant obtained ESI in 2023 and is currently insured. (Appellant Testimony, Exhibit 2(f)).
12. In addition to the foregoing, I take administrative notice of the 2022 Schedule HC Instructions and Worksheets, available at <http://www.mass.gov.dor/docs/dor/health-care/2022>, and in particular, Tables 1-6 which, as discussed below, include the Affordability Schedule and other financial information used in making 2022 individual mandate tax penalty determinations.

ANALYSIS AND CONCLUSIONS OF LAW

The issue on appeal is whether the tax penalty assessed by the Massachusetts Department of Revenue for 2022 should be waived, either in whole or in part. Appellant has been assessed a tax penalty for twelve (12) months in 2022. Appellant has appealed the penalty. (See Exhibits 1 and 2).

The Appellant adduced evidence at the hearing and submitted a statement of grounds for appeal (Ex. 2) with the appeal that during 2022 that the individual mandate did not apply to his because Other: he was unable to obtain government sponsored insurance and had coverage. (Exhibits 2, and Appellant Testimony).

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

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

The evidence provided by the Appellant established that his income for 2022, \$47,007 was more than 300% of the federal poverty level, which for 2022 was \$38,640.00 for a family of one (1). According to Table 3 of Schedule HC for 2022, the Appellant could have afforded \$297.71 per month. According to Table 4, Appellant, age 25 in Middlesex County during the time he was being penalized for not having insurance, could have purchased an individual insurance plan for \$277 per month. Individual coverage was affordable through the individual market for the Appellant in 2022 (Schedule HC for 2022).

The next issue to consider is whether the Appellant had access to affordable employer health insurance (“ESI”) in 2022. The Appellant testified and provided documentation that he was not able to obtain ESI because of a waiting period and when he attempted to do so he could not enroll until the enrollment period beginning in 2023. (Appellant Testimony, Exhibit 2). Pursuant to 26 IRC section 36B and 45 CFR section 155.305(f), applicants are eligible for an Advanced Premium Tax Credit (APTC) if they meet qualifying income levels and other eligibility requirements. Massachusetts residents may also be eligible for additional state premium assistance through the Health Connector’s ConnectorCare program if: a) their household income does not exceed 300 percent of the Federal Poverty Level (FPL) and b) they are eligible for an APTC. 956 CMR 12.09(1) An applicant who has access to other qualifying health insurance, including insurance through an employer, will be blocked from eligibility for an APTC if the coverage is affordable and meets minimum value standards, as those terms are defined by the law. See 26 CFR section 1.36B-2(c)(3). Coverage for plan year 2022 is considered to be affordable if the employee’s contribution for an individual plan is 9.61 percent or less of the employee’s projected household modified adjusted income (MAGI). The coverage is considered to meet minimum value standards if it has an actuarial value of at least 60 percent. In this case, as referenced above, the Appellant was not eligible for ESI (Appellant Testimony, Exhibits 2(a)).

The Appellant’s adjusted gross income was \$47,027. His monthly net take home pay was approximately \$3,000. His monthly living expenses totaled \$2610 per month. (Appellant’s Testimony, see Pars. 9 and 10 above). Accordingly, I conclude that purchasing health insurance at the cost of \$297.71 in addition to his basic necessary living expenses during 2022, would have caused the Appellant to experience a financial hardship. 956 CMR 6.08 (1) (e) & (3). Accordingly, I conclude that purchasing health insurance during 2022, and his other circumstances regarding his attempts at applying for Connectorcare, waiting for and unsuccessful appeal, and based upon the facts summarized and on the totality of the evidence, it is concluded that the Appellant’s request for a waiver from the penalty is **approved**.

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

PENALTY ASSESSED

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

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

NOTIFICATION OF YOUR RIGHT TO APPEAL TO COURT

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

Cc: Connector Appeals Unit

Hearing Officer

ADDENDUM

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

FINAL APPEAL DECISION: PA 22-1075

Appeal Decision: The penalty is overturned in full.

Hearing Issue: Appeal of the 2022 Tax Year Penalty

Hearing Date: December 15, 2023

Decision Date: December 20, 2023

AUTHORITY

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

JURISDICTION

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

HEARING RECORD

The Appellant appeared at the hearing, which was held by telephone on December 15, 2023. The procedures to be followed during the hearing were reviewed with the Appellant who was then sworn in. Exhibits were marked and admitted in evidence with no objection from the Appellant. The Appellant testified.

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

Exhibit 1:	Appeal Case Information from Schedule HC.	(1 P).
Exhibit 2:	Statement of Grounds for Appeal 2022 Signed by Appellant on 4/20/2023	(2 PP).
Exhibit 2(a):	Certification of Family Member's Serious Health Condition	(3 PP).
Exhibit 3:	Health Connector's Notice of Hearing dated 11/16/2023	(2 PP).

The record shows, and I so find:

1. The Appellant, who filed a 2022 Massachusetts tax return filed single with a family size of 1, was age 27 in 2022, lived in Middlesex County, and had zero (0) dependents. (Exhibit 1).
2. The Appellant's Federal Adjusted Gross Income for 2022 was \$30,963. (Exhibit 1).
3. The Appellant testified that she had to leave her employment after taking 12 weeks of FMLA to care for a sick family member. (Appellant's Testimony).

4. The Appellant credibly testified that she was unable to afford to continue COBRA to continue her Employer Sponsored Insurance (ESI). (Appellant's Testimony).
5. The Appellant testified she did not investigate obtaining insurance as she was caring for a sick family member. (Appellant's Testimony, Exhibit 2(a)).
6. The Appellant testified that she incurred household expenses including costs associated with taking her family member to medical appointments and treatment. (Appellant's Testimony, Exhibits 2(a)).
7. The Appellant testified she was paying basic household expenses for a family member who needed a caretaker. (Appellant Testimony).
8. According to Table 3 Appellant could have afforded \$108.37 per month for health insurance in 2022. According to Table 4 Appellant could have purchased insurance for \$277.00 per month.
9. The Appellant would have been eligible for ConnectorCare coverage in 2022 because the Appellant's income was less than 300% of the poverty level, which was \$38,640.00. (See Table 2 of Schedule HC 2022, Appellant's Testimony).
10. In addition to the foregoing, I take administrative notice of the 2022 Schedule HC Instructions and Worksheets, available at <http://www.mass.gov.dor/docs/dor/health-care/2022>, and in particular, Tables 1-6 which, as discussed below, include the Affordability Schedule and other financial information used in making 2022 individual mandate tax penalty determinations.

ANALYSIS AND CONCLUSIONS OF LAW

The issue on appeal is whether the tax penalty assessed by the Massachusetts Department of Revenue for 2022 should be waived, either in whole or in part. The appellant has been assessed a tax penalty for five (5) months in 2022. Appellant has appealed the penalty. (See Exhibits 1 and 2).

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

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

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

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

The evidence provided by the Appellant established that her income for 2022, \$30,963 was less than 300% of the federal poverty level, which for 2022 was \$38,640.00 for a single person. According to Table 3 of Schedule HC for 2022, the Appellant could have afforded \$108.37 per month. According to Table 4, Appellant, age and living 27 living in Middlesex County during the time she was being penalized for not having insurance, could have purchased insurance for \$290 per month. Individual coverage was not affordable through the individual market for the Appellant in 2022 (Schedule HC for 2022).

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

Given that affordable government sponsored insurance was available to the Appellant, it must be determined if such insurance was not affordable to the Appellant because of a hardship as defined in 956 CMR 6.08(d)(3).

The Appellant was forced to leave her employment where she had ESI to care for her Mother. She did not have any income during that time and could not afford to pay for COBRA and subsequently Connectorcare. She also incurred expenses for taking care of her Mother to appointments and other household expenses. Moreover, the Appellant adduced corroborating evidence of Certification of Family Member's Serious Health Condition, and credible testimony regarding care of a family member contributing to the hardship which met the criteria under the regulations. (Appellant Testimony, Exhibit 2(a)). Accordingly, I conclude that given the above caretaking conditions, purchasing health insurance at

the cost of \$108.37, in addition to her basic monthly necessary living expenses during 2022, would have caused the Appellant to experience financial hardship. 956 CMR 6.08 (1) (b), (d),(3),(e) & (3). Thus, the Appellant's assessed tax penalty of five (5) months is waived entirely for these reasons.

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

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

PENALTY ASSESSED

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

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

NOTIFICATION OF YOUR RIGHT TO APPEAL TO COURT

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

Cc: Connector Appeals Unit

Hearing Officer

ADDENDUM

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

FINAL APPEAL DECISION: PA 22-1078

Appeal Decision: The penalty is overturned in full.

Hearing Issue: Appeal of the 2022 Tax Year Penalty

Hearing Date: December 15, 2023

Decision Date: December 20, 2023

AUTHORITY

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

JURISDICTION

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

HEARING RECORD

The Appellant appeared at the hearing, which was held by telephone on December 15, 2023. The procedures to be followed during the hearing were reviewed with the Appellant who was then sworn in. Exhibits were marked and admitted in evidence with no objection from the Appellant. The Appellant testified.

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

- Exhibit 1: Appeal Case Information from Schedule HC. (1 P).
- Exhibit 2: Statement of Grounds for Appeal 2022 Signed by Appellant on 4/27/23. (2 PP).
- Exhibit 2(a): Employer's Text regarding Benefits 6/4/2022 (1 P).
- Exhibit 2(b): Employer's Text regarding Benefits 6/7/2022 (1 P).
- Exhibit 3: Health Connector's Notice of Hearing dated 11/16/2023 (2 PP).

The record shows, and I so find:

1. Appellant, who filed a 2022 Massachusetts tax return filed single with a family size of 1, was age 32 in 2022, lived in Suffolk County, and had zero (0) dependents. (Exhibit 1).
2. Appellant's Federal Adjusted Gross Income for 2022 was \$53,192. (Exhibit 1).
3. Appellant credibly testified he moved to Massachusetts in August 2022 from Louisiana for a job in Massachusetts. (Exhibit 2, Appellant's Testimony).

4. Appellant credible testified he had health insurance through his Louisiana employer and that Louisiana did not have a mandate like Massachusetts. (Appellant's Testimony).
5. Appellant credibly testified he was offered Employer Sponsored Insurance as part of his new employment but that never materialized (Exhibit 2(a),(b), Appellant's Testimony).
6. Appellant was not familiar with the Connectorcare having recently moved and did not investigate obtaining insurance. (Appellant's Testimony).
7. According to Table 3 Appellant could have afforded \$354.61 per month for health insurance in 2022. According to Table 4 Appellant could have purchased insurance for \$290.00 per month.
8. The Appellant would not have been eligible for ConnectorCare coverage in 2022 because the Appellant's income was more than 300% of the poverty level, which was \$38,640.00. (See Table 2 of Schedule HC 2022, Appellant's Testimony).
9. The Appellant Employer never offered Employer Sponsored Insurance ("ESI"). (Exhibits 1, 2(a), (b), Appellant's Testimony).
10. The Appellant's monthly living expenses when he moved were substantial as he was promised lodging as part of his employment but this did not materialize and he was forced to incur boarding and travel expenses as he had to travel from North Conway to Massachusetts to work. in (Appellant's Testimony).
11. The Appellant testified his salary was \$80,000 (Appellant Testimony).
12. In addition to the foregoing, I take administrative notice of the 2022 Schedule HC Instructions and Worksheets, available at <http://www.mass.gov.dor/docs/dor/health-care/2022>, and in particular, Tables 1-6 which, as discussed below, include the Affordability Schedule and other financial information used in making 2022 individual mandate tax penalty determinations.

ANALYSIS AND CONCLUSIONS OF LAW

The issue on appeal is whether the tax penalty assessed by the Massachusetts Department of Revenue for 2022 should be waived, either in whole or in part. Appellant has been assessed a tax penalty for two (2) months in 2022. Appellant has appealed the penalty. (See Exhibits 1 and 2).

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

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

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

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

The evidence provided by the Appellant established that his income for 2022, \$53,192 was more than 300% of the federal poverty level, which for 2022 was \$38,640.00 for a single person. According to Table 3 of Schedule HC for 2022, the Appellant could have afforded \$354.61 per month. According to Table 4, Appellant, age and living 32 living in Suffolk County during the time he was being penalized for not having insurance, could have purchased insurance for \$290 per month. Individual coverage was affordable through the individual market for the Appellant in 2022 (Schedule HC for 2022).

The next issue to consider is whether the Appellant had access to affordable employer health insurance (“ESI”) in 2022. The Appellant testified that his employer never provided the Appellant with ESI based although he was promised same. (Exhibits 2(a), (b)). Pursuant to 26 IRC section 36B and 45 CFR section 155.305(f), applicants are eligible for an Advanced Premium Tax Credit (APTC) if they meet qualifying income levels and other eligibility requirements. Massachusetts residents may also be eligible for additional state premium assistance through the Health Connector’s ConnectorCare program if: a) their household income does not exceed 300 percent of the Federal Poverty Level (FPL) and b) they are eligible for an APTC. 956 CMR 12.09(1) An applicant who has access to other qualifying health insurance, including insurance through an employer, will be blocked from eligibility for an APTC if the coverage is affordable and meets minimum value standards, as those terms are defined by the law. See 26 CFR section 1.36B-2(c)(3). Coverage for plan year 2022 is considered to be affordable if the employee’s contribution for an individual plan is 9.61 percent or less of the employee’s projected household modified adjusted income (MAGI). 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. (Appellant’s Testimony).

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

The Appellant’s adjusted gross income was \$53,192. The Appellant’s credibly testified that his monthly living expenses when he moved were substantial as he was promised lodging as part of his employment,

but this did not materialize, and he was forced to incur boarding and travel expenses as he had to travel from North Conway to Massachusetts to work. (Appellant's Testimony). ESI was also not provided to the Appellant as promised. Accordingly, I conclude that purchasing health insurance during 2022 at \$354.61 per month, given and his other circumstances as based on the facts summarized and on the totality of the evidence, that the Appellant's request for a waiver from the penalty is **approved**.

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

PENALTY ASSESSED

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

NOTIFICATION OF YOUR RIGHT TO APPEAL TO COURT

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

Cc: Connector Appeals Unit

Hearing Officer

ADDENDUM

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

Massachusetts Health Connector Appeals Unit

FINAL APPEAL DECISION: PA 22-1227

Appeal Decision: The penalty is overturned in full.

Hearing Issue: Appeal of the 2022 Tax Year Penalty

Hearing Date: January 18, 2024

Decision Date: January 29, 2024

AUTHORITY

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

JURISDICTION

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

HEARING RECORD

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

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

Exhibit 1:	Appeal Case Information from Schedule HC.	(1 P).
Exhibit 2:	Statement of Grounds for Appeal 2022 Signed by Appellant on 5/15/2023.	(2 PP).
Exhibit 2(a):	Appellant's Statement in Support of Appeal	(1 P).
Exhibit 2(b):	Appellant's 2021 Installment Agreement Request	(1 P).
Exhibit 2 (c):	Lease Addendum Removal Request April, 2022	(1P).
Exhibit 2 (d):	Health Connector Status Terminated Notice	(1P).
Exhibit 3:	Health Connector's Notice of Hearing dated 12/7/2023	(2 PP).

The record shows, and I so find:

1. The Appellant, who filed a 2022 Massachusetts tax return filed single with a family size of 1, was age 27 in 2022, lived in Plymouth County, and had zero (0) dependents. (Exhibit 1).
2. The Appellant's Federal Adjusted Gross Income for 2022 was \$56,176. (Exhibit 1).
3. The Appellant testified that her weekly net pay was approximately \$800 a pay period. (Appellant's Testimony).

4. The Appellant credibly testified that she was not offered Employer Sponsored Insurance (ESI). (Appellant's Testimony, Exhibits 2(a)).
5. The Appellant testified that she had obtained Connectorcare but could not afford it and was discontinued given the cost of her basic monthly necessities. (Appellant's Testimony, Exhibits 2(a)).
6. According to Table 3 Appellant could have afforded \$374.51 per month for health insurance in 2022. According to Table 4 Appellant could have purchased insurance for \$364.00 per month.
7. The Appellant credibly testified she was required to relocate from a long-term living arrangement/ residence and had to move in with her family. (Testimony, Exhibit 2 (c.)).
8. The Appellant testified that she was in a tax repayment agreement in the amount of \$166 a month which she did not expect and resulted from an overpayment of tax credits related to her health insurance. (Testimony, Exhibit 2 (b.)).
9. The Appellant would not have been eligible for ConnectorCare coverage in 2022 because the Appellant's income was more than 300% of the poverty level, which was \$38,640.00. (See Table 2 of Schedule HC 2022, Appellant's Testimony).
10. The Appellant's monthly living expenses in 2022 through September included: Rent \$800, Food \$700, Car Insurance \$80, Car Payment \$250, Gas/Transportation \$400, Credit Cards \$300, Personal Loan \$391 (\$6,000-\$8,000 approximate balance), tax repayment: \$166, totaling \$3,087. (Appellant's Testimony).
11. In addition to the foregoing, I take administrative notice of the 2022 Schedule HC Instructions and Worksheets, available at <http://www.mass.gov.dor/docs/dor/health-care/2022>, and in particular, Tables 1-6 which, as discussed below, include the Affordability Schedule and other financial information used in making 2022 individual mandate tax penalty determinations.

ANALYSIS AND CONCLUSIONS OF LAW

The issue on appeal is whether the tax penalty assessed by the Massachusetts Department of Revenue for 2022 should be waived, either in whole or in part. Appellant has been assessed a tax penalty for twelve (12) months in 2022. Appellant has appealed the penalty. (See Exhibits 1 and 2).

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

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

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

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

The evidence provided by the Appellant established that her income for 2022, \$56,176 was more than 300% of the federal poverty level, which for 2022 was \$38,640.00 for a single person. According to Table 3 of Schedule HC for 2022, the Appellant could have afforded \$374.51 per month. According to Table 4, Appellant, age and living 45 living in Plymouth County during the time she was being penalized for not having insurance, could have purchased insurance for \$364 per month. Individual coverage was affordable through the individual market for the Appellant in 2022 (Schedule HC for 2022).

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

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

The Appellant credibly testified that she faced a hardship including a defacto eviction where she was in a long-term living arrangement that required she vacate the lease, and was forced to move with her family and incur expenses. In addition, she testified that she was in a repayment plan for taxes in addition to her other basic necessary monthly living expenses that precluded her from buying health insurance. Given the totality of the circumstances, I conclude that the Appellant purchasing health insurance at the cost of \$374.51, in addition to her basic monthly necessary living expenses during 2022, would have caused the

Appellant to experience financial hardship, and that there was other hardship. 956 CMR 6.08 (1), (a), (e) & (3). Thus, the Appellant's assessed tax penalty of twelve (12) months is waived entirely for this reason.

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

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

PENALTY ASSESSED

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

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

NOTIFICATION OF YOUR RIGHT TO APPEAL TO COURT

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

Cc: Connector Appeals Unit

Hearing Officer

ADDENDUM

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

Massachusetts Health Connector Appeals Unit

FINAL APPEAL DECISION: PA 22-1228

Appeal Decision: The penalty is overturned.

Hearing Issue: Appeal of the 2022 Tax Year Penalty

Hearing Date: January 18, 2024

Decision Date: January 29, 2024

AUTHORITY

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

JURISDICTION

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

HEARING RECORD

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

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

- Exhibit 1: Appeal Case Information from Schedule HC. (1 P).
- Exhibit 2: Statement of Grounds for Appeal 2022 Signed by Appellant on 5/5/2023. (2 PP).
- Exhibit 3: Health Connector's Notice of Hearing dated 12/7/2023 (2 PP).

The record shows, and I so find:

1. Appellant, who filed a 2022 Massachusetts tax return filed single with a family size of 1, was age 61 in 2022, lived in Essex County, and had zero (0) dependents. (Exhibit 1).
2. Appellant's Federal Adjusted Gross Income for 2022 was \$38,776. (Exhibit 1).
3. Appellant testified he was not offered Employer Sponsored Insurance ("ESI"). (Appellant's Testimony).
4. Appellant testified he looked into obtaining Connectorcare and public insurance in the past 4 or 5 years but finds it more economically efficient to pay for medical or dental services if needed rather than paying a premium and high deductible. (Appellant's Testimony).

5. The Appellant's testified that he made the decision not to purchase insurance from a third party and that there should be public health insurance. (Appellant's Testimony),
6. According to Table 3 Appellant could have afforded \$161.57 per month for health insurance in 2022. According to Table 4 Appellant could have purchased insurance for \$435.00 per month.
7. The Appellant would not have been eligible for ConnectorCare coverage in 2022 because the Appellant's income was slightly more than 300% of the poverty level, which was \$38,640.00. (See Table 2 of Schedule HC 2022, Appellant's Testimony).
8. The Appellant's testified he did not think he would meet the hardship requirements and that his monthly living expenses in 2022 included: Rent \$ 791(\$9,500/year), Car \$240, Car Insurance: \$115, Transportation Costs: \$120, Cell Phone: \$55, Food \$550, Dental Plan/Costs: \$200, totaling \$2,071. (Appellant's Testimony).
9. The Appellant testified that if he were penalized, he would not be able to pay and would not be far from homeless. (Appellant's Testimony).
10. In addition to the foregoing, I take administrative notice of the 2022 Schedule HC Instructions and Worksheets, available at <http://www.mass.gov.dor/docs/dor/health-care/2022>, and in particular, Tables 1-6 which, as discussed below, include the Affordability Schedule and other financial information used in making 2022 individual mandate tax penalty determinations.

ANALYSIS AND CONCLUSIONS OF LAW

The issue on appeal is whether the tax penalty assessed by the Massachusetts Department of Revenue for 2022 should be waived, either in whole or in part. Appellant has been assessed a tax penalty for twelve (12) months in 2022. Appellant has appealed the penalty. (See Exhibits 1 and 2).

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

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

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

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

The evidence provided by the Appellant established that his income for 2022, \$38,766 was slightly more than 300% of the federal poverty level, which for 2022 was \$38,640.00 for a single person. According to Table 3 of Schedule HC for 2022, the Appellant could have afforded \$161.57 per month. According to Table 4, Appellant, age and living 61 living in Essex County during the time he was being penalized for not having insurance, could have purchased insurance for \$435 per month. Individual coverage was not affordable through the individual market for the Appellant in 2022 (Schedule HC for 2022).

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

Given that ESI and government sponsored insurance was available, it is determined if such insurance was not affordable to the Appellant and there should be no penalty.

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

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

PENALTY ASSESSED

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

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

NOTIFICATION OF YOUR RIGHT TO APPEAL TO COURT

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

Cc: Connector Appeals Unit

Hearing Officer

ADDENDUM

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

FINAL APPEAL DECISION: PA22-1267

Appeal Decision: The penalty is overturned in full.

Hearing Issue: Appeal of the 2022 Tax Year Penalty

Hearing Date: January 25, 2024

Decision Date: January 30, 2024

AUTHORITY

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

JURISDICTION

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

HEARING RECORD

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

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

Exhibit 1:	Appeal Case Information from Schedule HC.	(1 P).
Exhibit 2:	Statement of Grounds for Appeal 2022 Signed by Appellant on 5/15/2023.	(2 PP).
Exhibit 2(a):	Appellant's Statement in Support of Appeal Signed by Appellant on 5/15/2023.	(2 PP).
Exhibit 2(b):	Appellant's Summary of 2022 and 2023 Insurance	(2 PP).
Exhibit 2 (c)	Emails between the Appellant and regarding Minimum Coverage	(1P).
Exhibit 3:	Health Connector's Notice of Hearing dated 12/12/2023	(2 PP).

FINDINGS OF FACT

The record shows, and I so find:

1. The Appellant filed a 2022 Massachusetts tax return reported they were married, filing joint, had 1 dependent in 2022, lived in Suffolk County, and had a family size of 3. (Exhibit 1, Testimony of Appellant).
2. The Appellant Spouse worked and was enrolled in an employer sponsored insurance("ESI") in 2022. (Testimony of Appellant).
3. The Appellant testified he moved in 2021 from Texas and that his employer and that he was the only Massachusetts employee, and that he was covered under the United Health Plan. (Appellant Testimony, Exhibits 2(a)-(c)).
4. The Appellant was enrolled in ESI 2022. (Exhibit 4).
5. The Appellant credibly testified that he did not realize the plan did not meet the meet minimal credible coverage ("MCC") standards for Massachusetts residents until he did his taxes in April 2023. (Testimony of Appellant, Exhibit 2(a)-(c)).

6. The Appellant testified the plan meets the necessary coverage requirements, except the deductible is has an annual deductible above the Massachusetts limit. (Testimony of Appellant, Exhibits 2(a)-(c)).
7. Appellant's Federal Adjusted Gross Income for 2022 was \$168,382 (Exhibit 1).
8. Appellant has been assessed a tax penalty for twelve (12) months in 2022. The Appellant has appealed this assessment (Exhibits 1, 2).
9. According to Table 3 Appellant could have afforded \$1,122.55 per month for health insurance in 2022. According to Table 4 Appellant could have purchased insurance (a family plan-although his spouse was Insured and not penalized) for \$766 per month.
10. In addition to the foregoing, I take administrative notice of the 2022 Schedule HC Instructions and Worksheets, available at <http://www.mass.gov.dor/docs/dor/health-care/2022>, and in particular, Tables 1-6 which, as discussed below, include the Affordability Schedule and other financial information used in making 2022 individual mandate tax penalty determinations.

ANALYSIS AND CONCLUSIONS OF LAW

The issue on appeal is whether the tax penalty assessed by the Massachusetts Department of Revenue for 2022 should be waived, either in whole or in part. Appellant has been assessed a tax penalty for twelve (12) months in 2022. Appellant has appealed the penalty. (See Exhibits 1 and 2).

The Appellant submitted grounds with his appeal that during 2022: he had health insurance that didn't meet minimum creditable coverage standards because that is what the employer offered, and their circumstances prevented them from buying other insurance that met the requirements. (Exhibit 2).

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

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

The evidence provided by the Appellant established that their income for 2022, \$168,382 was more than 300% of the federal poverty level, which for 2022 was \$65,880 for an individual with a family size of three (3). According to Table 3 of Schedule HC for 2022, the Appellant could have afforded \$1,122.55 per month. According to Table 4, Appellant, age 32, and with 1 dependent and living in Suffolk County during the time they were being penalized for not having insurance, could have purchased insurance for \$716.00 per month. Individual coverage was affordable through the individual market for the Appellant in 2022 (Schedule HC for 2022).

The next issue to consider is whether the Appellant had access to affordable employer health insurance (“ESI”). The Appellant credibly testified that health insurance was offered through his employer, but that same did not meet minimal credible coverage, and he found out when filing his taxes in 2023. (Appellant’s Testimony). I find credible the Appellant’s testimony that he found out on his own that the ESI did not meet minimum credible standards because the policy had deductibles in excess of allowed in Massachusetts. (Appellant’s Testimony, Exhibits 1, 2(a)-(c), 4-6). See 956 CMR 12.05 and 45 CFR section 155.305 (f)(1)(ii)(B). Pursuant to 26 IRC section 36B and 45 CFR section 155.305(f), applicants are eligible for an Advanced Premium Tax Credit (APTC) if they meet qualifying income levels and other eligibility requirements. Massachusetts residents may also be eligible for additional state premium assistance through the Health Connector’s ConnectorCare program if: a) their household income does not exceed 300 percent of the Federal Poverty Level (FPL) and b) they are eligible for an APTC. 956 CMR 12.09(1). An applicant who has access to other qualifying health insurance, including insurance through an employer, will be blocked from eligibility for an APTC if the coverage is affordable and meets minimum value standards, as those terms are defined by the law. See 26 CFR section 1.36B-2(c)(3). Coverage for plan year 2022 is considered to be affordable if the employee’s contribution for an individual plan is 9.61 percent or less of the employee’s projected household modified adjusted income (MAGI). In this case, the Appellant had an adjusted gross income of \$168,382 in 2022 and the ESI premium was less than 9.61% of the employees MAGI. ESI was affordable. However, although the ESI was affordable, as referenced above, the coverage is not considered to meet minimum value standards. Appellant was advised and should note that if this issue has continued in 2023, he will have the same penalty issues and should be addressed with the Employer, and he should purchase MCC compliant insurance.

Based upon the facts summarized above, I find that where the Appellant had recently moved to Massachusetts and did not know that he had ESI that did not meet minimum creditable coverage offered by his employer, and the coverage other than the higher deductible was MCC compliant, but was insured, their circumstances prevented them from buying other insurance that met the requirements, they are not subject to a penalty within the meaning of 956 CMR 6.08 (2) and (3).

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

PENALTY ASSESSED

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

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

NOTIFICATION OF YOUR RIGHT TO APPEAL TO COURT

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

Cc: Connector Appeals Unit Hearing Officer

ADDENDUM

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

Appeal Decision: The penalty is overturned in full.

Hearing Issue: Appeal of the 2022 Tax Year Penalty

Hearing Date: January 25, 2024

Decision Date: January 30, 2024

AUTHORITY

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

JURISDICTION

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

HEARING RECORD

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

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

Exhibit 1:	Appeal Case Information from Schedule HC.	(1 P).
Exhibit 2:	Statement of Grounds for Appeal 2022 Signed by Appellant on 5/17/2023.	(2 PP).
Exhibit 2(a):	Appellant's Statement in Support of Appeal	(2 PP).
Exhibit 3:	Health Connector's Notice of Hearing dated 12/12/2023	(2 PP).

The record shows, and I so find:

1. Appellant, filed a 2022 Massachusetts tax return filed with single, a family size of 1, was age 25 a in 2022, lived in Hampshire County, and had zero (0) dependents. (Exhibit 1).
2. Appellants' Federal Adjusted Gross Income for 2022 was \$30,506. (Exhibit 1).
3. Appellant testified began working on February 11, 2022 and at that time was new to the United States. (Appellant Testimony, Ex. 2(a)).
4. Appellant believed she would be enrolled in Employer Sponsored Insurance (ESI) and later found out there was a narrow time window for enrolling in ESI which she was not informed and missed. (Appellant Testimony, Exhibit 2(a)).
5. Appellant testified she investigated Connectorcare but was but found the technical jargon and the system difficult to maneuver. (Appellant Testimony, Exhibit 2(a)).

6. Appellant testified she found a Connector plan, but it did not go through (Appellant Testimony, Exhibit 2(a)).
7. According to Table 3 Appellant could have afforded \$106.77 per month for health insurance in 2022. According to Table 4 Appellant could have purchased an individual plan insurance for \$295.00 per month. (See Tables 3 and 4 of Schedule HC 2022).
8. The Appellant would have been eligible for ConnectorCare coverage in 2022 because the Appellant's income was less than 300% of the poverty level, which was \$38,640.00 for a family of (1). (See Table 2 of Schedule HC 2022).
9. The Appellant testified that rising costs of living for food, shelter and transportation, including but not limited to \$1,200 in rent, Food \$400, Car Insurance \$70, and other essential expenses left her with limited disposable income to allocate towards insurance purchases. (Appellant's Testimony).
10. The Appellant's testified she purchased a vehicle with her husband in 2022, as well as costs associated with maintaining the vehicle. (Appellant Testimony).
11. The Appellant is currently insured. (Appellant Testimony).
12. In addition to the foregoing, I take administrative notice of the 2022 Schedule HC Instructions and Worksheets, available at <http://www.mass.gov.dor/docs/dor/health-care/2022>, and in particular, Tables 1-6 which, as discussed below, include the Affordability Schedule and other financial information used in making 2022 individual mandate tax penalty determinations.

ANALYSIS AND CONCLUSIONS OF LAW

The issue on appeal is whether the tax penalty assessed by the Massachusetts Department of Revenue for 2022 should be waived, either in whole or in part. Appellant has been assessed a tax penalty for twelve (12) months in 2022. Appellant has appealed the penalty. (See Exhibits 1 and 2).

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

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 financial hardship. See 956 CMR 6.08.

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

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

The evidence provided by the Appellant established that his income for 2022, \$30,506 was less than 300% of the federal poverty level, which for 2022 was \$38,640.00 for a family of one (1). According to Table 3 of Schedule HC for 2022, the Appellant could have afforded \$106.77 per month. According to Table 4, Appellant, age 30 in Hampshire County during the time he was being penalized for not having insurance, could have purchased an individual insurance plan for \$295 per month. Individual coverage was not affordable through the individual market for the Appellant in 2022 (Schedule HC for 2022).

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

The Appellant’s adjusted gross income was \$30,506. Her monthly living expenses totaled \$1,670 and there were additional charges for the purchase of a vehicle and maintenance costs. (Appellant’s Testimony, see Pars. 9 and 10 above). Accordingly, I conclude that purchasing health insurance at the cost of \$106.77 in addition to her basic necessary living expenses during 2022, would have caused the Appellant to experience a financial hardship. 956 CMR 6.08 (1) (e) & (3). Accordingly, I conclude that purchasing health insurance during 2022, and her other circumstances regarding her attempts at applying for Connectorcare and based upon the facts summarized and on the totality of the evidence, it is concluded that the Appellant’s request for a waiver from the penalty is **approved**.

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

PENALTY ASSESSED

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

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

NOTIFICATION OF YOUR RIGHT TO APPEAL TO COURT

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

Cc: Connector Appeals Unit

Hearing Officer

ADDENDUM

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

Appeal Decision: The penalty is overturned in full.

Hearing Issue: Appeal of the 2022 Tax Year Penalty

Hearing Date: January 25, 2024

Decision Date: January 30, 2024

AUTHORITY

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

JURISDICTION

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HEARING RECORD

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

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

Exhibit 1:	Appeal Case Information from Schedule HC.	(1 P).
Exhibit 2:	Statement of Grounds for Appeal 2022 Signed by Appellant on 5/16/2023.	(2 PP).
Exhibit 2(a):	Appellant's Statement in Support of Appeal Signed by Appellant on 5/16/2023	(2 PP).
Exhibit 3:	Health Connector's Notice of Hearing dated 12/12/2023	(2 PP).

The record shows, and I so find:

1. Appellant, single filing filed a 2022 Massachusetts tax return filed with a family size of 1, was age 27 a in 2022, lived in Middlesex County, and had zero (0) dependents. (Exhibit 1).
2. Appellants' Federal Adjusted Gross Income for 2022 was \$49,189 (Exhibit 1).
3. Appellant testified he had coverage through his prior employer but could not afford COBRA. (Appellant Testimony, Ex. 2(a)).
4. Appellant started a new position in January 2022 but there were only two (2) employees and Employer Sponsored Insurance (ESI) was not offered. (Appellant Testimony, Exhibit 1).
5. Appellant testified he called HSA Insurance (which he had prior coverage under his mother's plan) but was informed open enrollment had ended.

6. Appellant did not know if that was Connectorcare and was not familiar with Connectorcare and was encouraged to contact Connectorcare as soon as possible to confirm he had minimum credible coverage.
7. Appellant attempted to obtain MassHealth but found out he was making too much money. (Appellant Testimony, Exhibit 2(a)).
8. According to Table 3 Appellant could have afforded \$311.53 per month for health insurance in 2022. According to Table 4 Appellant could have purchased an individual plan insurance for \$277.00 per month. (See Tables 3 and 4 of Schedule HC 2022).
9. The Appellant would not have been eligible for ConnectorCare coverage in 2022 because the Appellant's income was more than 300% of the poverty level, which was \$38,640.00 for a family of (1). (See Table 2 of Schedule HC 2022).
10. The Appellant testified that his weekly net pay was approximately \$800 a week, or \$3,200 a month. (Appellant's Testimony).
11. The Appellant's monthly living expenses in 2022 included: Rent \$400, Car: \$350, Car Insurance: \$100, Cell Phone \$90, Food \$420, Gas \$160, Credit Cards \$80, Vet Bills: \$300, totaling \$1,900. (Appellant's Testimony).
12. Appellant testified he was insured now in an HSA paying approximately \$300 a month but was encouraged to contact Connectore to obtain minimum credible coverage.
13. In addition to the foregoing, I take administrative notice of the 2022 Schedule HC Instructions and Worksheets, available at <http://www.mass.gov.dor/docs/dor/health-care/2022>, and in particular, Tables 1-6 which, as discussed below, include the Affordability Schedule and other financial information used in making 2022 individual mandate tax penalty determinations.

ANALYSIS AND CONCLUSIONS OF LAW

The issue on appeal is whether the tax penalty assessed by the Massachusetts Department of Revenue for 2022 should be waived, either in whole or in part. Appellant has been assessed a tax penalty for twelve (12) months in 2022. Appellant has appealed the penalty. (See Exhibits 1 and 2).

The Appellant adduced evidence at the hearing and submitted a statement of grounds for appeal (Ex. 2) with the appeal that during 2022 that the individual mandate did not apply to his because the expense of purchasing health insurance would have caused a serious deprivation of food, shelter, clothing, or other necessities. (Exhibit 2, and Appellant Testimony).

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

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

The evidence provided by the Appellant established that his income for 2022, \$49,189 was more than 300% of the federal poverty level, which for 2022 was \$38,640.00 for a family of one (1). According to Table 3 of Schedule HC for 2022, the Appellant could have afforded \$311.53 per month. According to Table 4, Appellant, age 27 in Middlesex County during the time he was being penalized for not having insurance, could have purchased an individual insurance plan for \$277 per month. Individual coverage was affordable through the individual market for the Appellant in 2022 (Schedule HC for 2022).

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

I conclude that purchasing health insurance during 2022, and his other circumstances in not being able to afford COBRA and his attempts at applying for what he thought was private insurance (and is currently paying) and based upon the facts summarized and on the totality of the evidence, that the Appellant’s request for a waiver from the penalty is **approved where he has met the criteria under 956 CMR 6.08 (1) (e) & (3).**

Appellant should note that any waiver granted here is for 2022 only and is based upon the specific facts I have found to be true and should not assume that the same determination will be made should Appellant be assessed a penalty in the future. **The appellant is encouraged to contact Connectore to confirm he is enrolled in minimum credible coverage.**

PENALTY ASSESSED

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

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

NOTIFICATION OF YOUR RIGHT TO APPEAL TO COURT

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

Cc: Connector Appeals Unit

Hearing Officer

ADDENDUM

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

Massachusetts Health Connector Appeals Unit

Tax Penalty Appeal Decision—Docket No. PA22-882

Appeal Decision: Appeal Approved -- 2022 tax penalty overturned.

Hearing Issue: Appeal of the 2022 Tax Year Penalty

Hearing Date: November 8, 2023

Decision Date: December 2, 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 Appellants (Husband and Wife) both 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 testimony under oath by both of the Appellants and the following documents that were admitted into evidence as exhibits.

1. DOR Appeal Case Information from Schedule HC (1 page);
2. Appellant's Statement of Grounds for Appeal – 2022);
3. Health Connector's Notice of Hearing (2 pages);
4. Appellants' Letter in Support of Appeal;
5. Husband's 2022 Form MA 1099-HC;
6. Insurer's (UMR) 2022 Summary of Medical Benefits (117 pages); and
7. Pennsylvania Court Order.

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 Appellants (Husband and Wife) appealed from the Department of Revenue's assessment of a penalty for 2022 on the Massachusetts Minimum Creditable Coverage ground. Exhibit 2 (ground 5) ("MCC").
2. In Exhibit 1, the DOR did not assess a penalty against the Wife but assessed a 12 month penalty against the Husband. The penalty assessment is supported by the DOR's statements for minimum creditable coverage (W – Yes; H – No) and Uninsured All Year (W – No; H – Yes). The Appellants also filed a 2022 Form MA 1099-HC prepared by the insurer (UMR) that confirms that the Husband did not have MCC in 2022. Exhibit 5. (The other person listed as a dependent on Exhibit 5 is the Husband's disabled child by a prior marriage, not the Wife.)
3. A complex set of factors underlies the 2022 tax penalty appeal. The Husband and Wife (by a second marriage) lived and worked in Massachusetts for a company (and its insurer) based in Kentucky. The Husband's disabled teenage daughter (by a first marriage) lives in Pennsylvania. The Husband is required by a Pennsylvania court order to provide health insurance for the daughter (who is not claimed as a dependent on the Appellants' 2022 Massachusetts income tax return). Testimony. See also Exhibit 4 and 7.
4. In order to comply with the Pennsylvania court order the Husband enrolled in the UMR health plan offered by his employer as principal insured and his daughter a dependent. Testimony and Exhibit 4, Exhibit 5, and Exhibit 7.
5. For 2001 – the prior year -- the Husband also enrolled in his employer's health plan with the daughter as dependent, but the health insurance coverage carried by the employer (Tufts) satisfied the MCC requirements. For 2022 -- the year at issue – the employer shifted its coverage to UMR, which did not meet the MCC requirements. Testimony and Exhibit 4. See also Exhibit 5.

6. Only about five employees at the Husband's employer are based in Massachusetts so the Appellant lacks bargaining power over the health insurance coverage obtained by his Kentucky-based employer. The Appellant does not know why the UMR coverage did not meet MCC requirements, but he filed a 117 page UMR summary of benefits in support of the appeal. Exhibit 8 and Testimony.
7. The Husband's choice of insurer is limited by the Pennsylvania court order. In order to provide health insurance for his under-aged daughter in Pennsylvania the Appellant himself must enroll as principal on the daughter's health insurance policy. Testimony and Exhibit 4. See also Exhibit 5 (2022 Form MA 1099-HC) and Exhibit 7 (court order).
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 2022 Massachusetts income tax return.
9. I take administrative notice of the financial information set forth in Tables 1 through 6 of the DOR 2022 Massachusetts Schedule HC Health Care Instructions and Worksheet. Tables 3 and 4 incorporate the affordability schedules adopted by the board of directors for the Commonwealth Health Insurance Connector Authority (Health Connector or Connector) for 2021. See 956 Code Mass. Regs. 6.05. Table 1 sets forth income levels less than 150% of the federal poverty level that are exempt from the assessment of a state tax penalty. Table 2 sets forth income eligibility standards for various family sizes at 300% of the federal poverty level, which is the income eligibility standard for the ConnectorCare government subsidized health insurance program. Tables 5 and 6 set forth the tax penalties in effect for 2022. (The DOR instructions are published online at <http://www.mass.gov/dor/2022ScheduleHCInstructions> and are also available in the state income tax forms supplied to taxpayers. See also DOR Technical Information Release (TIR) 12-7: Individual Mandate Penalties for Tax Year 2022.)

ANALYSIS AND CONCLUSIONS OF LAW

The case is before me on the Appellants' appeal from the state Department of Revenue's (DOR) assessment of a 12 month tax penalty because the UMR health

insurance for the Husband did not meet the Massachusetts Minimum Creditable Coverage requirements (“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 – 2022 that the Appellant signed and filed in this case. See Exhibit 2.

To begin, it is helpful to note what is not at issue in this tax penalty appeal. First, as set forth by the Massachusetts Department of Revenue (DOR) in Exhibit 1, the Wife was insured all year with health insurance coverage that satisfied the Massachusetts Minimum Creditable Coverage standards (“MCC”). Consequently, the DOR did not assess a penalty against the Wife. Second, the Husband was also insured all twelve months in 2022 under the UMR health insurance plan provided by his Kentucky employer as a job benefit. Nevertheless, the DOR assessed a 12 month penalty against the Husband because his health insurance did not meet the MCC requirements, though the exact reason is not identified by the DOR in Exhibit 1.

The Statement of Grounds for Appeal – a pre-printed form that the Appellants filed to initiate this appeal – provides a helpful guidepost for this unusual appeal. It states: “During 2022, you purchased health insurance that did not meet minimum creditable coverage standards because that is what your employer offered, and you felt that your circumstances prevented you from buying other insurance that met the requirements.”

The analysis begins with the Husband’s employer based in Kentucky. In the prior year the employer provided a health insurance plan that satisfied the MCC standards. For 2022, however, the employer shifted its coverage to UMR that did not meet all the MCC standards. The choice was not made by the Husband.

The Pennsylvania court order further constrained the Husband’s options. He was required to purchase health insurance for his disabled teenage daughter who lived with her mother in Pennsylvania. In order to comply, the Husband had to purchase health insurance with himself as the principal insured and his daughter as dependent insured. Effectively, as the Husband saw it, his only other choice was to purchase two health insurance policies: one in Pennsylvania that did not satisfy MCC in order to cover his daughter and a second policy in Massachusetts that did satisfy MCC in order to cover himself.

The next step is to consider the MCC regulations adopted by the Health Connector. In support of their appeal the Appellants filed a lengthy (117 page) summary of the UMR health insurance benefits that the Husband was enrolled in for 2022. Without pinpointing the exact reason – which is not identified by the DOR – why the UMR policy does not meet the Health Connector’s detailed requirements, it is evident the Husband had available a “broad range of medical benefits” that “substantially met” MCC standards. 956 Code Mass. Regs. sec. 5.03 (1) (a) and 6.08 (2) (d). The Health Connector’s affordability concern also weighs in the Husband’s favor. See Mass. Gen. Law, c. 111M, sec. 2 (a), above.

After considering all the circumstances, I conclude that it is appropriate to waive the entire penalty assessed against the Appellants for 2022.

PENALTY ASSESSED

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

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

OR

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

NOTIFICATION OF YOUR RIGHT TO APPEAL TO COURT

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

Hearing Officer

Cc: Massachusetts Health Connector Appeals Unit

Massachusetts Health Connector Appeals Unit

Tax Penalty Appeal Decision—Docket No. PA22- 1003

Appeal Decision: Appeal Approved -- 2022 tax penalty overturned.

Hearing Issue: Appeal of the 2022 Tax Year Penalty

Hearing Date: December 5, 2023

Decision Date: December 6, 2023

AUTHORITY

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

JURISDICTION

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

HEARING RECORD

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

1. DOR Appeal Case Information from Schedule HC (1 page);
2. Appellant’s Statement of Grounds for Appeal – 2022);
3. Health Connector’s Notice of Hearing (2 pages); and
4. Appellant’s Letter in Support of Appeal (1 page).

FINDINGS OF FACT

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

1. The Appellant appealed from the Department of Revenue's assessment of a 12 month penalty for 2022. The basis for the penalty was that the Appellant was not insured at any time in 2022. Exhibits 1 and 2. Based on Exhibit 1 and the Appellant's hearing testimony, I find that the penalty assessment is accurate. See also Exhibit 4.
2. The Appellant filed a Massachusetts personal income tax return for 2022 as a single person with no dependents. The Appellant's federal adjusted gross income (AGI) for 2022 was \$40,701. Exhibit 1.
3. The Appellant's 2022 AGI (\$ 40,701) was more than 300% of the federal poverty level (\$38,640 for a one-person household). DOR Table 2. On this basis I infer that it is likely that the Appellant would not satisfy the financial eligibility requirements for government-subsidized health insurance.
4. Based on DOR Table 3 the Appellant could afford to pay 7.45% of his income -- or \$253 per month -- for health insurance coverage in 2022. (The calculation is 7.45% multiplied by \$40,701 AGI = \$3,032.22 per year divided by 12 months = \$ 252.65 per month.)
5. Based on DOR Table 4 (Region 2) the Appellant could obtain individual health insurance coverage at his age (less than 30 years) and location (Plymouth County) for \$ 277 per month in 2022. See Exhibit 1.
6. The Appellant was previously insured by MassHealth, but he was not aware that his coverage would lapse when he was 19 years old. Consequently, the Appellant was not insured in 2022 -- the year at issue in this appeal -- until he was again eligible to enroll in a health plan. Exhibit 4 and Testimony.
7. The Appellant enrolled in a health plan offered by his employer as a job benefit with coverage beginning in 2023. Exhibit 4 and Testimony.
8. The Appellant represents that he will not allow his health insurance to lapse again. Exhibit 4 and Testimony. (I add a note that the Appellant needs to familiarize himself with the open enrollment periods for his employer/insurer. For many, including the Health Connector, that period is now and requires action by the Appellant.)

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 2022 Massachusetts income tax return.

10. I take administrative notice of the financial information set forth in Tables 1 through 6 of the DOR 2022 Massachusetts Schedule HC Health Care Instructions and Worksheet. Tables 3 and 4 incorporate the affordability schedules adopted by the board of directors for the Commonwealth Health Insurance Connector Authority (Health Connector or Connector) for 2021. See 956 Code Mass. Regs. 6.05. Table 1 sets forth income levels less than 150% of the federal poverty level that are exempt from the assessment of a state tax penalty. Table 2 sets forth income eligibility standards for various family sizes at 300% of the federal poverty level, which is the income eligibility standard for the ConnectorCare government subsidized health insurance program. Tables 5 and 6 set forth the tax penalties in effect for 2022. (The DOR instructions are published online at <http://www.mass.gov/dor/2022ScheduleHCInstructions> and are also available in the state income tax forms supplied to taxpayers. See also DOR Technical Information Release (TIR) 12-7: Individual Mandate Penalties for Tax Year 2022.)

ANALYSIS AND CONCLUSIONS OF LAW

The case is before me on the Appellant's appeal from the state Department of Revenue's (DOR) assessment of a 12 month tax penalty because the Appellant did not have health insurance coverage in 2022. See Exhibits 1 and 2. The issue to be decided is whether the penalty should be waived, either in whole or in part.

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

creditable coverage standards (“MCC”) in order to avoid the penalty. Mass. Gen. Laws c. 111M, sec. 2(b). See also 956 Code Mass Regs. 501 and 5.03.

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

The Health Connector’s regulations also provide for a “hardship” appeal from the assessment of a penalty. 956 Code Mass. Regs. 6.07 and 6.08. The grounds for a hardship appeal are summarized in the Statement of Grounds for Appeal – 2022 that the Appellant signed and filed in this case. See Exhibit 2.

In this case, I credit the Appellant’s assertion in Exhibit 4 and in his appeal hearing testimony that he was not aware that his MassHealth coverage lapsed at his nineteen birthday. Since the Appellant had not taken affirmative steps to locate new health insurance coverage after his birthday, he was uninsured in 2022 and the DOR issued a 12 month penalty assessment. The Appellant subsequently enrolled in a health plan offered by his employer with coverage starting in 2023.

In 2022 the objective affordability standards that appear in DOR Tables 3 and 4 demonstrate that the Appellant could not afford health insurance in 2022. Based on his income the Appellant could afford to pay \$253 per month but health insurance would cost \$277 per month. See Findings of Fact, Nos. 7 and 8, above. It does not appear that the Appellant would have qualified for government-subsidized health insurance if he had submitted an application for 2022 after his MassHealth coverage lapsed. See Findings of Fact, No. 6, above.

After considering all the circumstances, I conclude that it is appropriate to waive the entire penalty assessed against the Appellant for 2022. 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.”).

PENALTY ASSESSED

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

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

OR

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

NOTIFICATION OF YOUR RIGHT TO APPEAL TO COURT

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

Hearing Officer

Cc: Massachusetts Health Connector Appeals Unit

Massachusetts Health Connector Appeals Unit

Tax Penalty Appeal Decision—Docket No. PA22- 1006

Appeal Decision: Appeal Approved -- 2022 tax penalty overturned.

Hearing Issue: Appeal of the 2022 Tax Year Penalty

Hearing Date: December 5, 2023

Decision Date: December 8, 2023

AUTHORITY

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

JURISDICTION

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

HEARING RECORD

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

1. DOR Appeal Case Information from Schedule HC (1 page);
2. Appellant's Statement of Grounds for Appeal – 2022);
3. Health Connector's Notice of Hearing (2 pages);
4. Appellant's Letter in Support of Appeal (1 page);
5. Appellant's Rental Agreement (dated 8/13/22);
6. Appellant's Electric Utility Bill (dated Feb/March 2023); and
7. Appellant's Earnings Statement (dated 3/14/23).

FINDINGS OF FACT

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

1. The Appellant appealed from the Department of Revenue's assessment of a 12 month penalty for 2022. The basis for the penalty was that the Appellant was not insured at any time in 2022. Exhibits 1 and 2. Based on Exhibit 1 and the Appellant's hearing testimony, I find that the penalty assessment is accurate.
2. The Appellant filed a Massachusetts personal income tax return for 2022 as a single person with no dependents. The Appellant's federal adjusted gross income (AGI) for 2022 was \$30,406. Exhibit 1.
3. The Appellant was 30 years old at the beginning of 2022 and resided in [name of city or town omitted] in Essex County, Massachusetts. Exhibit 1.
4. The Appellant's 2022 AGI (\$30,406) was less than 300% of the federal poverty level (\$38,640 for a one-person household). DOR Table 2. On this basis I infer that it is likely that the Appellant would satisfy the financial eligibility requirements for government-subsidized health insurance.
5. Based on DOR Table 3 the Appellant could afford to pay 4.20% of his income -- or \$106 per month -- for health insurance coverage in 2022. (The calculation is 4.20% multiplied by \$30,406 AGI = \$1,277.05 per year divided by 12 months = \$106.42 per month.)
6. Based on DOR Table 4 (Region 2) the Appellant could obtain individual health insurance coverage at his age and location for \$277 per month in 2022.
7. Based on all the evidence in the hearing record, I accept the Appellant's statement in his supporting letter that he "would not have enough [income] for food so I cannot afford medical." (Exhibit 4). The Appellant documented the following bills, while stating that he was too short of time to present a more complete record: \$1,750 per month rent (Exhibit 5); \$180 per month electricity (Exhibit 6); and \$20 per hour wages (Exhibit 7). I recognize, however, that the Appellant might have qualified for government-subsidized health insurance that would have been

affordable if he had submitted an application to the Health Connector. See Findings of Fact, No. 4, above. **(See my RECOMMENDATION below.)**

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 2022 Massachusetts income tax return.

9. I take administrative notice of the financial information set forth in Tables 1 through 6 of the DOR 2022 Massachusetts Schedule HC Health Care Instructions and Worksheet. Tables 3 and 4 incorporate the affordability schedules adopted by the board of directors for the Commonwealth Health Insurance Connector Authority (Health Connector or Connector) for 2021. See 956 Code Mass. Regs. 6.05. Table 1 sets forth income levels less than 150% of the federal poverty level that are exempt from the assessment of a state tax penalty. Table 2 sets forth income eligibility standards for various family sizes at 300% of the federal poverty level, which is the income eligibility standard for the ConnectorCare government subsidized health insurance program. Tables 5 and 6 set forth the tax penalties in effect for 2022. (The DOR instructions are published online at <http://www.mass.gov/dor/2022ScheduleHCInstructions> and are also available in the state income tax forms supplied to taxpayers. See also DOR Technical Information Release (TIR) 12-7: Individual Mandate Penalties for Tax Year 2022.)

ANALYSIS AND CONCLUSIONS OF LAW

The case is before me on the Appellant's appeal from the state Department of Revenue's (DOR) assessment of a 12 month tax penalty because the Appellant did not have health insurance coverage in 2022. See Exhibits 1 and 2. The issue to be decided is whether the penalty should be waived, either in whole or in part.

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

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

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

The Health Connector’s regulations also provide for a “hardship” appeal from the assessment of a penalty. 956 Code Mass. Regs. 6.07 and 6.08. The grounds for a hardship appeal are summarized in the Statement of Grounds for Appeal – 2022 that the Appellant signed and filed in this case. See Exhibit 2.

In this case, the objective affordability standards set forth in DOR Table 3 and DOR Table 4 demonstrate that the Appellant could not afford health insurance based on his 2020 income (\$30,406 AGI). The Appellant could afford to pay \$106 per month for health insurance but at his age and location that insurance would cost \$277 per month. See Findings of Fact, Nos. 5 and 6, above. See, e.g., 956 Code Mass. Regs. 6.08 (1) (3).

The affordability equation might well have been altered if the Appellant had submitted an application to the Health Connector for 2020 to see if he would have qualified for a government subsidy that would have provided affordable insurance. For 2022 I will waive the entire the penalty assessed by the DOR in the expectation that the Appellant will promptly submit an application to the Health Connector for 2024 health insurance coverage based on updated information about the Appellant’s circumstances.

RECOMMENDATION. Since your appeal is based on 2022 information I am not aware of your financial situation and health insurance status for the year that is just ending (2023) or the year about to begin (2024). What I can say is that the Health Connector is now in the midst of its open enrollment period where you can apply for health insurance that will take effect next month (January 2024) and that you need to act right away.

You can obtain more information – including the open enrollment deadlines – and submit an application on the Health Connector’s website at www.mahealthconnector.org or by calling Customer Service at 1-877-623-6765. If you wish you can also get help from Health Care For All, a private, non-profit organization that is separate from the government. You can call the free consumer helpline at 1-800-272-4232 or use the website at www.hcfama.org.

PENALTY ASSESSED

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

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

OR

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

NOTIFICATION OF YOUR RIGHT TO APPEAL TO COURT

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

Hearing Officer

Cc: Massachusetts Health Connector Appeals Unit

Massachusetts Health Connector Appeals Unit

Tax Penalty Appeal Decision—Docket No. PA22- 1009

Appeal Decision: Appeal Approved -- 2022 tax penalty overturned.

Hearing Issue: Appeal of the 2022 Tax Year Penalty

Hearing Date: December 5, 2023

Decision Date: December 8, 2023

AUTHORITY

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

JURISDICTION

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

HEARING RECORD

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

1. DOR Appeal Case Information from Schedule HC (1 page);
2. Appellant’s Statement of Grounds for Appeal – 2022);
3. Health Connector’s Notice of Hearing (2 pages);
4. 2019 Tax Penalty Appeal Decision (PA19-921) (dated 12/16/20, submitted by Health Connector); and
5. 2020 Tax Penalty Appeal Decision (PA20-820) (dated 11/24/21, submitted by Health Connector).

FINDINGS OF FACT

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

1. The Appellant appealed from the Department of Revenue's assessment of a 12 month penalty for 2022. The basis for the penalty was that the Appellant was not insured at any time in 2022. Exhibits 1 and 2. Based on Exhibit 1 and the Appellant's hearing testimony, I find that the penalty assessment is accurate.
2. The Appellant did not submit any written information to support his appeal in advance of the December 5, 2023, appeal hearing date. See Exhibit 2.
3. The Appellant filed a Massachusetts personal income tax return for 2022 as a single person with no dependents. The Appellant's federal adjusted gross income (AGI) for 2022 was \$34,389. Exhibit 1.
4. The Appellant was 50 years old at the beginning of 2022 and resided in [name of city or town omitted] in Middlesex County, Massachusetts. Exhibit 1.
5. The Appellant's 2022 AGI (\$34,389) was less than 300% of the federal poverty level (\$38,640 for a one-person household). DOR Table 2. On this basis I infer that it is likely that the Appellant would satisfy the financial eligibility requirements for government-subsidized health insurance.
6. Based on DOR Table 3 the Appellant could afford to pay 5.00 % of his income -- or \$143 per month -- for health insurance coverage in 2022. (The calculation is 5.00 % multiplied by \$34,389 AGI = \$1,719.45 per year divided by 12 months = \$143.28 per month.)
7. Based on DOR Table 4 (Region 2) the Appellant could obtain individual health insurance coverage at his age and location for \$452 per month in 2022.
8. The Appellant successfully filed appeals from DOR penalty assessments for 2019 (Exhibit 4) and 2020 (Exhibit 5). For 2019 a prior hearing officer waived the entire 4 month penalty assessment based on \$40,040 annual income. For 2020, a hearing officer waived the entire 12 month penalty assessment based on \$24,196 annual

income. The coronavirus pandemic (COVID-19) led to the Appellant's job loss in 2020. (There is no record of a 2021 penalty hearing appeal. See Exhibit 1.)

9. The Appellant recently (3 weeks ago) started a new job as a teacher in a childcare facility. The Appellant's understanding is that he will be offered an opportunity to enroll in his new employer's health plan, though I found his explanation of the details in his testimony was imprecise. Testimony.
10. The Appellant's living expenses in 2022 include \$1,500 per month for rent, \$250 per month for utilities, \$349 per month for car loan, and \$110 per month for car insurance. The Appellant uses a debit card and does not have credit card debt. Testimony.
11. The Appellant states that he had been distracted by his brother-in-law's death, but that he will enroll in health insurance for 2024 if given another opportunity on this penalty appeal. The hearing officer in the Appellant's 2020 appeal pointed the Appellant to the Health Connector's open enrollment period in an Addendum that might have led to health insurance coverage in 2021. Testimony and Exhibit 5.
12. Except as set forth in the foregoing findings of fact, I adopt the facts set forth in Exhibit 1 as my own findings of fact. Exhibit 1 is a computer printout prepared by the Massachusetts Department of Revenue (DOR) that extracts information submitted by the Appellant on Schedule HC as part of the Appellant's 2022 Massachusetts income tax return.
13. I take administrative notice of the financial information set forth in Tables 1 through 6 of the DOR 2022 Massachusetts Schedule HC Health Care Instructions and Worksheet. Tables 3 and 4 incorporate the affordability schedules adopted by the board of directors for the Commonwealth Health Insurance Connector Authority (Health Connector or Connector) for 2021. See 956 Code Mass. Regs. 6.05. Table 1 sets forth income levels less than 150% of the federal poverty level that are exempt from the assessment of a state tax penalty. Table 2 sets forth income eligibility standards for various family sizes at 300% of the federal poverty level, which is the income eligibility standard for the ConnectorCare government subsidized health insurance program. Tables 5 and 6 set forth the tax penalties in effect for 2022. (The DOR instructions are published online at <http://www.mass.gov/dor/2022ScheduleHCInstructions> and are also available in

the state income tax forms supplied to taxpayers. See also DOR Technical Information Release (TIR) 12-7: Individual Mandate Penalties for Tax Year 2022.)

ANALYSIS AND CONCLUSIONS OF LAW

The case is before me on the Appellant’s appeal from the state Department of Revenue’s (DOR) assessment of a 12 month tax penalty because the Appellant did not have health insurance coverage in 2022. See Exhibits 1 and 2. The issue to be decided is whether the penalty should be waived, either in whole or in part.

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

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

The Health Connector’s regulations also provide for a “hardship” appeal from the assessment of a penalty. 956 Code Mass. Regs. 6.07 and 6.08. The grounds for a hardship appeal are summarized in the Statement of Grounds for Appeal – 2022 that the Appellant signed and filed in this case. See Exhibit 2.

The Appellant presents a weak case in his appeal, essentially seeking mercy on the payment of a tax penalty because he has not taken steps to enroll in health insurance.

The Appellant's income peaked at \$40,040 in 2019. In 2019, 2020 and 2022 – the year at issue in this appeal – the Appellant's income was less than 300% of the Federal Poverty Level (there is no information in the hearing record for 2021). At that income level the Appellant could not afford health insurance. Under the objective affordability standards for 2022 that are set forth in DOR Table 3 and DOR Table 4 the Appellant could afford to pay \$143 per month for health insurance that would cost \$452 per month at the Appellant's age and location. See Findings of Fact, Nos. 6 and 7, above.

What the Appellant appears to miss is that at his income level, it is likely that he would qualify for a government subsidy to help him obtain health insurance. See Findings of Fact, No. 5, above (DOR Table 2). But the Appellant must act in order to obtain the subsidy by filing an application with the Health Connector and obtaining an eligibility determination.

After considering the circumstances I have somewhat reluctantly decided to waive the entire penalty that the DOR assessed for 2022. See, e.g., 956 Code Mass. Regs. 6.08 (1) (e). I do this in light of the fact that the Appellant obtained a new job only three weeks before the appeal hearing in this case. This gives the Appellant an immediate opportunity to enroll in his new employer's health plan for coverage in 2024. And since the Appellant will receive this decision in the mail in December he also has an opportunity to submit an application to the Health Connector for 2024 coverage. The Appellant should not assume that my decision to waive the 2022 penalty assessment means that hearing officers will continue to waive penalties on appeal in future years. **See my RECOMMENDATION below.**

RECOMMENDATION. Right now you have two opportunities to obtain health insurance coverage for this coming year (2024) and avoid penalty assessments for 2024.

You described the first opportunity during the appeal hearing, which is to enroll in health insurance coverage that you believe your new employer offers as a job benefit. You need to immediately speak to your new employer to make sure that this opportunity is available, what the deadlines are, how much it will cost, and what steps you must take to enroll.

The Health Connector is a second option. You could submit an application as a backup option in case coverage through your new employer does not work out. Or you might compare the terms of the health insurance policies and decide which option works

best for you. You need to act promptly when you receive this decision because the Health Connector is currently in its “open enrollment” period when you can sign up for coverage starting in 2024.

You can get more information and file an application using the Health Connector’s website at www.mahealthconnector.org or by calling Customer Service at 1-877-623-6754.

One other option is to use the services of Health Care For All, a private, non-profit organization that is separate from the government. You can use the free consumer helpline by calling 1-800-272-4232 or using the website at www.hcfama.org.

PENALTY ASSESSED

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

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

OR

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

NOTIFICATION OF YOUR RIGHT TO APPEAL TO COURT

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

Hearing Officer

Cc: Massachusetts Health Connector Appeals Unit

Massachusetts Health Connector Appeals Unit

Tax Penalty Appeal Decision—Docket No. PA22- 1035

Appeal Decision: Appeal Approved -- 2022 tax penalty overturned.

Hearing Issue: Appeal of the 2022 Tax Year Penalty

Hearing Date: December 13, 2023

Decision Date: December 28, 2023

AUTHORITY

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

JURISDICTION

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

HEARING RECORD

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

1. DOR Appeal Case Information from Schedule HC (1 page);
2. Appellant’s Statement of Grounds for Appeal – 2022);
3. Health Connector’s Notice of Hearing (2 pages);
4. 2022 IRS Form W-2;
5. 2022 IRS Form W-2;
6. 2022 IRS Form W-2 (public school system); and
7. 2022 IRS Form W-2.

FINDINGS OF FACT

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

1. The Appellant appealed from the Department of Revenue's assessment of a 3 month penalty for 2022. The basis for the penalty was that the Appellant was insured for the months of June, July and December (3 months) and was not insured for the months of January – May (5 months) and August – November (4 months). The DOR reduced the penalty to 3 months by applying a 3-month administrative grace period to the months of March, April and May and to September, October and November. 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 2022 as a single person with no dependents. The Appellant's federal adjusted gross income (AGI) for 2022 was \$36,166. Exhibit 1.
3. The Appellant was 35 years old at the beginning of 2022 and resided in [name of city or town omitted] in Essex County, Massachusetts. Exhibit 1.
4. The Appellant's 2022 AGI (\$36,166) was less than 300% of the federal poverty level (\$38,640 for a one person household). DOR Table 2. On this basis I infer that it is likely that the Appellant would satisfy the financial eligibility requirements for government-subsidized health insurance (except that the Appellant had irregular periods of employment in 2022). See Exhibits 4, 5 and 6 and Testimony.
5. Based on DOR Table 3 the Appellant could afford to pay 5.00 % of his income -- or \$151 per month -- for health insurance coverage in 2022. (The calculation is 5.00% multiplied by \$36,166 AGI = \$1,808.36 per year divided by 12 months = \$150.69 per month.)
6. Based on DOR Table 4 (Region 2) the Appellant could obtain individual health insurance coverage at his age and location for \$298 per month in 2022.
7. The Appellant had irregular employment in 2022, as reflected in the IRS W-2 forms that he submitted in support of his appeal. See Exhibits 4, 5, 6 and 7. His annual

income was also less than 300% of the federal poverty level which would indicate that at times in 2022 the Appellant would have met the financial eligibility requirements for government-subsidized health insurance. See DOR Table 2 and Findings of Fact, No. 4, above. See also Exhibit 1 and Findings of Fact, Nos. 5 and 6, above.

8. Later in 2022 the Appellant obtained a full-time job with a public school system in Massachusetts that provided health insurance as a job benefit. The Appellant enrolled in the health plan when he became eligible after a waiting period and was insured for the month of December in 2022. Testimony. See Exhibit 1 and Findings of Fact, No. 5, above.
9. The Appellant continued his public school employment and health insurance coverage in 2023, which he also expects to continue in 2024. Testimony. See Exhibit 1 and Exhibit 6. The Appellant also anticipates that his federal adjusted gross income for 2023 will be substantially higher than the income reported for 2022. See Exhibit 1 (\$36,166 AGI).
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 2022 Massachusetts income tax return.
11. I take administrative notice of the financial information set forth in Tables 1 through 6 of the DOR 2022 Massachusetts Schedule HC Health Care Instructions and Worksheet. Tables 3 and 4 incorporate the affordability schedules adopted by the board of directors for the Commonwealth Health Insurance Connector Authority (Health Connector or Connector) for 2021. See 956 Code Mass. Regs. 6.05. Table 1 sets forth income levels less than 150% of the federal poverty level that are exempt from the assessment of a state tax penalty. Table 2 sets forth income eligibility standards for various family sizes at 300% of the federal poverty level, which is the income eligibility standard for the ConnectorCare government subsidized health insurance program. Tables 5 and 6 set forth the tax penalties in effect for 2022. (The DOR instructions are published online at <http://www.mass.gov/dor/2022ScheduleHCInstructions> and are also available in

the state income tax forms supplied to taxpayers. See also DOR Technical Information Release (TIR) 12-7: Individual Mandate Penalties for Tax Year 2022.)

ANALYSIS AND CONCLUSIONS OF LAW

The case is before me on the Appellant's appeal from the state Department of Revenue's (DOR) assessment of a 3 month tax penalty because the Appellant did not have health insurance coverage for all of 2022. See Exhibits 1 and 2. The issue to be decided is whether the penalty should be waived, either in whole or in part.

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

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

The Health Connector's regulations also provide for a "hardship" appeal from the assessment of a penalty. 956 Code Mass. Regs. 6.07 and 6.08. The grounds for a hardship appeal are summarized in the Statement of Grounds for Appeal – 2022 that the Appellant signed and filed in this case. See Exhibit 2.

In this case the Appellant's employment, income, and health insurance status changed throughout 2022. For the year as a whole it is clear that the Appellant could not

afford health insurance, as his federal adjusted gross income was less than 300% of the federal poverty level. See DOR Table 2 and Findings of Fact, No. 4. Under the objective affordability standards set for in DOR Tables 3 and 4 the Appellant could afford to pay \$151 per month, but insurance coverage at his age and location would cost \$298 per month, or roughly twice as much as he could afford. See Findings of Fact, Nos. 5 and 6, above.

The Appellant's prospects improved when he obtained a job with a public school system later in 2022. He enrolled in the health insurance plan offered by his new employer, with coverage beginning in December 2022 after a waiting period required by his employer (or its insurer) had expired. The Appellant represents that his public school job and health insurance continued into 2023 (the year after the year at issue in this appeal).

After considering all the circumstances, I conclude that it is appropriate to waive the entire penalty assessed against the Appellant for 2022. 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.").

PENALTY ASSESSED

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

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

OR

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

NOTIFICATION OF YOUR RIGHT TO APPEAL TO COURT

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

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

Hearing Officer

Cc: Massachusetts Health Connector Appeals Unit

Massachusetts Health Connector Appeals Unit

Tax Penalty Appeal Decision—Docket No. PA22-1036

Appeal Decision: Appeal Approved -- 2022 tax penalty overturned.

Hearing Issue: Appeal of the 2022 Tax Year Penalty

Hearing Date: December 13, 2023

Decision Date: December 28, 2023

AUTHORITY

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

JURISDICTION

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

HEARING RECORD

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

1. DOR Appeal Case Information from Schedule HC (1 page);
2. Appellant’s Statement of Grounds for Appeal – 2022);
3. Health Connector’s Notice of Hearing (2 pages);
4. Appellant’s Letter in Support of Appeal (1 page); and
5. Receipts for three monthly health insurance premium payments.

FINDINGS OF FACT

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

1. The Appellant appealed from the Department of Revenue's assessment of a 12 month penalty for 2022. The basis for the penalty was that the Appellant did not have health insurance that met the Massachusetts Minimum Creditable Coverage standards ("MCC") at any time in 2022. Exhibits 1 and 2. Based on Exhibit 1 and the Appellant's hearing testimony, I find that the penalty assessment is accurate.
2. The Appellant filed a Massachusetts personal income tax return for 2022 as a single person with no dependents. The Appellant's federal adjusted gross income (AGI) for 2022 was \$51,198. Exhibit 1.
3. The Appellant was 27 years old at the beginning of 2022 and resided in [name of city or town omitted] in Suffolk County, Massachusetts. Exhibit 1.
4. The Appellant's 2022 AGI (\$51,198) was more than 300% of the federal poverty level (\$38,640 for a one-person household). DOR Table 2. On this basis I infer that it is likely that the Appellant would not satisfy the financial eligibility requirements for government-subsidized health insurance.
5. Based on DOR Table 3 the Appellant could afford to pay 7.60% of his income -- or \$324 per month -- for health insurance coverage in 2022. (The calculation is 7.60% multiplied by \$51,198 AGI = \$3,891.48 per year divided by 12 months = \$324.25 per month.)
6. Based on DOR Table 4 (Region 2) the Appellant could obtain individual health insurance coverage at his age and location for \$277 per month in 2022.
7. Previously, the Appellant was insured as a dependent under his parent's health plan until he reached his 26th birthday. Testimony.
8. The Appellant had several part-time jobs in 2022. He did not have health insurance as a job benefit. Testimony.
9. The Appellant sought to replace his parent's health plan by an application to the Health Connector (the Appellant refers to the "ACA"). The Appellant received replies to his application from companies that offered health insurance coverage. Testimony and Exhibit 4.

10. The Appellant enrolled in a health insurance plan offered by one of the respondents to his Health Connector application for which he paid \$173 per month in 2022 as the premium. At a later date the Appellant learned that the insurance plan that he had purchased did not meet the Massachusetts minimum creditable coverage standard. Testimony and Exhibit 4. See also Exhibit 5 (Appellants' receipts for \$173 monthly payments dated 4/26/22, 9/26/22, and 10/27/22) and Exhibit 2 (lack of minimum creditable coverage as ground for appeal).
11. In 2023 the Appellant obtained a full-time job at a museum that offered health insurance as a job benefit. The Appellant enrolled in the health insurance for 2023, and he intends to continue the health insurance coverage in 2024. Testimony. See also Exhibit 4.
12. Except as set forth in the foregoing findings of fact, I adopt the facts set forth in Exhibit 1 as my own findings of fact. Exhibit 1 is a computer printout prepared by the Massachusetts Department of Revenue (DOR) that extracts information submitted by the Appellant on Schedule HC as part of the Appellant's 2022 Massachusetts income tax return.
13. I take administrative notice of the financial information set forth in Tables 1 through 6 of the DOR 2022 Massachusetts Schedule HC Health Care Instructions and Worksheet. Tables 3 and 4 incorporate the affordability schedules adopted by the board of directors for the Commonwealth Health Insurance Connector Authority (Health Connector or Connector) for 2021. See 956 Code Mass. Regs. 6.05. Table 1 sets forth income levels less than 150% of the federal poverty level that are exempt from the assessment of a state tax penalty. Table 2 sets forth income eligibility standards for various family sizes at 300% of the federal poverty level, which is the income eligibility standard for the ConnectorCare government subsidized health insurance program. Tables 5 and 6 set forth the tax penalties in effect for 2022. (The DOR instructions are published online at <http://www.mass.gov/dor/2022ScheduleHCInstructions> and are also available in the state income tax forms supplied to taxpayers. See also DOR Technical Information Release (TIR) 12-7: Individual Mandate Penalties for Tax Year 2022.)

ANALYSIS AND CONCLUSIONS OF LAW

The case is before me on the Appellant's appeal from the state Department of Revenue's (DOR) assessment of a 12 month tax penalty because the Appellant did not have health insurance coverage in 2022 that satisfied the Massachusetts minimum creditable coverage standards ("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 – 2022 that the Appellant signed and filed in this case. See Exhibit 2.

In this case, the Appellant sought to replace his parent's health insurance coverage after his 26th birthday by submitting an application to the Health Connector. He selected the insurance policy offered by one of the insurers that responded to his application, for which he paid \$173 per month as a premium. Only later did the Appellant learn that the state Department of Revenue sought to impose a penalty on top of the monthly

premiums that he had already paid because the insurance policy did not satisfy the Massachusetts minimum creditable coverage standard (“MCC”). The Appellant resolved the problem prospectively when he obtained a full-time job that offered him health insurance as a job benefit. Thus, the Appellant was insured in 2023 and expects to continue with the same insurance coverage in 2024.

Under these circumstances I conclude that it is appropriate to waive the entire 12 month penalty assessed by the DOR for 2022. The Appellant sought to enroll in health insurance under Massachusetts law as summarized above. He has already paid the policy premium, not knowing that the coverage did not meet MCC standards. The Appellant also enrolled in a health insurance plan for 2023 that was offered by a new full-time employer.

PENALTY ASSESSED

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

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

OR

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

NOTIFICATION OF YOUR RIGHT TO APPEAL TO COURT

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

Hearing Officer

Cc: Massachusetts Health Connector Appeals Unit

Massachusetts Health Connector Appeals Unit

Tax Penalty Appeal Decision—Docket No. PA22-1037

Appeal Decision: Appeal Approved -- 2022 tax penalty overturned.

Hearing Issue: Appeal of the 2022 Tax Year Penalty

Hearing Date: December 13, 2023

Decision Date: December 28, 2023

AUTHORITY

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

JURISDICTION

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

HEARING RECORD

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

1. DOR Appeal Case Information from Schedule HC (1 page);
2. Appellant’s Statement of Grounds for Appeal – 2022);
3. Health Connector’s Notice of Hearing (2 pages);
4. Appellant’s Letter in Support of Appeal (1 page);
5. Appellant’s Eversource Electric Bills;
6. Appellant’s Credit Card Statements;
7. 2015 Tax Penalty Appeal Decision, Docket No. PA15-1050 (decided 12/27/2016).

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

1. The Appellant appealed from the Department of Revenue's assessment of a 12 month penalty for 2022. The basis for the penalty was that the Appellant was not insured at any time in 2022. Exhibits 1 and 2. Based on Exhibit 1 and the Appellant's hearing testimony, I find that the penalty assessment is accurate.
2. The Appellant filed a Massachusetts personal income tax return for 2022 as a single person with no dependents. The Appellant's federal adjusted gross income (AGI) for 2022 was \$36,579. Exhibit 1.
3. The Appellant was 62 years old at the beginning of 2022 and resided in [name of city or town omitted] in Middlesex County, Massachusetts. Exhibit 1.
4. The Appellant's 2022 AGI (\$36,579) was less than 300% of the federal poverty level (\$38,640 for a one-person household). DOR Table 2. On this basis I infer that it is likely that the Appellant would satisfy the financial eligibility requirements for government-subsidized health insurance.
5. Based on DOR Table 3 the Appellant could afford to pay 5.00% of her income -- or \$152 per month -- for health insurance coverage in 2022. (The calculation is 5.00% multiplied by \$36,579 AGI = \$1,828.95 per year divided by 12 months = \$152.41 per month.)
6. Based on DOR Table 4 (Region 2) the Appellant could obtain individual health insurance coverage at her age and location for \$435 per month in 2022.
7. The Appellant asserted two grounds for her appeal in Exhibit 2. The first is what she termed being "partially homeless" in 2022. The second is that the cost of health insurance would substantially deprive the Appellant of food, shelter, clothing or other necessities. I find that the Appellant presented evidence that establishes both of these grounds in her oral testimony at the appeal hearing and in her letter supporting the appeal. Testimony and Exhibit 4.
8. I will not seek to review all the issues of daily living that the Appellant asserted in her appeal which I found credible. The issues start with the pending expiration of the Appellant's lease where the rent would increase to a level that the Appellant could not sustain. Having failed in her efforts to find replacement housing the

Appellant placed her belongings in storage and moved into a hotel room. In order to minimize the cost of the hotel room, however, the Appellant moved out on weekends and slept in her car. In her supporting letter the Appellant provided graphic descriptions of her efforts to cut costs that I will not repeat here. Exhibit 4. See also Exhibit 5 (electric bills). The Appellant placed ordinary living expenses on her credit cards that she maxed out at approximately \$33,000. Testimony, Exhibit 4 and Exhibit 6 (credit card statements).

9. Ultimately the Appellant was able to find a new job at a better rate of pay in late 2022. Through this job she was able to enroll in health insurance starting in January 2013. 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 2022 Massachusetts income tax return.
11. I take administrative notice of the financial information set forth in Tables 1 through 6 of the DOR 2022 Massachusetts Schedule HC Health Care Instructions and Worksheet. Tables 3 and 4 incorporate the affordability schedules adopted by the board of directors for the Commonwealth Health Insurance Connector Authority (Health Connector or Connector) for 2021. See 956 Code Mass. Regs. 6.05. Table 1 sets forth income levels less than 150% of the federal poverty level that are exempt from the assessment of a state tax penalty. Table 2 sets forth income eligibility standards for various family sizes at 300% of the federal poverty level, which is the income eligibility standard for the ConnectorCare government subsidized health insurance program. Tables 5 and 6 set forth the tax penalties in effect for 2022. (The DOR instructions are published online at <http://www.mass.gov/dor/2022ScheduleHCInstructions> and are also available in the state income tax forms supplied to taxpayers. See also DOR Technical Information Release (TIR) 12-7: Individual Mandate Penalties for Tax Year 2022.)

ANALYSIS AND CONCLUSIONS OF LAW

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

have health insurance coverage in 2022. See Exhibits 1 and 2. The issue to be decided is whether the penalty should be waived, either in whole or in part.

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

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

The Health Connector’s regulations also provide for a “hardship” appeal from the assessment of a penalty. 956 Code Mass. Regs. 6.07 and 6.08. The grounds for a hardship appeal are summarized in the Statement of Grounds for Appeal – 2022 that the Appellant signed and filed in this case. See Exhibit 2.

The evidence in this appeal presents a compelling case for relief. The Appellant’s life was disrupted because she could not afford the rent increase for her apartment or find a replacement apartment at a lower rent before she had to move because her lease expired. The objective health insurance affordability standards set forth in DOR Tables 3 and 4 demonstrate that the Appellant could not afford health insurance on her \$36,579 income in 2022: She could afford to pay \$152 per month for health insurance but that insurance would cost \$435 per month at her age and location. See Findings of Fact, Nos. 5 and 6, above. See also Findings of Fact, No. 4, above (income less than 300% of the federal poverty level).

After considering all the circumstances – especially the detail that the Appellant set forth in her supporting letter (Exhibit 4) -- I conclude that it is appropriate to waive the entire penalty assessed against the Appellant for 2022. See, e.g., 956 Code Mass. Regs. 6.08 (1) (a) and (1) (e). Relief from the tax penalty assessment hopefully will help the recover from the 2022 events in the ensuing years. (I note that I have not mentioned the 2015 tax penalty appeal in this decision because it is too distant from 2022 and is without a factual connection.)

PENALTY ASSESSED

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

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

OR

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

NOTIFICATION OF YOUR RIGHT TO APPEAL TO COURT

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

Hearing Officer

Cc: Massachusetts Health Connector Appeals Unit

Massachusetts Health Connector Appeals Unit

Tax Penalty Appeal Decision—Docket No. PA22-1041

Appeal Decision: Appeal Approved -- 2022 tax penalty overturned.

Hearing Issue: Appeal of the 2022 Tax Year Penalty

Hearing Date: December 13, 2023

Decision Date: December 29, 2023

AUTHORITY

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

JURISDICTION

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

HEARING RECORD

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

1. DOR Appeal Case Information from Schedule HC (1 page);
2. Appellant’s Statement of Grounds for Appeal – 2022);
3. Health Connector’s Notice of Hearing (2 pages); and
4. Appellant’s Letter in Support of Appeal (1 page).

FINDINGS OF FACT

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

1. The Appellant appealed from the Department of Revenue's assessment of a 12 month penalty for 2022. The basis for the penalty was that the Appellant was not insured at any time in 2022. Exhibits 1 and 2. Based on Exhibit 1 and the Appellant's hearing testimony, I find that the penalty assessment is accurate.
2. The Appellant filed a Massachusetts personal income tax return for 2022 as a single person with no dependents. The Appellant's federal adjusted gross income (AGI) for 2022 was \$62,477. Exhibit 1.
3. The Appellant was 27 years old at the beginning of 2022 and resided in [name of city or town omitted] in Suffolk County, Massachusetts. Exhibit 1.
4. The Appellant's 2022 AGI (\$62,477) was more than 300% of the federal poverty level (\$38,640 for a one-person household). DOR Table 2. On this basis I infer that it is likely that the Appellant would not satisfy the financial eligibility requirements for government-subsidized health insurance. I note, however, that this assumes that the Appellant's circumstances were comparable throughout the year, which does not appear to be the case.
5. Based on DOR Table 3 the Appellant could afford to pay 8.00 % of his income -- or \$417 per month -- for health insurance coverage in 2022. (The calculation is 8.00% multiplied by \$62,477 AGI = \$4,998.16 per year divided by 12 months = \$416.51 per month.)
6. Based on DOR Table 4 (Region 2) the Appellant could obtain individual health insurance coverage at her age and location for \$277 per month in 2022.
7. Initially, the Appellant was insured on his parents' health insurance plan. After her 26th birthday the Appellant obtained health insurance through an employer as a job benefit. Testimony. See also Exhibit 4.
8. The Appellant lost her job and her related health insurance in November 2021. The Appellant did not collect unemployment insurance benefits after the job loss. The Appellant obtained some part-time employment which did not offer health insurance as a job benefit. Testimony. See also Exhibit 4.

9. The Appellant obtained a new full-time job in March 2022. The employer offered health insurance coverage after a three month wait period. The Appellant did not enroll in the employer's health plan because he could not afford the policy premium, which she perceived as being just out of his reach. Testimony. See also Exhibit 4.
10. After the Appellant lost her job in November 2021 (see above) she fell four months behind in rent, but the landlord did not initiate eviction proceedings against her. The Appellant also fell behind in his utility payments, but the utility service was not terminated for non-payment. Testimony and Exhibit 4.
11. The Appellant represents that she obtained employer-sponsored health insurance starting in January 2023 – the year after the year at issue in this appeal. Testimony.
12. The Appellant also spent time in Connecticut to help care for his father. Testimony. The period in Connecticut and how it affected the Appellant's employment and health insurance is unclear, but the documents associated with this appeal all list a Connecticut mailing address. See Exhibits 1, 2, and 3.
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 2022 Massachusetts income tax return.
14. I take administrative notice of the financial information set forth in Tables 1 through 6 of the DOR 2022 Massachusetts Schedule HC Health Care Instructions and Worksheet. Tables 3 and 4 incorporate the affordability schedules adopted by the board of directors for the Commonwealth Health Insurance Connector Authority (Health Connector or Connector) for 2021. See 956 Code Mass. Regs. 6.05. Table 1 sets forth income levels less than 150% of the federal poverty level that are exempt from the assessment of a state tax penalty. Table 2 sets forth income eligibility standards for various family sizes at 300% of the federal poverty level, which is the income eligibility standard for the ConnectorCare government subsidized health insurance program. Tables 5 and 6 set forth the tax penalties in effect for 2022. (The DOR instructions are published online at

<http://www.mass.gov/dor/2022ScheduleHCInstructions> and are also available in the state income tax forms supplied to taxpayers. See also DOR Technical Information Release (TIR) 12-7: Individual Mandate Penalties for Tax Year 2022.)

ANALYSIS AND CONCLUSIONS OF LAW

The case is before me on the Appellant's appeal from the state Department of Revenue's (DOR) assessment of a 12 month tax penalty because the Appellant did not have health insurance coverage in 2022. See Exhibits 1 and 2. The issue to be decided is whether the penalty should be waived, either in whole or in part.

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

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

The Health Connector's regulations also provide for a "hardship" appeal from the assessment of a penalty. 956 Code Mass. Regs. 6.07 and 6.08. The grounds for a hardship appeal are summarized in the Statement of Grounds for Appeal – 2022 that the Appellant signed and filed in this case. See Exhibit 2.

The record in this appeal is not a model of clarity. See, e.g., Exhibit 4. I take two significant items as clear, however. The first is that the Appellant lost her job and the

health insurance obtained through that job in November 2021. The second is that during the Appellant's subsequent period of unemployment the Appellant fell four months behind in rent payments. See Findings of Fact, Nos. 8 and 9, above. Also, by the end of 2022 the Appellant had obtained a new job that offered health insurance benefits and, the Appellant represents, she enrolled in that health insurance coverage starting in January 2023. See Findings of Fact, No. 11, above.

After considering all the circumstances, I conclude that it is appropriate to waive the entire penalty assessed against the Appellant for 2022. See, e.g., 956 Code Mass. Regs. 6.08 (1) (a) and (1) (e). The period when the Appellant lacked health insurance (2022) is sandwiched between two years (2021 and 2023) when the Appellant enrolled in health insurance coverage – at least as far as reflected in the record in this appeal.

PENALTY ASSESSED

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

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

OR

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

NOTIFICATION OF YOUR RIGHT TO APPEAL TO COURT

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

Hearing Officer

Cc: Massachusetts Health Connector Appeals Unit

Massachusetts Health Connector Appeals Unit

Tax Penalty Appeal Decision—Docket No. PA22- 1080

Appeal Decision: Appeal Approved -- 2022 tax penalty overturned.

Hearing Issue: Appeal of the 2022 Tax Year Penalty

Hearing Date: December 18, 2023

Decision Date: December 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 – 2022);
3. Health Connector’s Notice of Hearing (2 pages); and
4. Appellant’s Letter in Support of Appeal (1 page).

FINDINGS OF FACT

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

1. The Appellant appealed from the Department of Revenue's assessment of a 12 month penalty for 2022. The basis for the penalty was that the Appellant was not insured at any time in 2022. Exhibits 1 and 2. Based on Exhibit 1 and the Appellant's hearing testimony, I find that the penalty assessment is accurate.
2. The Appellant filed a Massachusetts personal income tax return for 2022 as a single person with no dependents. The Appellant's federal adjusted gross income (AGI) for 2022 was \$47,349. Exhibit 1.
3. The Appellant was 31 years old at the beginning of 2022 and resided in [name of city or town omitted] in Worcester County, Massachusetts. Exhibit 1.
4. The Appellant's 2022 AGI (\$47,349) was more than 300% of the federal poverty level (\$38,640 for a one person household). DOR Table 2. On this basis I infer that it is likely that the Appellant would not satisfy the financial eligibility requirements for government-subsidized health insurance.
5. Based on DOR Table 3 the Appellant could afford to pay 7.60% of his income -- or \$300 per month -- for health insurance coverage in 2022. (The calculation is 7.60 % multiplied by \$47,349 AGI = \$3,598.52 per year divided by 12 months = \$ 299.87 per month.)
6. Based on DOR Table 4 (Region 2) the Appellant could obtain individual health insurance coverage at his age and location for \$290 per month in 2022.
7. The Appellant obtained a new job in February 2023 and enrolled in the employer's United Healthcare health insurance. The Appellant expects to continue with the same job and insurer in 2024. Testimony and Exhibit 4.
8. In 2022 – the year at issue in this appeal – the Appellant earned \$17.75 per hour. His total earnings (\$47,349 AGI) were substantially more than the Appellant expected to earn at the outset of the year (approximately \$10,000) because the Appellant's employer often required him to work a second 8-hour shift as a caretaker for residential adults. Testimony and Exhibit 4.

9. The Appellant's 2022 living expenses include \$332 per month car loan and \$180 per month car insurance (plus operating costs), \$800 per month for rent plus \$100-\$200 per month for utilities, and \$4,000 credit card balance. Testimony.
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 2022 Massachusetts income tax return.
11. I take administrative notice of the financial information set forth in Tables 1 through 6 of the DOR 2022 Massachusetts Schedule HC Health Care Instructions and Worksheet. Tables 3 and 4 incorporate the affordability schedules adopted by the board of directors for the Commonwealth Health Insurance Connector Authority (Health Connector or Connector) for 2021. See 956 Code Mass. Regs. 6.05. Table 1 sets forth income levels less than 150% of the federal poverty level that are exempt from the assessment of a state tax penalty. Table 2 sets forth income eligibility standards for various family sizes at 300% of the federal poverty level, which is the income eligibility standard for the ConnectorCare government subsidized health insurance program. Tables 5 and 6 set forth the tax penalties in effect for 2022. (The DOR instructions are published online at <http://www.mass.gov/dor/2022ScheduleHCInstructions> and are also available in the state income tax forms supplied to taxpayers. See also DOR Technical Information Release (TIR) 12-7: Individual Mandate Penalties for Tax Year 2022.)

ANALYSIS AND CONCLUSIONS OF LAW

The case is before me on the Appellant's appeal from the state Department of Revenue's (DOR) assessment of a 12 month tax penalty because the Appellant did not have health insurance coverage in 2022. See Exhibits 1 and 2. The issue to be decided is whether the penalty should be waived, either in whole or in part.

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

affordable” under the schedule set by the Health Connector’s board of directors that is incorporated in the DOR tables referred to earlier. Massachusetts General Laws c. 111M, sec. 2(a). Any health insurance policy must also satisfy the Massachusetts minimum creditable coverage standards (“MCC”) in order to avoid the penalty. Mass. Gen. Laws c. 111M, sec. 2(b). See also 956 Code Mass Regs. 501 and 5.03.

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

The Health Connector’s regulations also provide for a “hardship” appeal from the assessment of a penalty. 956 Code Mass. Regs. 6.07 and 6.08. The grounds for a hardship appeal are summarized in the Statement of Grounds for Appeal – 2022 that the Appellant signed and filed in this case. See Exhibit 2.

Several factors presented by the evidence lead me to waive the entire 12 month penalty that the DOR assessed in this case. First, the affordability standards set forth in DOR Tables 3 and 4 indicate that the Appellant could scarcely afford health insurance based on his 2022 income. The \$10 per month margin (\$300 per month affordability under Table 3 less \$290 insurance cost under Table 4) disappears when the Appellant’s income is adjusted downward to reflect the \$10,000 in unexpected earnings in 2022. See Findings of Fact, Nos. 5, 6, and 8, above. Second, I recognize that the Appellant had come into compliance with the individual mandate before this appeal was scheduled as he obtained a new job at the beginning of 2023 and enrolled in his new employer’s health insurance plan. The Appellant also represents that his health insurance will continue in 2024. See Findings of Fact, above. See, e.g., 956 Code Mass. Regs. 6.08 (1) (e).

PENALTY ASSESSED

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

The Connector has notified the Department of Revenue that, pursuant to its decision, you should be assessed a penalty for Tax Year 2022 for the amount equal to one half of the lowest cost health insurance plan available to you for each month you have been

assessed the penalty, as listed above, plus applicable interest back to the due date of the return without regard to extension.

OR

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

NOTIFICATION OF YOUR RIGHT TO APPEAL TO COURT

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

Hearing Officer

Cc: Massachusetts Health Connector Appeals Unit

Massachusetts Health Connector Appeals Unit

Tax Penalty Appeal Decision—Docket No. PA22- 1081

Appeal Decision: Appeal Approved -- 2022 tax penalty overturned.

Hearing Issue: Appeal of the 2022 Tax Year Penalty

Hearing Date: December 18, 2023

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

1. DOR Appeal Case Information from Schedule HC (1 page);
2. Appellant's Statement of Grounds for Appeal – 2022);
3. Health Connector's Notice of Hearing (2 pages); and
4. Employer's Letter in Support of Appeal (1 page).

FINDINGS OF FACT

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

1. The Appellant appealed from the Department of Revenue's assessment of a 12 month penalty for 2022. The basis for the penalty was that the Appellant was not insured at any time in 2022. Exhibits 1 and 2. Based on Exhibit 1 and the Appellant's hearing testimony, I find that the penalty assessment is accurate.
2. The Appellant filed a Massachusetts personal income tax return for 2022 as a single person with no dependents. The Appellant's federal adjusted gross income (AGI) for 2022 was \$29,248. Exhibit 1.
3. The Appellant was 55 years old at the beginning of 2022 and resided in [name of city or town omitted] in Franklin County, Massachusetts. Exhibit 1.
4. The Appellant's 2022 AGI (\$29,248) was less than 300% of the federal poverty level (\$38,640 for a one-person household). DOR Table 2. On this basis I infer that it is likely that the Appellant would satisfy the financial eligibility requirements for government-subsidized health insurance.
5. Based on DOR Table 3 the Appellant could afford to pay 4.20% of her income -- or \$102 per month -- for health insurance coverage in 2022. (The calculation is 4.20 % multiplied by \$29,248 AGI = \$1,228.41 per year divided by 12 months = \$102.36 per month.)
6. Based on DOR Table 4 (Region 1) the Appellant could obtain individual health insurance coverage at her age and location for \$466 per month in 2022.
7. Before her divorce the Appellant was insured by BlueCross/BlueShield. At some point thereafter she was insured by MassHealth. After her MassHealth eligibility ended the Appellant made unsuccessful efforts to insure herself through the Health Connector. See Findings of Fact, No. 4, above (2022 income less than 300% of federal poverty level).
8. The Appellant has made efforts to enroll in a Health Connector insurance plan. At one point she reports that she was quoted a \$300 per month premium, which she felt was not affordable on her income. See Findings of Fact, No. 5, above (Appellant could afford to pay \$102 per month for health insurance). Testimony.

9. More recently the Appellant reports that she is “locked out” of the Health Connector’s computerized application system, so that she cannot update her application that is on file or prepare a new application. She enlisted the help of her adult daughter without success, including a contact with Customer Service. Testimony. (After the appeal hearing ended on December 18 I contacted the staff at the Health Connector’s Appeals Unit to enlist their help trouble-shooting the processing of the Appellant’s application. Those contacts will take place directly between the Appeals Unit and the Appellant without my participation. The matter is urgent since the Health Connector’s open enrollment period will soon end for health insurance enrollments for 2024. I add that the hearings record for this appeal does not contain information from the Health Connector – beyond Exhibit 1 prepared by the Department of Revenue.)
10. The Appellant’s employer does not offer health insurance coverage to the Appellant. I base this finding on the letter signed by the owner of the Appellant’s employer, which is marked as Exhibit 4.
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 2022 Massachusetts income tax return.
12. I take administrative notice of the financial information set forth in Tables 1 through 6 of the DOR 2022 Massachusetts Schedule HC Health Care Instructions and Worksheet. Tables 3 and 4 incorporate the affordability schedules adopted by the board of directors for the Commonwealth Health Insurance Connector Authority (Health Connector or Connector) for 2021. See 956 Code Mass. Regs. 6.05. Table 1 sets forth income levels less than 150% of the federal poverty level that are exempt from the assessment of a state tax penalty. Table 2 sets forth income eligibility standards for various family sizes at 300% of the federal poverty level, which is the income eligibility standard for the ConnectorCare government subsidized health insurance program. Tables 5 and 6 set forth the tax penalties in effect for 2022. (The DOR instructions are published online at <http://www.mass.gov/dor/2022ScheduleHCInstructions> and are also available in the state income tax forms supplied to taxpayers. See also DOR Technical Information Release (TIR) 12-7: Individual Mandate Penalties for Tax Year 2022.)

ANALYSIS AND CONCLUSIONS OF LAW

The case is before me on the Appellant's appeal from the state Department of Revenue's (DOR) assessment of a 12 month tax penalty because the Appellant did not have health insurance coverage in 2022. See Exhibits 1 and 2. The issue to be decided is whether the penalty should be waived, either in whole or in part.

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

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

The Health Connector's regulations also provide for a "hardship" appeal from the assessment of a penalty. 956 Code Mass. Regs. 6.07 and 6.08. The grounds for a hardship appeal are summarized in the Statement of Grounds for Appeal – 2022 that the Appellant signed and filed in this case. See Exhibit 2.

The outcome of this appeal is based on the Appellant's inability to afford health insurance. Based on her income in 2022 the Appellant could afford to pay \$102 per month for health insurance based on the objective standards set forth in DOR Table 3. As set forth in DOR Table 4, however, health insurance would cost the Appellant \$466 per month, which is well beyond what she can pay. See Findings of Fact, Nos. 5 and 6, above.

Given the substantial gap between what the Appellant can afford to pay and the cost of health insurance, I will waive the entire 12 month penalty assessed by the DOR. 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.”).

The evidence indicates that the Appellant needs a government subsidy to make health insurance affordable. See Findings of Fact, No. 4, above. That invokes the need to resolve the problems that the Appellant has encountered with her computerized Health Connector application that hopefully will be addressed for 2023 and 2024.

PENALTY ASSESSED

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

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

OR

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

NOTIFICATION OF YOUR RIGHT TO APPEAL TO COURT

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

Hearing Officer

Cc: Massachusetts Health Connector Appeals Unit

Massachusetts Health Connector Appeals Unit

Tax Penalty Appeal Decision—Docket No. PA22- 1082

Appeal Decision: Appeal Approved -- 2022 tax penalty overturned.

Hearing Issue: Appeal of the 2022 Tax Year Penalty

Hearing Date: December 18, 2023

Decision Date: December 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 – 2022;
3. Health Connector’s Notice of Hearing (2 pages);
4. Appellant’s Letter in Support of Appeal (1 page); and
5. 2022 IRS Form 1095-C.

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 Massachusetts Department of Revenue's assessment of a 6 month penalty for 2022. The basis for the penalty was that the Appellant's employer-sponsored health insurance did not satisfy the Massachusetts Minimum Creditable Coverage standards ("MCC") during the part of 2022 that the Appellant resided in Massachusetts. Exhibits 1 and 2. Based on Exhibit 1 and Exhibit 5 and the Appellant's hearing testimony, I find that the penalty assessment is accurate.
2. In 2022 the Appellant was a part-year Massachusetts resident starting in January and ending in November when he relocated to Tennessee. Exhibits 1 and 2 and Testimony. See also Exhibit 1, 2, and 3 (documents listing Tennessee address).
3. In Massachusetts the Appellant worked for a national restaurant chain that was headquartered in California. The Appellant enrolled in a health insurance plan offered by his employer for all the months that he was employed in Massachusetts. The Appellant paid \$115.01 per month as his share of the health insurance premium. Testimony and Exhibits 4 and 5.
4. The Appellant learned that his health insurance did not meet the MCC requirements after he had moved to Tennessee when, in early 2023, he sought to prepare his Massachusetts personal income tax return for 2022. The Appellant's employer provided a 2022 IRS Form 1095-C that showed the Appellant was insured for the months of January – November 2022 (Part III). When the employer was asked to provide a 2022 Form MA 1099-HC the employer declined to do so, saying that its health insurance plan did not meet MCC standards. Testimony and Exhibit 4. See Exhibit 4.
5. The Appellant's understanding is that his 2022 health insurance plan substantially met the MCC standards. The Appellant was not given a detailed reason why his health insurance did not meet MCC standards. Testimony and Exhibit 4.
6. Except as set forth in the foregoing findings of fact, I adopt the facts set forth in Exhibit 1 as my own findings of fact. Exhibit 1 is a computer printout prepared by the Massachusetts Department of Revenue (DOR) that extracts information submitted by the Appellant on Schedule HC as part of the Appellant's 2022 Massachusetts income tax return.

7. I take administrative notice of the financial information set forth in Tables 1 through 6 of the DOR 2022 Massachusetts Schedule HC Health Care Instructions and Worksheet. Tables 3 and 4 incorporate the affordability schedules adopted by the board of directors for the Commonwealth Health Insurance Connector Authority (Health Connector or Connector) for 2021. See 956 Code Mass. Regs. 6.05. Table 1 sets forth income levels less than 150% of the federal poverty level that are exempt from the assessment of a state tax penalty. Table 2 sets forth income eligibility standards for various family sizes at 300% of the federal poverty level, which is the income eligibility standard for the ConnectorCare government subsidized health insurance program. Tables 5 and 6 set forth the tax penalties in effect for 2022. (The DOR instructions are published online at <http://www.mass.gov/dor/2022ScheduleHCInstructions> and are also available in the state income tax forms supplied to taxpayers. See also DOR Technical Information Release (TIR) 12-7: Individual Mandate Penalties for Tax Year 2022.)

ANALYSIS AND CONCLUSIONS OF LAW

The case is before me on the Appellant’s appeal from the state Department of Revenue’s (DOR) assessment of a 6 month tax penalty because the Appellant did not have health insurance coverage in 2022 that met Massachusetts minimum creditable coverage standards (“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 – 2022 that the Appellant signed and filed in this case. See Exhibit 2.

In this case, the Appellant enrolled in the health insurance plan offered by his employer, a national restaurant chain headquartered in California, and he paid \$115.01 per month by payroll deduction for January through November 2022 as his contribution to the health insurance premium before he relocated to Tennessee. The Appellant learned that his health insurance did not meet MCC standards only when he sought to prepare his Massachusetts personal income tax return early in 2023 when it was too late to take any corrective action. When asked, the employer responded that it could not provide the 2022 Form MA 1099-HC that the Appellant sought to file with his state income tax return because the health insurance did not meet MCC standards. The Appellant did not learn, however, why the MCC standards were not satisfied.

After considering the circumstances I will waive the entire 12 month penalty that the DOR assessed for 2022. The Appellant sought to comply with the individual mandate imposed by Massachusetts law by enrolling in the health plan offered by his employer and paying \$115.01 per month as his share of the insurance premium. By the time that the Appellant learned there was an MCC problem he had left his job and relocated to another state. No remedial action was feasible, and the Appellant should not be asked to paid a monthly penalty on top of the monthly insurance premium that he has already paid. See 956 Code Mass. Regs. 6.08 (2) (d) (“If the Appellant purchased health insurance, the extent to which it deviated from or substantially met minimum creditable coverage standards”).

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

OR

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

NOTIFICATION OF YOUR RIGHT TO APPEAL TO COURT

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

Hearing Officer

Cc: Massachusetts Health Connector Appeals Unit

Massachusetts Health Connector Appeals Unit

Tax Penalty Appeal Decision—Docket No. PA22- 1083

Appeal Decision: Appeal Approved -- 2022 tax penalty overturned.

Hearing Issue: Appeal of the 2022 Tax Year Penalty

Hearing Date: December 18, 2023

Decision Date: December 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 – 2022);
3. Health Connector’s Notice of Hearing (2 pages); and
4. Appellant’s Letter in Support of Appeal (1 page).

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 2022. The basis for the penalty was that the Appellant was insured for the months of January through June 2022 but was not insured for the months of July through December 2022. 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 was insured on his mother's health insurance policy until his 26th birthday. The Appellant was then insured for the period July 2021 – June 2022 on the health plan provided by his employer as a job benefit. Testimony, Exhibit 1, and Exhibit 4.
3. The employer's health plan has a June annual open enrollment period. In June 2022 the Appellant informed his employer that he wished to renew the health plan for another year (July 2022 – June 2023). Testimony and Exhibit 4.
4. In November 2022 the Appellant had a doctor's appointment. The doctor informed the Appellant that his health insurance had not been renewed after June 2022. Consequently, the Appellant was not insured for July through December 2022. Testimony and Exhibit 1. See also Exhibit 4. .
5. The Appellant obtained a BlueCross/BlueShield individual policy at an increased premium starting January 2023, the earliest possible date. At his employer's next open enrollment period in June 2023 the Appellant switched his coverage back to his employer's health plan. Testimony and Exhibit 4.
6. Except as set forth in the foregoing findings of fact, I adopt the facts set forth in Exhibit 1 as my own findings of fact. Exhibit 1 is a computer printout prepared by the Massachusetts Department of Revenue (DOR) that extracts information submitted by the Appellant on Schedule HC as part of the Appellant's 2022 Massachusetts income tax return.
7. I take administrative notice of the financial information set forth in Tables 1 through 6 of the DOR 2022 Massachusetts Schedule HC Health Care Instructions and Worksheet. Tables 3 and 4 incorporate the affordability schedules adopted by the board of directors for the Commonwealth Health Insurance Connector

Authority (Health Connector or Connector) for 2021. See 956 Code Mass. Regs. 6.05. Table 1 sets forth income levels less than 150% of the federal poverty level that are exempt from the assessment of a state tax penalty. Table 2 sets forth income eligibility standards for various family sizes at 300% of the federal poverty level, which is the income eligibility standard for the ConnectorCare government subsidized health insurance program. Tables 5 and 6 set forth the tax penalties in effect for 2022. (The DOR instructions are published online at <http://www.mass.gov/dor/2022ScheduleHCInstructions> and are also available in the state income tax forms supplied to taxpayers. See also DOR Technical Information Release (TIR) 12-7: Individual Mandate Penalties for Tax Year 2022.)

ANALYSIS AND CONCLUSIONS OF LAW

The case is before me on the Appellant's appeal from the state Department of Revenue's (DOR) assessment of a 3-month tax penalty because the Appellant did not have health insurance coverage for July through December 2022. See Exhibits 1 and 2. The issue to be decided is whether the penalty should be waived, either in whole or in part.

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

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

The Health Connector’s regulations also provide for a “hardship” appeal from the assessment of a penalty. 956 Code Mass. Regs. 6.07 and 6.08. The grounds for a hardship appeal are summarized in the Statement of Grounds for Appeal – 2022 that the Appellant signed and filed in this case. See Exhibit 2.

In this case, the Appellant sought to be insured during the period July – December 2022 when the DOR assessed a penalty (reduced by the 3-month administrative grace period). Initially, the Appellant was enrolled in his employer’s health plan for the period July 2021 through June 2022. During his employer’s June open enrollment period the Appellant sought to renew his health insurance coverage for the 12 month period starting July 2022.

Unbeknownst to the Appellant, his employer failed to complete the policy renewal, which the Appellant learned about only when he was informed at a doctor’s appointment in November 2022. The Appellant obtained an individual BlueCross/BlueShield policy to fill the coverage gap starting in January 2023, the earliest possible date. At his employer’s new open enrollment period in June 2023, the Appellant renewed his health insurance coverage through his employer’s lower-priced group insurance rate.

Under these circumstances I will waive the entire 3 month penalty that the DOR assessed. As the facts presented on appeal show, the Appellant sought be insured through his employer’s health plan for all of 2022. I would not penalize the Appellant where the employer – not the Appellant – was responsible for the short gap in his coverage (July – December 2022).

PENALTY ASSESSED

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

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

OR

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

NOTIFICATION OF YOUR RIGHT TO APPEAL TO COURT

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

Hearing Officer

Cc: Massachusetts Health Connector Appeals Unit

Massachusetts Health Connector Appeals Unit

Tax Penalty Appeal Decision—Docket No. PA22-1162

Appeal Decision: Appeal Approved -- 2022 tax penalty overturned.

Hearing Issue: Appeal of the 2022 Tax Year Penalty

Hearing Date: January 2, 2024

Decision Date: January 14, 2024

AUTHORITY

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

JURISDICTION

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

HEARING RECORD

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

1. DOR Appeal Case Information from Schedule HC (1 page);
2. Appellant’s Statement of Grounds for Appeal – 2022;
3. Health Connector’s Notice of Hearing (2 pages);
4. Appellant’s Letter in Support of Appeal (1 page); and
5. Appellant’s Expenses Spread Sheet (1 page, 2021 – 2022).

FINDINGS OF FACT

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

1. The Appellant appealed from the Department of Revenue's assessment of a 12 month penalty for 2022. The basis for the penalty was that the Appellant was not insured at any time in 2022. Exhibits 1 and 2. Based on Exhibit 1 and the Appellant's hearing testimony, I find that the penalty assessment is accurate.
2. The Appellant filed a Massachusetts personal income tax return for 2022 as a single person with no dependents. The Appellant's federal adjusted gross income (AGI) for 2022 was \$104,236. Exhibit 1. The Appellant characterized her income as "feast or famine" during 2021 and 2022. Testimony.
3. The Appellant was 52 years old at the beginning of 2022 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 8.00% of her income -- or \$695 per month -- for health insurance coverage in 2022. (The calculation is 8.00 % multiplied by \$104,236 AGI = \$8,338.88 per year divided by 12 months = \$694.90 per month.)
5. Based on DOR Table 4 (Region 2) the Appellant could obtain individual health insurance coverage at her age and location for \$422 per month in 2022.
6. The Appellant was employed in 2021 with health insurance that she obtained through the Health Connector. The Appellant lost her job in May 2021, and she was unemployed for the remainder of 2021. Her period of unemployment continued until April 2022 when she obtained a new job. The new job did not provide health insurance as a job benefit. Testimony and Exhibit 4.
7. Although she was unemployed the Appellant continued to pay her monthly health insurance premium out-of-pocket through December 2021. Testimony and Exhibit 4.
8. The Appellant did not continue to pay the monthly premiums for health insurance starting in January 2022. The Appellant anticipated – perhaps understandably but incorrectly – that she could “catch up” on her premium payments when she obtained a new job. In the meantime, the Appellant felt that she could no longer afford to make premium payments out-of-pocket. Testimony and Exhibits 4 and 5.

9. In March 2022 (3 months into the new year) the Appellant contacted the Health Connector about resuming her health insurance coverage. The Appellant was informed that she had “missed the Shopping [sic] period” for health insurance in 2023 and that she would not be able to reenroll in health insurance through the Health Connector until December 2022. Testimony and Exhibit 4.
10. In December 2022 the Appellant reenrolled in health insurance through the Health Connector that was effective starting in January 2023. The Appellant has been insured since that time. Testimony and Exhibit 4.
11. Until the Appellant started her new job in April 2022 she was substantially living on credit cards. Her credit card bill totaled \$60,000, with interest in the amount of \$500 per month. Testimony. See also Exhibit 5.
12. The Appellant paid \$1,000 out-of-pocket for dental bills and \$300 for medications in 2022. Testimony.
13. The Appellant also paid approximately \$10,000 for veterinary expenses. Testimony. See Exhibit 5 for the Appellant’s analysis of living expenses.
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 2022 Massachusetts income tax return.
15. I take administrative notice of the financial information set forth in Tables 1 through 6 of the DOR 2022 Massachusetts Schedule HC Health Care Instructions and Worksheet. Tables 3 and 4 incorporate the affordability schedules adopted by the board of directors for the Commonwealth Health Insurance Connector Authority (Health Connector or Connector) for 2021. See 956 Code Mass. Regs. 6.05. Table 1 sets forth income levels less than 150% of the federal poverty level that are exempt from the assessment of a state tax penalty. Table 2 sets forth income eligibility standards for various family sizes at 300% of the federal poverty level, which is the income eligibility standard for the ConnectorCare government subsidized health insurance program. Tables 5 and 6 set forth the tax penalties in effect for 2022. (The DOR instructions are published online at

<http://www.mass.gov/dor/2022ScheduleHCInstructions> and are also available in the state income tax forms supplied to taxpayers. See also DOR Technical Information Release (TIR) 12-7: Individual Mandate Penalties for Tax Year 2022.)

ANALYSIS AND CONCLUSIONS OF LAW

The case is before me on the Appellant's appeal from the state Department of Revenue's (DOR) assessment of a 12 month tax penalty because the Appellant did not have health insurance coverage in 2022. See Exhibits 1 and 2. The issue to be decided is whether the penalty should be waived, either in whole or in part.

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

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

The Health Connector's regulations also provide for a "hardship" appeal from the assessment of a penalty. 956 Code Mass. Regs. 6.07 and 6.08. The grounds for a hardship appeal are summarized in the Statement of Grounds for Appeal – 2022 that the Appellant signed and filed in this case. See Exhibit 2.

The outcome of this tax penalty appeal is difficult to describe because the Appellant was well-paid during the periods when she was employed and because she

took the unusual step of continuing to pay her monthly health insurance premiums for seven months (June – December 2021) while she was out-of-work. The Appellant then stopped making premium payments in January 2022 because she was behind in her living expenses (see Exhibits 4 and 5) and believed (incorrectly) that she could catch up on her premium payments when she found a new job. The outcome was a 12 month penalty assessment for 2022. See Exhibit 1.

The path followed by the Appellant had major repercussions for 2022. Instead of lacking health insurance coverage for January, February, and March 2022 before she started her new job – a period that would have been covered by the DOR’s three-month administrative grace period without any penalty (see above) – the Appellant was subject to a 12 month penalty because, as the Appellant was informed by the Health Connector, she had missed the open enrollment period and therefor could not purchase insurance until the next open enrollment period. Thus, the Appellant was not insured again until January 2023.

The penalty assessment seems disproportionate. First, the Appellant had continued to pay her health insurance out-of-pocket for seven months in 2021 (June – December) after she lost her job. Second, the Appellant missed paying her premium for three months at the beginning of 2022 (January – March) when she felt she could not afford to continue paying out-of-pocket. Third, when the Appellant sought to reactivate her health insurance after she got a new job she was told that, due to the open enrollment period, she could not resume her coverage before the end of 2022 (effective January 2023). Finally, since the Appellant was insured both before and after the period in dispute it does not appear that the Appellant’s objective was to evade the individual mandate under Massachusetts law (see above).

For the foregoing reasons I will vacate the entire penalty assessed by the state Department of Revenue for 2022.

PENALTY ASSESSED

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

The Connector has notified the Department of Revenue that, pursuant to its decision, you should be assessed a penalty for Tax Year 2022 for the amount equal to one half of the lowest cost health insurance plan available to you for each month you have been

assessed the penalty, as listed above, plus applicable interest back to the due date of the return without regard to extension.

OR

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

NOTIFICATION OF YOUR RIGHT TO APPEAL TO COURT

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

Hearing Officer

Cc: Massachusetts Health Connector Appeals Unit

Massachusetts Health Connector Appeals Unit

Tax Penalty Appeal Decision—Docket No. PA22-1163

Appeal Decision: Appeal Approved -- 2022 tax penalty overturned.

Hearing Issue: Appeal of the 2022 Tax Year Penalty

Hearing Date: January 2, 2024

Decision Date: January 15, 2024

AUTHORITY

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

JURISDICTION

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

HEARING RECORD

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

1. DOR Appeal Case Information from Schedule HC (1 page);
2. Appellant’s Statement of Grounds for Appeal – 2022;
3. Health Connector’s Notice of Hearing (2 pages); and
4. Aetna Health Insurance Card (front and rear).

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 Massachusetts Department of Revenue's assessment of a 12 month penalty for 2022. The basis for the penalty was that the Appellant was not insured at any time in 2022. Exhibits 1 and 2. As set forth in more detail below, I find that the Appellant was insured for all 12 months in 2022.
2. The Appellant added the following ground in handwriting to the pre-printed appeal form: "CT insurance. See card Aetna." Exhibit 2. A Connecticut mailing address appears on all the documents in the hearing record: Exhibit 1 (DOR); Exhibit 2 (appeal); and Exhibit 3 (Health Connector hearing notice).
3. I find that the Appellant was insured for all of 2022 as a dependent on her parent's health insurance plan in Connecticut. The Appellant is the second of five names listed on the Aetna health insurance membership card that the Appellant submitted in support of her appeal. Exhibit 4 and Testimony. The Appellant was 24 years old in 2022. Exhibit 1 and Testimony.
4. In 2022 the Appellant was employed in Massachusetts, and she accordingly filed a state income tax return in Massachusetts. Exhibit 1 and Testimony.
5. Except as set forth in the foregoing findings of fact, I adopt the facts set forth in Exhibit 1 as my own findings of fact. Exhibit 1 is a computer printout prepared by the Massachusetts Department of Revenue (DOR) that extracts information submitted by the Appellant on Schedule HC as part of the Appellant's 2022 Massachusetts income tax return.
6. I take administrative notice of the financial information set forth in Tables 1 through 6 of the DOR 2022 Massachusetts Schedule HC Health Care Instructions and Worksheet. Tables 3 and 4 incorporate the affordability schedules adopted by the board of directors for the Commonwealth Health Insurance Connector Authority (Health Connector or Connector) for 2021. See 956 Code Mass. Regs. 6.05. Table 1 sets forth income levels less than 150% of the federal poverty level that are exempt from the assessment of a state tax penalty. Table 2 sets forth income eligibility standards for various family sizes at 300% of the federal poverty level, which is the income eligibility standard for the ConnectorCare government subsidized health insurance program. Tables 5 and 6 set forth the tax penalties in effect for 2022. (The DOR instructions are published online at <http://www.mass.gov/dor/2022ScheduleHCInstructions> and are also available in

the state income tax forms supplied to taxpayers. See also DOR Technical Information Release (TIR) 12-7: Individual Mandate Penalties for Tax Year 2022.)

ANALYSIS AND CONCLUSIONS OF LAW

The case is before me on the Appellant's appeal from the state Department of Revenue's (DOR) assessment of a 12 month tax penalty because the Appellant did not have health insurance coverage in 2022. See Exhibits 1 and 2. The issue to be decided is whether the penalty should be waived, either in whole or in part.

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

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

The Health Connector's regulations also provide for a "hardship" appeal from the assessment of a penalty. 956 Code Mass. Regs. 6.07 and 6.08. The grounds for a hardship appeal are summarized in the Statement of Grounds for Appeal – 2022 that the Appellant signed and filed in this case. See Exhibit 2.

The evidence submitted in this appeal shows that the Appellant was insured as a dependent on her parent's Aetna health insurance plan for all 12 months in 2022. Since the Aetna policy was in Connecticut the Appellant did not receive a copy of the MA Form

1099-HC to file with her Massachusetts income tax return for 2022 (see Exhibit 1). Lacking that form the DOR assessed a 12 month penalty for 2022, but the evidence presented on appeal supports the Appellant's assertion that she was insured in a nearby state (Connecticut). Accordingly, I waive the entire 12 month penalty that the DOR assessed for 2022.

PENALTY ASSESSED

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

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

OR

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

NOTIFICATION OF YOUR RIGHT TO APPEAL TO COURT

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

Hearing Officer

Cc: Massachusetts Health Connector Appeals Unit

Massachusetts Health Connector Appeals Unit

Tax Penalty Appeal Decision—Docket No. PA22-1164

Appeal Decision: Appeal Approved -- 2022 tax penalty overturned.

Hearing Issue: Appeal of the 2022 Tax Year Penalty

Hearing Date: January 2, 2024

Decision Date: January 15, 2024

AUTHORITY

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

JURISDICTION

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

HEARING RECORD

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

1. DOR Appeal Case Information from Schedule HC (1 page);
2. Appellant's Statement of Grounds for Appeal – 2022;
3. Health Connector's Notice of Hearing (2 pages);
4. Appellant's Letter in Support of Appeal (1 page); and
5. Summary of Appellant's Employer-Based Health Insurance Benefits.

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 2 month penalty for 2022. The basis for the penalty was that the Appellant was insured for the months January – July (7 months) and was not insured for the months of August – December (5 months). Exhibits 1 and 2. (The calculation is 12 months minus 7 months insured = 5 months uninsured minus 3-month administrative grace period = 2 penalty months.)
2. The ground for the Appellant's appeal is that her employer's health insurance plan did not satisfy the Massachusetts Minimum Creditable Coverage standard ("MCC"). Exhibit 2 and Testimony.
3. The Appellant was out-of-work in 2021 (when she received unemployment insurance benefits) and at the outset of 2022 (when her unemployment claim was exhausted). The Appellant had health insurance coverage through the Health Connector for the months of January through July 2022 (the period relevant to this appeal). Exhibit 1 and Testimony. See also Exhibit 4.
4. The Appellant started to work for a new employer – a landscape and gardening retail business – in May 2022. The Appellant enrolled in the Aetna health insurance plan offered by her new employer as soon as she was eligible in August 2022. The Appellant was covered by her employer's health plan for the remainder of 2022. Testimony. See Exhibits 1, 2, 4, and 5.
5. When she enrolled the Appellant was not informed that her new employer's health insurance plan did not satisfy the Massachusetts Minimum Creditable Coverage standards ("MCC"). Testimony and Exhibit 4.
6. The Appellant enrolled in her new employer's "Buy-Up Plan" along with hospital indemnity insurance and other insurance that are summarized in Exhibit 5. The Buy-Up Plan (and related coverages) was the most extensive – and more expensive – coverage that her new employer offered. Testimony. See also Exhibits 4 and 5.

7. The \$285,679 federal adjusted gross income (AGI) reported on the Appellant's 2022 state income tax return is inflated by the fact that the Appellant and her brother jointly sold a family home. As stated earlier, there were periods in 2021 and 2022 when the Appellant did not have a job.
8. The Appellant was 60 years old, and she filed her state income tax return as a single person with no dependents. At the Appellant's age and location (Middlesex County) in 2022, she would have to pay \$435 per month for health insurance coverage. See Exhibit 1.
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 2022 Massachusetts income tax return.
10. I take administrative notice of the financial information set forth in Tables 1 through 6 of the DOR 2022 Massachusetts Schedule HC Health Care Instructions and Worksheet. Tables 3 and 4 incorporate the affordability schedules adopted by the board of directors for the Commonwealth Health Insurance Connector Authority (Health Connector or Connector) for 2021. See 956 Code Mass. Regs. 6.05. Table 1 sets forth income levels less than 150% of the federal poverty level that are exempt from the assessment of a state tax penalty. Table 2 sets forth income eligibility standards for various family sizes at 300% of the federal poverty level, which is the income eligibility standard for the ConnectorCare government subsidized health insurance program. Tables 5 and 6 set forth the tax penalties in effect for 2022. (The DOR instructions are published online at <http://www.mass.gov/dor/2022ScheduleHCInstructions> and are also available in the state income tax forms supplied to taxpayers. See also DOR Technical Information Release (TIR) 12-7: Individual Mandate Penalties for Tax Year 2022.)

ANALYSIS AND CONCLUSIONS OF LAW

The case is before me on the Appellant's appeal from the state Department of Revenue's (DOR) assessment of a 2 month tax penalty because the health insurance plan offered by the Appellant's new employer did not satisfy the Massachusetts Minimum Creditable Coverage standards ("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 – 2022 that the Appellant signed and filed in this case. See Exhibit 2.

The evidence presented in this appeal shows that the Appellant was insured for all of 2022.

For the first part of 2022 (January through July) the Appellant was insured through the Health Connector while she was out-of-work or in a short waiting period before she

could enroll the health plan offered by her new employer (she started her new job in May and her insurance began in August). The DOR did not assess a penalty for this period. See Exhibit 1.

A penalty was assessed for the second part of 2022. For the months of August through December the Appellant was enrolled the health plan offered by her new employer as a job benefit. The DOR assessed a penalty for this period (after deducting the three-month administrative grace period) because the insurance coverage did not meet MCC standards.

After considering the evidence I will waive the entire penalty assessed by the DOR for 2022. First, the Appellant was not informed that her new employer did not meet MCC standards so that she is vulnerable to paying both a premium payment for her employer’s health plan plus the penalty assessed by the DOR. Second, even though the employer’s Aetna health plan was deficient in some respect, it is apparent from the pages of documentation supplied by the Appellant in Exhibit 5 that it provided the “broad range of medical benefits” that is the touchstone of the MCC requirement. See 956 Code Mass. Regs.5.03 (1) (a). See also 956 Code Mass. Regs. 6.08 (2) (d) (“substantially met” MCC standards.

Although I have waived the 2022 penalty assessment, the employer (or Aetna as the insurer) and the Appellant need to modify the health plan to satisfy the MCC problem for future years. Alternatively, the Appellant should seek health insurance coverage that meets the MCC requirements. (I appreciate from other 2022 penalty appeals that I have heard that other employees of this landscape and gardening business have also been penalized under the MCC standards, and I think it is likely that changes will be made).

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

OR

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

NOTIFICATION OF YOUR RIGHT TO APPEAL TO COURT

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

Hearing Officer

Cc: Massachusetts Health Connector Appeals Unit

Massachusetts Health Connector Appeals Unit

Tax Penalty Appeal Decision—Docket No. PA22-1219

Appeal Decision: Appeal Approved -- 2022 tax penalty overturned.

Hearing Issue: Appeal of the 2022 Tax Year Penalty

Hearing Date: January 17, 2024

Decision Date: January 21, 2024

AUTHORITY

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

JURISDICTION

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

HEARING RECORD

The Appellants (Husband and Wife) both 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 Appellants' 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. Appellants' Statement of Grounds for Appeal – 2022;
3. Health Connector's Notice of Hearing (2 pages);
4. Appellants' Letter in Support of Appeal (1 page); and
5. National Association of Preferred Providers Letter to Appellants (1 page; dated 5/5/23).

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 Appellants (Wife and Husband) appealed from the Department of Revenue's assessment of a 24 month penalty for 2022 (12 months for Wife and 12 months for Husband). The basis for the penalty was that the Appellants were not insured at any time in 2022 with health insurance that satisfied the Massachusetts Minimum Creditable Coverage standards ("MCC"). Exhibits 1 and 2. See also Exhibit 4.
2. The Appellants relocated from Colorado to Massachusetts to care for their elderly mother who resided in Massachusetts. The Appellants resided in Massachusetts for all of 2022, and they filed a Massachusetts state income tax return for 2022. Testimony and Exhibits 1 and 4. (The Appellants' 2022 income is not an issue in this appeal, but I note the Appellants' testimony that their income was decreasing in connection with their relocation.)
3. Before they left Colorado the Appellants purchased health insurance coverage which they maintained for all 12 months that they resided in Massachusetts in 2022. Testimony and Exhibit 4.
4. When they purchased health insurance for 2022 the Appellants explained to the agent that they were relocating to Massachusetts and needed health insurance coverage for Massachusetts. The Appellants paid a monthly premium for all 12 months in 2022. Testimony and Exhibit 4.
5. The Appellants' understanding was that their health insurance met all requirements for Massachusetts. The Appellants used their insurance in Massachusetts without any difficulty. Testimony and Exhibit 4.
6. When the Appellants sought to prepare their 2022 Massachusetts income tax return in early 2023 they learned that their health insurance did not satisfy the Massachusetts minimum creditable coverage standards ("MCC"). The Appellants cancelled their existing insurance policies, but they did not obtain a refund of the premiums that they had already paid for 2022 insurance and for early 2023. The monthly premium was \$595 per month plus an additional \$300 per month for

Christian-based coverage. Testimony and Exhibits 1, 4 and 5 (letter to Appellants dated 5/5/23 cancelling coverage effective 5/14/23).

7. The Appellants purchased health insurance for the remainder of 2023 through the Health Connector. Testimony and Exhibit 4.
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 2022 Massachusetts income tax return.
9. I take administrative notice of the financial information set forth in Tables 1 through 6 of the DOR 2022 Massachusetts Schedule HC Health Care Instructions and Worksheet. Tables 3 and 4 incorporate the affordability schedules adopted by the board of directors for the Commonwealth Health Insurance Connector Authority (Health Connector or Connector) for 2021. See 956 Code Mass. Regs. 6.05. Table 1 sets forth income levels less than 150% of the federal poverty level that are exempt from the assessment of a state tax penalty. Table 2 sets forth income eligibility standards for various family sizes at 300% of the federal poverty level, which is the income eligibility standard for the ConnectorCare government subsidized health insurance program. Tables 5 and 6 set forth the tax penalties in effect for 2022. (The DOR instructions are published online at <http://www.mass.gov/dor/2022ScheduleHCInstructions> and are also available in the state income tax forms supplied to taxpayers. See also DOR Technical Information Release (TIR) 12-7: Individual Mandate Penalties for Tax Year 2022.)

ANALYSIS AND CONCLUSIONS OF LAW

The case is before me on the Appellants' appeal from the state Department of Revenue's (DOR) assessment of a 24 month tax penalty because the Appellants (Wife and Husband) did not have health insurance coverage in 2022 that satisfied the Massachusetts minimum creditable coverage standards ("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 – 2022 that the Appellant signed and filed in this case. See Exhibit 2.

In this case, the Appellants obtained and paid for health insurance for all 12 months that they resided in Massachusetts in 2022 after they relocated from Colorado. The insurance agent assured them that the health insurance policy would cover the Appellants in Massachusetts, and they made use of the coverage in 2022 without any difficulty. The Appellants learned that they had a minimum creditable coverage problem only in early 2023 when they sought to prepare their Massachusetts income tax return for 2022.

By the time that the Appellants learned of the MCC problem they had already paid the monthly insurance premiums for all 12 months of coverage in 2022. The Appellants cancelled the policies in mid-2023 and switched their coverage to new insurers that they obtained through the Health Connector. See, e.g., Exhibit 4 and Testimony.

After considering all of the circumstances I waive the entire 24 month penalty that was assessed by the state Department of Revenue.

PENALTY ASSESSED

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

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

OR

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

NOTIFICATION OF YOUR RIGHT TO APPEAL TO COURT

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

Hearing Officer

Cc: Massachusetts Health Connector Appeals Unit

Massachusetts Health Connector Appeals Unit

Tax Penalty Appeal Decision—Docket No. PA22-1224

Appeal Decision: Appeal Approved -- 2022 tax penalty overturned.

Hearing Issue: Appeal of the 2022 Tax Year Penalty

Hearing Date: January 17, 2024

Decision Date: January 22, 2024

AUTHORITY

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

JURISDICTION

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

HEARING RECORD

The Appellant (the Wife) 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 Wife’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 (Wife) Statement of Grounds for Appeal – 2022;
3. Health Connector’s Notice of Hearing (2 pages);
4. Appellant’s (Wife) Letter in Support of Appeal (1 page);
5. COBRA Notice Letter to Wife (1 page, dated 1/27/22);
6. Health Connector’s Letters to Wife (1 page, dated 1/27/22).

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 (Wife) appealed from the Department of Revenue's assessment of an 8 month penalty for 2022. The basis for the penalty was that the Wife was insured for the month of January 2022 but not for the remainder of 2022 (11 months). 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 1 month insured (January) = 11 months uninsured minus 3 month grace period = 8 penalty months.)
2. The Department of Revenue did not assess a penalty against the Husband for 2022. Exhibit 1. The Husband did not sign the pre-printed appeal form with his Wife (Exhibit 2), and he did not appear for the appeal hearing with his Wife.
3. The Wife was still insured in January 2022 through what I will refer to as her former job. Testimony and Exhibits 1 and 4. See also Exhibit 5 (former employer's COBRA notice (1 page, dated 1/27/23)).
4. The Wife left her former job on January 24, 2022, thereby losing the health insurance coverage that she had through her former job. Testimony and Exhibits 4 and 5.
5. The Wife's new job did not offer her health insurance when she started work in late January 2022. Testimony and Exhibit 4. See also Exhibit 1.
6. The Wife's application to the Health Connector for health insurance coverage in 2022 was denied. The reason that the Health Connector gave to the Wife was: "Your household does not qualify for a special enrollment period." Exhibit 4 and Testimony.
7. The Appellant made multiple unsuccessful efforts to obtain health insurance through the Health Connector. See Exhibit 6 (Health Connector letters to Appellant). See also Testimony and Exhibit 4.

8. The Health Connector offered the Appellant (Wife) an opportunity to enroll in a Tufts health insurance plan during the Health Connector's open enrollment period in late 2022 with coverage effective in January 2023. The Appellant has been insured since January 2023, paying a \$230 monthly premium. Exhibit 4 and Testimony.
9. In support of her appeal the Wife asserts that she has always been insured, that she made multiple efforts in 2022 to continue her health insurance coverage, that she was denied coverage in 2022 based on the Health Connector's eligibility rules based on her job change in early 2022, and that she cannot afford the penalty assessed by the Department of Revenue. Testimony.
10. Based on DOR Table 4 (Region 2) the Appellant could obtain individual health insurance at her age (35-39 age bracket) and location (Plymouth County) for \$290 per month. See Exhibit 1. By comparison the Health Connector charged the Appellant a \$230 monthly premium starting in January 2023. Testimony.
11. The Husband was insured in 2022 through his job. Though the Wife and Husband filed a joint tax return as a married couple with no dependents for 2022 they were not married until late 2022. Consequently, the Wife was not seeking health insurance as a dependent on her Husband's health insurance. Testimony. See Exhibit 1.
12. Except as set forth in the foregoing findings of fact, I adopt the facts set forth in Exhibit 1 as my own findings of fact. Exhibit 1 is a computer printout prepared by the Massachusetts Department of Revenue (DOR) that extracts information submitted by the Appellant on Schedule HC as part of the Appellant's 2022 Massachusetts income tax return.
13. I take administrative notice of the financial information set forth in Tables 1 through 6 of the DOR 2022 Massachusetts Schedule HC Health Care Instructions and Worksheet. Tables 3 and 4 incorporate the affordability schedules adopted by the board of directors for the Commonwealth Health Insurance Connector Authority (Health Connector or Connector)

for 2021. See 956 Code Mass. Regs. 6.05. Table 1 sets forth income levels less than 150% of the federal poverty level that are exempt from the assessment of a state tax penalty. Table 2 sets forth income eligibility standards for various family sizes at 300% of the federal poverty level, which is the income eligibility standard for the ConnectorCare government subsidized health insurance program. Tables 5 and 6 set forth the tax penalties in effect for 2022. (The DOR instructions are published online at <http://www.mass.gov/dor/2022ScheduleHCInstructions> and are also available in the state income tax forms supplied to taxpayers. See also DOR Technical Information Release (TIR) 12-7: Individual Mandate Penalties for Tax Year 2022.)

ANALYSIS AND CONCLUSIONS OF LAW

The case is before me on the Appellant's (the Wife SM) appeal from the state Department of Revenue's (DOR) assessment of an 8 month tax penalty because the Appellant did not have health insurance coverage in 2022 for the months of February through December. See Exhibits 1 and 2. The issue to be decided is whether the penalty should be waived, either in whole or in part.

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

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

applying Mass. Gen. Laws 111M, sec. 2(b). See also DOR Instructions, at page HC-3. A tax penalty will not be assessed during the 3-month administrative grace period.

The Health Connector’s regulations also provide for a “hardship” appeal from the assessment of a penalty. 956 Code Mass. Regs. 6.07 and 6.08. The grounds for a hardship appeal are summarized in the Statement of Grounds for Appeal – 2022 that the Appellant signed and filed in this case. See Exhibit 2.

After considering all the circumstances set forth in the Findings of Fact (above) I conclude that it is appropriate to waive the entire 8 month penalty that the DOR assessed against the Wife In this case.

The Wife changed jobs on January 24, 2022. Prior to her job change the Appellant was insured as a job benefit provided by her former employer. The Wife sought to obtain health insurance coverage after she started her new job, but she was subject to a 90 day wait period. The Health Connector then rejected her insurance application due to the eligibility rules surrounding enrollment in health insurance policies. As soon as an open enrollment period was available the Appellant applied and enrolled in a Tufts health plan, with coverage effective in January 2023. See, e.g., Exhibits 4 and 6. The Appellant has maintained health insurance coverage since January. Simply stated, it is hard to penalize the Appellant for the situation in which she found herself around a simple job change.

PENALTY ASSESSED

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

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

OR

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

NOTIFICATION OF YOUR RIGHT TO APPEAL TO COURT

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

Hearing Officer

Cc: Massachusetts Health Connector Appeals Unit

Massachusetts Health Connector Appeals Unit

Tax Penalty Appeal Decision—Docket No. PA22-1308

Appeal Decision: Appeal Approved -- 2022 tax penalty overturned.

Hearing Issue: Appeal of the 2022 Tax Year Penalty

Hearing Date: January 23, 2024

Decision Date: January 23, 2024

AUTHORITY

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

JURISDICTION

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

HEARING RECORD

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

1. DOR Appeal Case Information from Schedule HC (1 page);
2. Appellant's Statement of Grounds for Appeal – 2022;
3. Health Connector's Notice of Hearing (2 pages);
4. Appellant's Letter in Support of Appeal (1 page);
5. Aetna Membership Card (front & back);
6. Dental and Vision Membership Card (front and back); and
7. Father's Emails with Benefits Office with Attachments.

FINDINGS OF FACT

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

1. The Appellant appealed from the Department of Revenue's assessment of a 12 month penalty for 2022. The basis for the penalty was that the Appellant was not insured at any time in 2022. Exhibits 1 and 2.
2. I find, as set forth in more detail below, that the Appellant was insured for all 12 months in 2022 as a dependent on her Father's health insurance plan. See, e.g., Exhibit 4 and Testimony.
3. The Appellant was 25 years old in 2022 – the year at issue in this appeal. Exhibit 1 (DOB) and Testimony. As set forth in her Father's Aetna health insurance membership card, the Appellant was insured as a dependent on her Father's health insurance plan. Exhibit 5 and Testimony. See also Exhibit 6 (dental and vision insurance).
4. The Father communicated with his human resources benefits office to determine that the Appellant could be insured on the Father's health insurance plan for all of 2022 and until her next birthday in mid-2023. Exhibit 7. See also Testimony.
5. Except as set forth in the foregoing findings of fact, I adopt the facts set forth in Exhibit 1 as my own findings of fact. Exhibit 1 is a computer printout prepared by the Massachusetts Department of Revenue (DOR) that extracts information submitted by the Appellant on Schedule HC as part of the Appellant's 2022 Massachusetts income tax return.
6. I take administrative notice of the financial information set forth in Tables 1 through 6 of the DOR 2022 Massachusetts Schedule HC Health Care Instructions and Worksheet. Tables 3 and 4 incorporate the affordability schedules adopted by the board of directors for the Commonwealth Health Insurance Connector Authority (Health Connector or Connector) for 2021. See 956 Code Mass. Regs. 6.05. Table 1 sets forth income levels less than 150% of the federal poverty level that are exempt from the assessment of a state tax penalty. Table 2 sets forth income eligibility standards for various family sizes at 300% of the federal poverty

level, which is the income eligibility standard for the ConnectorCare government subsidized health insurance program. Tables 5 and 6 set forth the tax penalties in effect for 2022. (The DOR instructions are published online at <http://www.mass.gov/dor/2022ScheduleHCInstructions> and are also available in the state income tax forms supplied to taxpayers. See also DOR Technical Information Release (TIR) 12-7: Individual Mandate Penalties for Tax Year 2022.)

ANALYSIS AND CONCLUSIONS OF LAW

The case is before me on the Appellant’s appeal from the state Department of Revenue’s (DOR) assessment of a 12 month tax penalty because the Appellant did not have health insurance coverage in 2022. See Exhibits 1 and 2. The issue to be decided is whether the penalty should be waived, either in whole or in part.

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

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

The Health Connector’s regulations also provide for a “hardship” appeal from the assessment of a penalty. 956 Code Mass. Regs. 6.07 and 6.08. The grounds for a hardship appeal are summarized in the Statement of Grounds for Appeal – 2022 that the Appellant signed and filed in this case. See Exhibit 2.

The ample evidence presented in support of this appeal establishes that the Appellant was insured for all 12 months as a dependent on her Father's health insurance plan. The Appellant was under 26 years of age in 2022. Consequently, she was able to insure under her Father's health plan. See, e.g., 45 Code Federal Regulations 147.120 (a) (1).

For the foregoing reasons I waive the entire 12 month penalty that the state Department of Revenue assessed against the Appellant for 2022.

PENALTY ASSESSED

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

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

OR

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

NOTIFICATION OF YOUR RIGHT TO APPEAL TO COURT

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

Hearing Officer

Cc: Massachusetts Health Connector Appeals Unit

Massachusetts Health Connector Appeals Unit

FINAL APPEAL DECISION: PA22-834

Appeal Decision: The penalty is overturned.

Hearing Issue: Appeal of the 2022 Tax Year Penalty

Hearing Date: October 24, 2023

Decision Date: January 10, 2024

AUTHORITY

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

JURISDICTION

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

HEARING RECORD

One of the appellants appeared at the hearing which was held by telephone on October 24, 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. At the end of the hearing, the record was kept open until November 14, 2023 to give Appellants time to submit additional evidence. Documents were received on November 14th, marked as an exhibit and admitted in evidence. The record is now closed.

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

Exhibit 1: Statement of Grounds for Appeal 2022 signed and dated by Appellant on March 16, 2023 with attachments

Exhibit 2: Appeal Case Information from Schedule HC 2022

Exhibit 3: Notice of Hearing sent to Appellant dated October 3, 2023 for October 24, 2023 hearing

Exhibit 4: 1099HC forms showing coverage for 2022, all months except May, 2022

FINDINGS OF FACT

The record shows, and I so find:

1. Appellants, who filed a 2022 Massachusetts tax return jointly as a married couple with two dependents claimed, were both 45 years old in 2022 (Exhibit 2, Testimony of Appellant).
2. Appellants resided in Norfolk County in 2022 (Testimony of Appellant, Exhibit 2).
3. Appellants had a Federal Adjusted Income of \$294,973 in 2022 (Testimony of Appellant, Exhibit 2).
4. One of the appellants was employed from January through the end of March. The appellant had health insurance which met the Commonwealth's minimum creditable coverage standards for him, his spouse, and their children. At the end of March, the appellant obtained COBRA coverage for him and his family. He had this coverage for part of March and all of April, 2022 (Testimony of Appellant, Exhibit 4).

5. Appellant obtained a new job in May. He was offered health insurance which met the Commonwealth's standards. He and his family were covered as of June 1, 2022. They had this coverage for the rest of the year (Testimony of Appellant, Exhibit 4).
6. Appellants were both assessed a tax penalty for all of 2022 (Exhibit 2).

ANALYSIS AND CONCLUSIONS OF LAW

The issue on appeal is whether the tax penalty assessed by the Massachusetts Department of Revenue for 2022 should be waived, either in whole or in part.

G.L c. 111M, § 2, also called the "individual mandate," requires every adult resident of Massachusetts to obtain insurance coverage "[s]o long as it is deemed affordable" under the schedule set by the board of directors for the Commonwealth Health Insurance Connector Authority. The coverage must meet the Commonwealth's minimum creditable coverage standards. See 956 CMR 5.00. 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.

Appellants had health insurance which met the Commonwealth's minimum creditable coverage standards from January through April, 2022 and from June through December, 2022. Despite having the coverage, the appellants have been assessed a penalty for the entire year. The appellants have appealed the assessment. See Exhibits 1, 2 4 (1099HC for 2022 for the appellants and their children); and the testimony of the appellant which I find to be credible. Appellants are entitled to a grace period for the one month they did not have coverage. See MGL Chapter 111M, Section 2.

Since Appellants had coverage, the penalty they have been assessed must be waived. It is unclear why their 2022 Massachusetts tax return did not reflect the coverage. See Exhibit 2. Appellants may wish to investigate why their return did not accurately reflect the coverage they had. Appellants' penalty is waived.

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

PENALTY ASSESSED

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

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

NOTIFICATION OF YOUR RIGHT TO APPEAL TO COURT

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

Cc: Connector Appeals Unit

Hearing Officer

FINAL APPEAL DECISION: PA 22-973

Appeal Decision: The penalty is overturned in full.

Hearing Issue: Appeal of the 2022 Tax Year Penalty

Hearing Date: November 27, 2023

Decision Date: December 20, 2023

AUTHORITY

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

JURISDICTION

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

HEARING RECORD

The Appellant appeared at the hearing, which was held by telephone on November 27, 2023. The procedures to be followed during the hearing were reviewed with the Appellant who was then sworn in. Exhibits were marked and admitted in evidence with no objection from the Appellant. The Appellant testified.

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

- Exhibit 1: Appeal Case Information from Schedule HC. (1 P).
- Exhibit 2: Statement of Grounds for Appeal 2022 w/ Schedule HC Signed by Appellant on 4/10/23 (2 PP).
- Exhibit 3: Health Connector’s Notice of Hearing dated 10/24/2023 (2 PP).

The record was left open until December 15, 2023, for the Appellant to submit evidence of enrollment in parents’ health insurance and COBRA.

The Appellant submitted the following documents on November 28, 2023.

- Exhibit 4: Ct. License, Enrollment Letter and Insurance Card from Anthem Blue Cross Blue Cross Blue Sheild corroborating coverage during the penalty period.

The record shows, and I so find:

1. Appellant, single filing filed a 2022 Massachusetts tax return filed with a family size of 1, was age 27 a in 2022, lived in Essex County, and had zero (0) dependents. (Exhibit 1).

2. Appellants' Federal Adjusted Gross Income for 2022 was \$46,354. (Exhibit 1).
3. Appellant testified she resided in Massachusetts and in Connecticut in 2022. (Appellant Testimony).
4. Appellant testified and provided documentation that she had health insurance coverage from her parent's plan for the period which she was being penalized. (Appellant Testimony, Exhibit 4).
5. Appellant testified she obtained Employer Sponsored Insurance (ESI) in October 2022. (Appellant Testimony, Exhibit 1).
6. According to Table 3 Appellant could have afforded \$293.58 per month for health insurance in 2022. According to Table 4 Appellant could have purchased an individual plan insurance for \$277.00 per month. (See Tables 3 and 4 of Schedule HC 2022).
7. The Appellant would not have been eligible for ConnectorCare coverage in 2022 because the Appellant's income was more than 300% of the poverty level, which was \$38,640.00 for a family of (1). (See Table 2 of Schedule HC 2022).
8. In addition to the foregoing, I take administrative notice of the 2022 Schedule HC Instructions and Worksheets, available at <http://www.mass.gov.dor/docs/dor/health-care/2022>, and in particular, Tables 1-6 which, as discussed below, include the Affordability Schedule and other financial information used in making 2022 individual mandate tax penalty determinations.

ANALYSIS AND CONCLUSIONS OF LAW

The issue on appeal is whether the tax penalty assessed by the Massachusetts Department of Revenue for 2022 should be waived, either in whole or in part. Appellant has been assessed a tax penalty for six (6) months in 2022. Appellant has appealed the penalty. (See Exhibits 1 and 2).

The Appellant adduced evidence at the hearing and submitted a statement of grounds for appeal (Ex. 2) with the appeal that during 2022 that the individual mandate did not apply to her because Other: she didn't reside in Massachusetts during the period of uninsurance and had coverage. (Exhibits 2, and Appellant Testimony).

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

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

The evidence provided by the Appellant established that his income for 2022, \$46,354 was more than 300% of the federal poverty level, which for 2022 was \$79,500.00 for a family of one (1). According to Table 3 of Schedule HC for 2022, the Appellant could have afforded \$ 293.58 per month. According to Table 4, Appellant, age 27 in Essex County during the time she was being penalized for not having insurance, could have purchased an individual insurance plan for \$277 per month. Individual coverage was affordable through the individual market for the Appellant in 2022 (Schedule HC for 2022).

The next issue to consider is whether the Appellant had access to affordable employer health insurance (“ESI”) in 2022. The Appellant testified and provided documentation that she lived in Connecticut and Massachusetts in 2022 and had health insurance coverage from her parent’s plan for the period which she was being penalized. (Appellant Testimony, Exhibit 4). Pursuant to 26 IRC section 36B and 45 CFR section 155.305(f), applicants are eligible for an Advanced Premium Tax Credit (APTC) if they meet qualifying income levels and other eligibility requirements. Massachusetts residents may also be eligible for additional state premium assistance through the Health Connector’s ConnectorCare program if: a) their household income does not exceed 300 percent of the Federal Poverty Level (FPL) and b) they are eligible for an APTC. 956 CMR 12.09(1) An applicant who has access to other qualifying health insurance, including insurance through an employer, will be blocked from eligibility for an APTC if the coverage is affordable and meets minimum value standards, as those terms are defined by the law. See 26 CFR section 1.36B-2(c)(3). Coverage for plan year 2022 is considered to be affordable if the employee’s contribution for an individual plan is 9.61 percent or less of the employee’s projected household modified adjusted income (MAGI). The coverage is considered to meet minimum value standards if it has an actuarial value of at least 60 percent. In this case, as referenced above, the Appellant was covered through her parents’ health insurance plan. (Appellant Testimony, Exhibits 4).

Based upon the facts summarized and on the totality of the evidence, I find that the Appellant had insurance through her parent’s plan and lived in Massachusetts and Connecticut in 2022, and that mandate has not been lost on the Appellant as she obtained ESI. Therefore, it is concluded that the Appellant’s request for a waiver from the penalty is **approved**.

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

PENALTY ASSESSED

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

NOTIFICATION OF YOUR RIGHT TO APPEAL TO COURT

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

Cc: Connector Appeals Unit

Hearing Officer

ADDENDUM

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

FINAL APPEAL DECISION: PA 22-1077

Appeal Decision: The penalty is overturned in full.

Hearing Issue: Appeal of the 2022 Tax Year Penalty

Hearing Date: December 15, 2023

Decision Date: December 20, 2023

AUTHORITY

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

JURISDICTION

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

HEARING RECORD

The Appellant appeared at the hearing, which was held by telephone on December 15, 2023. The procedures to be followed during the hearing were reviewed with the Appellant who was then sworn in. Exhibits were marked and admitted in evidence with no objection from the Appellant. The Appellant testified.

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

- Exhibit 1: Appeal Case Information from Schedule HC. (1 P).
- Exhibit 2: Statement of Grounds for Appeal 2022 Signed by Appellant on 4/25/2023 (2 PP).
- Exhibit 2(a): Appellant’s Statement in Support of Appeal (4/25/23) (2 PP).
- Exhibit 2(b) Correspondence from the Health Connector (7/13/22) (1 P).
- Exhibit 2(c) Correspondence from the Mass Health (10/15/22) (2 PP).
- Exhibit 2(d) Correspondence from the Health Connector (7/15/22) (1 P).
- Exhibit 2(e) Correspondence from the Health Connector with Appeal (8/31/22) (5 PP).
- Exhibit 3: Health Connector’s Notice of Hearing dated 11/16/2023 (2 PP).

The record shows, and I so find:

1. Appellant, who filed a 2022 Massachusetts tax return filed single with a family size of 1, was age 32 in 2022, lived in Worcester County, and had zero (0) dependents. (Exhibit 1).
2. Appellant’s Federal Adjusted Gross Income for 2022 was \$54,784. (Exhibit 1).

3. Appellant testified he had insurance through the Connector in prior years with a monthly premium of approximately \$50-\$60 a month but increased by approximately six-fold in 2022 even though his income did not increase substantially. (Exhibit 2, Appellant's Testimony).
4. According to Table 3 Appellant could have afforded \$365.22 per month for health insurance in 2022. According to Table 4 Appellant could have purchased insurance for \$290.00 per month.
5. The Appellant would not have been eligible for ConnectorCare coverage in 2022 because the Appellant's income was more than 300% of the poverty level, which was \$38,640.00. (See Table 2 of Schedule HC 2022, Appellant's Testimony).
6. The Appellant Employer did not offer Employer Sponsored Insurance ("ESI"). (Exhibit 1, Appellant's Testimony).
7. The Appellant testified he made diligent efforts to obtain Connectorcare but was waiting on a hearing date and was unsuccessful with his appeal because he did not have a qualifying life event to qualify for a special enrollment period. (Appellant Testimony, Exhibit 2-e).
8. The Appellant testified that due to inflation and unguaranteed hours at work, various health issues and contributions to those he loves, the price of paying for private insurance was much too steep to pay. (Exhibit 2(a)).
9. In addition to the foregoing, I take administrative notice of the 2022 Schedule HC Instructions and Worksheets, available at <http://www.mass.gov/dor/docs/dor/health-care/2022>, and in particular, Tables 1-6 which, as discussed below, include the Affordability Schedule and other financial information used in making 2022 individual mandate tax penalty determinations.

ANALYSIS AND CONCLUSIONS OF LAW

The issue on appeal is whether the tax penalty assessed by the Massachusetts Department of Revenue for 2022 should be waived, either in whole or in part. Appellant has been assessed a tax penalty for eight (8) months in 2022. Appellant has appealed the penalty. (See Exhibits 1 and 2).

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

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

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

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

The evidence provided by the Appellant established that his income for 2022, \$54,784 was more than 300% of the federal poverty level, which for 2022 was \$38,640.00 for a single person. According to Table 3 of Schedule HC for 2022, the Appellant could have afforded \$365.22 per month. According to Table 4, Appellant, age and living 32 living in Worcester County during the time he was being penalized for not having insurance, could have purchased insurance for \$290 per month. Individual coverage was affordable through the individual market for the Appellant in 2022 (Schedule HC for 2022).

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

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

The Appellant's adjusted gross income was \$54,784. The Appellant was not able to testify to month y expenses but did state that that due to inflation and unguaranteed hours at work, various health issues and contributions to those he loves, the price of paying for private insurance was unaffordable. (Exhibit 1, see par. above). Accordingly, I conclude that purchasing health insurance during 2022, and his other circumstances regarding his attempts at applying for Connectorcare, waiting for and unsuccessful

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

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

PENALTY ASSESSED

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

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

NOTIFICATION OF YOUR RIGHT TO APPEAL TO COURT

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

Cc: Connector Appeals Unit

Hearing Officer

ADDENDUM

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

FINAL APPEAL DECISION: PA 22-1079

Appeal Decision: The penalty is overturned in full.

Hearing Issue: Appeal of the 2022 Tax Year Penalty

Hearing Date: December 15, 2023

Decision Date: December 20, 2023

AUTHORITY

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

JURISDICTION

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

HEARING RECORD

The Appellant appeared at the hearing, which was held by telephone on December 15, 2023. The procedures to be followed during the hearing were reviewed with the Appellant who was then sworn in. Exhibits were marked and admitted in evidence with no objection from the Appellant. The Appellant testified.

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

Exhibit 1:	Appeal Case Information from Schedule HC.	(1 P).
Exhibit 2:	Statement of Grounds for Appeal 2022 Signed by Appellant on 4/10/2023.	(2 PP).
Exhibit 2(a):	Statement in Support of Appellant(undated)	(1 P).
Exhibit 3:	Health Connector's Notice of Hearing dated 11/16/2023	(2 PP).

The record shows, and I so find:

1. Appellant, who filed a 2022 Massachusetts tax return filed single with a family size of 1, was age 30 in 2022, lived in Middlesex County, and had zero (0) dependents. (Exhibit 1).
2. Appellant's Federal Adjusted Gross Income for 2022 was \$67,048. (Exhibit 1).
3. Appellant testified he attempted to obtain Employer Sponsored Insurance ("ESI") in February 2022 through his employer but because of an employer input error he was not approved. (Exhibit 2, Appellant's Testimony).

4. Appellant testified he continued to request ESI from his employer during 2022, and finally was able to obtain coverage during the open enrollment period beginning in December 2022. (Appellant's Testimony).
5. Appellant testified he has been unsuccessful, despite diligent efforts, in attempting to obtain Connectorcare in 2021 and 2022 because he was unable to verify his ID and because the system was reflecting that he was eligible for Medicare even though he had not been enrolled since on or about 2018. (Appellant's Testimony, Exhibit 2(a)).
6. Appellant testified he was unable to procure identification from the proper verifying agencies to assist with Connectorcare during Covid. (Appellant's Testimony, Exhibit 2(a)).
7. According to Table 3 Appellant could have afforded \$446.98 per month for health insurance in 2022. According to Table 4 Appellant could have purchased insurance for \$277.00 per month.
8. The Appellant would not have been eligible for ConnectorCare coverage in 2022 because the Appellant's income was more than 300% of the poverty level, which was \$38,640.00. (See Table 2 of Schedule HC 2022, Appellant's Testimony).
9. The Appellant Employer became enrolled in ESI in December and is currently enrolled. (Exhibits 1, 2(a), Appellant's Testimony).
10. In addition to the foregoing, I take administrative notice of the 2022 Schedule HC Instructions and Worksheets, available at <http://www.mass.gov/dor/docs/dor/health-care/2022>, and in particular, Tables 1-6 which, as discussed below, include the Affordability Schedule and other financial information used in making 2022 individual mandate tax penalty determinations.

ANALYSIS AND CONCLUSIONS OF LAW

The issue on appeal is whether the tax penalty assessed by the Massachusetts Department of Revenue for 2022 should be waived, either in whole or in part. Appellant has been assessed a tax penalty for eight (8) months in 2022. Appellant has appealed the penalty. (See Exhibits 1 and 2).

The Appellant adduced evidence at the hearing submitted a statement of grounds for appeal (Ex. 2) with the appeal that during 2022 that the individual mandate did not apply to his because Other: circumstances, such as: that he was unable to obtain government sponsored insurance, as defined in 956 CMR 6.08(2) and (3). (Exhibit 2 and Appellant's Testimony).

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

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

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

The evidence provided by the Appellant established that his income for 2022, \$67,048 was more than 300% of the federal poverty level, which for 2022 was \$38,640.00 for a single person. According to Table 3 of Schedule HC for 2022, the Appellant could have afforded \$446.98 per month. According to Table 4, Appellant, age and living 30 living in Middlesex County during the time he was being penalized for not having insurance, could have purchased insurance for \$277 per month. Individual coverage was affordable through the individual market for the Appellant in 2022 (Schedule HC for 2022).

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

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

The Appellant's adjusted gross income was \$67,048. Accordingly, I conclude that his other circumstances (the input error precluding him from obtaining ESI until December, 2022- and the inability to enroll in government sponsored insurance because of not being able to verify ID and the system recognizing him as being eligible for Medicare), as based on the facts summarized and on the totality of the evidence, that he has met the criteria in 956 CMR 6.08 (3), and his request for a waiver from the

penalty is **approved**. The mandate has not been lost on the Appellant as he now has ESI after continuing to request same.

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

PENALTY ASSESSED

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

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

NOTIFICATION OF YOUR RIGHT TO APPEAL TO COURT

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

Cc: Connector Appeals Unit

Hearing Officer

ADDENDUM

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

Massachusetts Health Connector Appeals Unit

FINAL APPEAL DECISION: PA22-995

Appeal Decision: Penalty Overturned in Full

Hearing Issue: Appeal of the 2022 Tax Year Penalty

Hearing Date: November 29, 2023

Decision Date: December 13, 2023

AUTHORITY

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

JURISDICTION

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

HEARING RECORD

The appellant appeared at the hearing which was held by telephone on November 29, 2023, and testified under oath. The hearing record consists of his testimony and the following documents which were admitted into evidence without objection:

- Ex. 1—Statement of Grounds for Appeal—2022
- Ex. 2—Appeal Case Information from Schedule HC ¹
- Ex. 3—Notice of Hearing

The record was held open at the conclusion of the hearing for documentation requested by the hearing officer. The documentation was submitted in a timely manner and was marked as follows:

- Ex. 4—2022 Form MA 1099-HC
- Ex. 5—2022 IRS Form 1095-A

FINDINGS OF FACT

The record shows, and I so find:

1. The appellant is 38-years-old, is single and does not have children. He had minimum creditable coverage (MCC) health insurance for all of 2022. (Testimony, Exs. 4,5)
2. In 2022, the appellant had health insurance through the Health Connector from January through July, and employer provided insurance from August through December. (Testimony, Exs. 4,5)

¹ Ex. 2 is a computer printout that extracts information submitted by the appellant on Schedule HC as part of his 2022 Massachusetts income tax return. It also contains information about prior appeals, if any.

3. The appellant prepared his tax returns for 2022 and mistakenly indicated on his Schedule HC that he did not have MCC health insurance for the entire year. (Testimony, Ex. 2)

ANALYSIS AND CONCLUSIONS OF LAW

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

The appellant submitted a statement of grounds for appeal (Ex. 1) but did not specify a ground for his appeal. He indicated on the form that he had health insurance and did not mean to file an appeal.

According to M.G.L. c. 111M, s. 2, residents are permitted a 63-day gap between periods of coverage without facing a tax penalty; for Tax Year 2022, Administrative Bulletin 03-10: Guidance Regarding M.G.L. c. 111M and M.G.L. c. 176Q, as implemented by 956 CMR 6.00, interprets the 63-day gap in coverage to be three months. As a result, gaps of three months are not subject to penalty. Although the appellant had MCC insurance for the entire year, he was assessed and is appealing a penalty of twelve months based on the information he provided on his Schedule HC.

The appellant testified credibly that he was enrolled in health insurance through the Health Connector from January through July, and had employer provided insurance from August through December. He further testified that he mistakenly indicated on his Schedule HC that he was uninsured for the entire year.

The appellant’s testimony was corroborated by a 2022 IRS Form 1095-A which indicated that he had MCC insurance from January through July, and a 2022 Form MA 1099-HC which indicated that he had MCC coverage from August through December. Since the appellant had full coverage for the entire year, he is not subject to a penalty.

Based on the foregoing, the appellant’s request for a waiver from the penalty is **granted** for the months for which he was assessed. The determination that the appellant is eligible for a waiver is with respect to 2022, only and is based upon the extent of information submitted by him in this appeal.

PENALTY ASSESSED

Number of Months Appealed: 12

Number of Months Assessed: 0

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

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

NOTIFICATION OF YOUR RIGHT TO APPEAL TO COURT

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

Hearing Officer

Cc: Connector Appeals Unit

Massachusetts Health Connector Appeals Unit

FINAL APPEAL DECISION: PA21-2622

Appeal Decision: The tax penalty is overturned.

Hearing Issue: Appeal of the 2021 Tax Year Penalty

Hearing Date: October 16, 2023

Decision Date: November 28, 2023

AUTHORITY

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

JURISDICTION

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

HEARING RECORD

The Appellant was a single person with no dependents in 2021. The Appellant appeared at the hearing, which was held by telephone on October 16, 2023, and was combined with Appellant's appeal of a 2020 tax penalty (PA 20-1190). The procedures to be followed during the hearing were reviewed with the Appellant, who was then sworn in. Exhibits were marked and admitted into evidence with no objection from the Appellant. I left the record open for the Appellant to submit additional documentation, which the Appellant so provided. The hearing record consists of the Appellant's testimony and the following documents that were admitted into evidence:

- Exhibit 1: Appeal Case Information from Schedule HC 2021 (1 page).
- Exhibit 2: The Statement of Grounds for Appeal and supporting documentation submitted by the Appellant (8 pages).
- Exhibit 3: Health Connector Appeals Unit Notice of Hearing on October 16, 2023 (2 pages).
- Exhibit 4: Final Appeal Decision PA 19-756, dated June 28, 2021
- Exhibit 5: Open Record Request, dated October 16, 2023 (2 pages).
- Exhibit 6: Appellant's response to Open Record Request, received by the Health Connector on November 14, 2023

FINDINGS OF FACT

The record shows, and I so find:

1. The Appellant filed their federal income tax return as a single person with no dependents claimed. (Exhibit 1).
2. The Appellant turned 58 in March 2021. (Exhibit 1).
3. The Appellant lived in Essex County in 2021. (Exhibit 1).
4. According to the Appellant's Schedule HC, the Appellant's federal Adjusted Gross Income ("AGI") for 2021 was \$34,596. (Exhibit 1).
5. According to the Appellant's Schedule HC, the Appellant did not have health insurance that met Massachusetts' minimum creditable coverage (MCC) requirements for the months of January through November in 2021. The Appellant was assessed an eight-month tax penalty for 2021. (Exhibit 1).
6. The Appellant did not check off a box on their Statement of Grounds for Appeal. The Appellant submitted a letter with their Statement of Grounds for Appeal in which the Appellant stated that that "there was no plan that offered what I want and need at an affordable rate." (Exhibit 2).
7. The Appellant also filed an appeal of a 2020 penalty (PA 20-1190). I conducted hearings on Appellant's 2020 and 2021 appeals in a single phone call that took place on October 16, 2023. (Exhibit 3). The Appellant appeared at the hearings.
8. I take administrative notice of the financial information set forth in Tables 1 through 6 in the Department of Revenue ("DOR") 2021 Massachusetts Schedule HC Health Care Instruction and Worksheets. Tables 3 and 4 incorporate affordability and premium schedules adopted by the Board of Directors for the Commonwealth Health Insurance Connector Authority for 2021. Table 2 sets forth income at 300% of the federal poverty level, and Tables 5 and 6 set forth tax penalties in effect for 2021.
9. The Appellant's AGI of \$34,596 was less than 300% of the Federal Poverty Level, which was \$38,280 for a single person in 2021. (See Table 2 of Schedule HC-2021 and 956 CMR 12.04).
10. According to Table 3 of Schedule HC for 2021, the Appellant, who filed their federal tax return as a single person with no dependents and claimed an adjusted gross income of \$34,596, could have afforded to pay \$144 per month for health insurance. The calculation is as follows: Table 3 states that a single person with no dependents whose 2021 AGI was between \$31,901 and \$38,280 could have spent 5% of their earnings on health insurance; 5% of \$34,596 is \$1,729, and one-twelfth of \$1,729 is \$144.
11. According to Table 4 of Schedule HC for 2021, the least expensive health insurance plan available on the private market to the Appellant, a single person age 57 living in Essex County in January 2021, cost \$401 per month.

12. The Appellant testified that they worked as a self-employed massage therapist in 2021.
13. The Appellant testified that their work and income in 2021 was sporadic and that they did not know from week to week how much they would earn. The Appellant testified that they do a lot of pain relief work and that they cannot predict when people will be in pain and need their services.
14. The Appellant testified that health insurance was not available to them through employment.
15. The Appellant testified that they had no extra money to pay for health insurance in 2021.
16. The Appellant testified that health insurance doesn't cover services for which they are already paying out of pocket, such as eye exams, contact lenses, and dental bills.
17. The Appellant testified that for a period of time, they thought they were enrolled in health insurance, but they later discovered that they were not in fact enrolled in health insurance. The Appellant testified that they went to the Health Connector's offices to fix the situation and that they have had health insurance for all of 2023. The Appellant testified that they did not remember the precise period of time when they mistakenly thought they were enrolled in health insurance.
18. The Appellant testified that they could not remember the amount of their living expenses in 2021 and did not want to make a mistake by guessing what they were.
19. I left the record open for the Appellant to provide: (1) documentation showing that the Appellant had a reasonable belief that they were enrolled in health insurance between January and November 2021; and (2) an estimate of the Appellant's monthly living expenses for 2021. (Exhibit 5).
20. In response to my open record request, the Appellant submitted a letter with the following estimated expenses for 2021: \$700 per month for rent; \$91 per month for storage unit; \$1578.78 for gas (\$131/month); \$818 for auto insurance (\$68/month); \$150 for renter's insurance (\$12.50/month); \$2029.09 for phone (\$168/month); \$3,967.65 for food (\$330/month); \$4,822.97 for clothing/toiletries/household expenses (\$401/month). The Appellant also listed the following annual expenses: \$110 for eye exam; \$104.46 for contact lenses (based on \$52.23 per month); \$155 for AAA membership; \$57.08 for auto tax; \$176 for P.O. Box renewal. In addition, the Appellant listed \$1448,12 in business expenses, a \$6,647 tax payment to the federal government, and a \$230 payment to the Commonwealth of Massachusetts. (Exhibit 6).
21. The Appellant stated in their letter that they could not find the date that they went into the Health Connector office to fix their insurance situation. (Exhibit 6). The Appellant attached a November 19, 2021 letter from the Health Connector stating that they were eligible to enroll in a ConnectorCare Plan Type 2A with Advance Premium Tax Credit for 2021 and that the Health

Connector believed that the Appellant's household income was 143.04% of the Federal Poverty Level. (Exhibit 6).

22. I take administrative notice of the information set forth in the 2021 Health Connector document titled, "ConnectorCare Health Plans," which provides that the lowest monthly premium for a Plan Type 3B, which was available to individuals earning between 250.1 and 300% of the FPL, was \$133 and that the lowest monthly premium for a Plan Type 2A was \$0. The document is available at <https://www.mahealthconnector.org/wp-content/uploads/ConnectorCare-Overview-2021.pdf>.

ANALYSIS AND CONCLUSIONS OF LAW

The case is before me on the Appellant's appeal from the DOR's assessment of an eight-month tax penalty because the Appellant's tax forms indicated that they did not have health insurance that met Massachusetts' minimum creditable coverage ("MCC") standards for the months of January through November in 2021. The issue to be decided is whether the tax penalty should be waived in whole or in part.

I begin by summarizing the legal rules underlying this appeal. The tax penalty was enacted by the Massachusetts Legislature to encourage compliance with G.L. c. 111M, § 2, also called the "individual mandate." The mandate requires every adult resident of Massachusetts to obtain health insurance coverage "[s]o long as it is deemed affordable" under the schedule set by the board of directors for the Commonwealth Health Insurance Connector Authority ("Connector"). G.L. c. 111M, § 2(a). Any health insurance policy must also satisfy the Massachusetts MCC standards for a taxpayer to avoid the penalty.

If these requirements are not met, a tax penalty is assessed for each of the months that the individual did not have health insurance as required by the individual mandate. There is, however, a three-month grace period to allow the taxpayer to obtain health insurance coverage or to make the transition between health insurance policies. See G.L. c. 111M, § 2(b) and Administrative Information Bulletin 03-10: Guidance Regarding M.G.L. c. 111M and M.G.L. c. 176Q, as implemented by 956 CMR 6.00 (clarifying that for purposes of penalty calculation, taxpayers will not be subject to penalty if they had lapses in coverage consisting of three or fewer consecutive calendar months). The Connector's regulations also provide for a waiver of the tax penalty in cases of hardship. See 956 CMR 6.07-08.

To determine if the penalty should be waived in whole or in part, there must be a determination as to whether affordable insurance that met MCC standards was available to the Appellant through employment, through the private market, or through a government-subsidized program. If affordable insurance was available, it must be determined whether such insurance was not in fact affordable to the Appellant because the Appellant experienced a hardship as defined in 956 CMR 6.08. Each of these issues is addressed in turn.

First, I conclude that the Appellant could not have obtained affordable health insurance meeting MCC requirements through employment because the Appellant credibly testified that they were self-

employed and that health insurance was not available to them through employment. Findings of Fact Nos. 12 and 14.

Second, I conclude that the Appellant could not have obtained affordable health insurance meeting MCC requirements through the private market. According to Table 3 of the Schedule HC, the Appellant could have afforded to pay \$144 per month for health insurance, but According to Table 4 of the Schedule HC, the least expensive health insurance plan available to the Appellant on the private market cost \$401 per month. Findings of Fact Nos. 10 and 11.

Third, I find that the Appellant theoretically had access to affordable health insurance meeting MCC requirements through a government-subsidized program because the Appellant's AGI was less than 300% of the federal poverty level. Finding of Fact No. 9. However, I find that the Appellant did not have actual access to this insurance because the Appellant suffered a hardship. The Appellant's AGI of \$34,596 was 271% of the FPL of \$12,760 in 2021. In 2021, the lowest cost ConnectorCare Plan premium for a Plan Type 3B, which was available to individuals who earned 250.1-300% of the FPL, was \$133 per month, which is only \$11 less than the \$144 that the Appellant theoretically could have afforded per month for health insurance. Findings of Fact Nos. 10 and 22. The Appellant credibly testified that because they work as a self-employed massage therapist and have clients who seek pain relief, their work and income are inconsistent. Finding of Fact No. 13. Because the Appellant had inconsistent income, I find it likely that in some months, they could not have afforded to pay for health insurance, even at a subsidized level, and if they had done so, they likely would have suffered a serious deprivation of food, shelter, clothing, or other necessities.

I note that in response to my Open Record Request, the Appellant submitted a November 19, 2021 letter stating that they were eligible for a ConnectorCare Plan Type 2A. Finding of Fact No. 21 and Exhibit 6. As noted earlier, the lowest monthly premium for this type of plan was \$0. Finding of Fact No. 22. This letter from the Health Connector does not change my conclusion and analysis, which are based on the Appellant's actual, final AGI, which would have rendered them ineligible for a ConnectorCare Plan Type 2A. Further, I note that the letter from the Health Connector was dated November 19, 2021, so even if the Appellant were theoretically eligible to enroll in a ConnectorCare Plan Type 2A, they likely would not have had access to such a plan in the months for which they received a tax penalty (January through August 2021).

Reviewing the totality of the evidence, I find that it is appropriate to waive the Appellant's eight-month tax penalty in its entirety because the Appellant did not have access to affordable health insurance meeting MCC standards through employment or the private market and that they could not have afforded health insurance meeting MCC standards through a government-subsidized program because they suffered a hardship. See G.L. c. 111M, § 2 and 956 CMR 6.07(8) and 6.08(1)(e).

PENALTY ASSESSED

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

If the number of months assessed is zero (0) because your penalty has been overturned, the Connector has notified the Department of Revenue that you should NOT be assessed a penalty for Tax Year 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: PA22-837

Appeal Decision: The penalty is overturned in full.

Hearing Issue: Appeal of the 2022 Tax Year Penalty

Hearing Date: October 24, 2023

Decision Date: January 15, 2024

AUTHORITY

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

JURISDICTION

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

HEARING RECORD

The appellant appeared at the hearing which was held by telephone on October 24, 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 signed by Appellant on March 13, 2023 with letter and miscellaneous bills attached
- Exhibit 2: Appeal Case Information from Schedule HC 2022
- Exhibit 3: Notice of Hearing sent to Appellant dated October 3, 2023 for October 24, 2023 hearing

FINDINGS OF FACT

The record shows, and I so find:

1. Appellant, who filed a 2022 Massachusetts tax return as a single person with no dependents claimed, was 24 years old in 2022 (Exhibit 2, Testimony of Appellant).
2. Appellant resided in Hampden County in 2022 after moving to Massachusetts from another state in June, 2022 (Testimony of Appellant, Exhibit 2).
3. Appellant had a Federal Adjusted Income of \$25,953 in 2022. Appellant earned \$1,500 working part-time out-of-state after he moved to Massachusetts. The work was seasonal. Starting in October, 2022, Appellant started working full-time for a company. His hours and pay fluctuated. He generally earned between \$500 and \$550 each week. (Testimony of Appellant, Exhibit 2).

4. Appellant does not remember if he was offered health insurance through his full-time job (Testimony of Appellant).
5. Appellant had no health insurance that met the Commonwealth's standards once he moved to Massachusetts. Appellant has been assessed a penalty for four months, September through December. The appellant has appealed this assessment (Testimony of Appellant, Exhibits 1 and 2).
6. I take administrative notice of the financial information set forth in Tables 1 through 6 in the DOR 2022 Massachusetts Schedule HC Health Care Instructions and Worksheets. Tables 3 and 4 incorporate affordability and premium schedules adopted by the Board of Directors for the Commonwealth Health Insurance Connector Authority for 2022. Table 2 sets forth income at 300% of the Federal poverty level and Tables 5 and 6 set forth tax penalties in effect for 2022.
7. According to Table 3 of Schedule HC for 2022, the appellant with no dependents claimed with an adjusted gross income of \$25,953 could afford to pay \$90 per month for health insurance. According to Table 4, Appellant, 24 years old and living in Hampde County, could have purchased insurance for \$295 per month for a plan for an individual. Insurance on the individual market was unaffordable for the appellant (Schedule HC for 2022 Tables 3 and 4, Exhibit 2).
8. According to Table 2 of Schedule HC for 2022, Appellant, who earned less than \$38,640 per year, would have been eligible for the ConnectorCare program based upon income (Table 2 of Schedule HC-2022, and Exhibit 2).
9. Appellant did not incur significant and unexpected increases in essential expenses as a result of domestic violence; the death of a spouse, family member, or partner who shared household expenses; the sudden responsibility for providing full care for an aging parent or other family member, or a natural or human-caused event which caused substantial personal damage in 2022 (Testimony of Appellant).
10. Appellant did not receive any shut-off notices for basic utilities in 2022 (Testimony of Appellant).
11. Appellant did not fall more than thirty days behind in rent payments in 2022 (Testimony of Appellant).
12. Appellant had the following monthly expenses for basic necessities after he moved to Massachusetts: rent and heat-\$353; electricity-\$60; telephone-\$157; food, household items, and personal care items-\$795; car insurance-\$128; gas-\$150; clothing-\$35; personal loan payment-\$61. Appellant also had moving expenses (Testimony of Appellant, Exhibit 1).

ANALYSIS AND CONCLUSIONS OF LAW

The issue on appeal is whether the tax penalty assessed by the Massachusetts Department of Revenue for 2022 should be waived, either in whole or in part.

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

financial hardship. See 956 CMR 6.08. Pursuant to 45 CFR 155.305(f), an individual is not eligible for an advance premium tax credit if the individual has access to affordable health insurance which meets minimum essential coverage as defined in the Patient Protection and Affordable Care Act.

Appellant had no health insurance that met the Commonwealth's minimum creditable coverage standards after Appellant moved to Massachusetts in June, 2022. Appellant has been assessed a penalty for four months, September through December. Appellant is entitled to a three-month grace period without penalty after his move the Commonwealth. The appellant has appealed the assessment. See Exhibits 1, 2, and Massachusetts General Laws Chapter 111M, Section 2.

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

According to Table 3 of Schedule HC for 2022, the appellant with no dependents claimed with an adjusted gross income of \$25,793 could afford to pay \$90 per month for health insurance. According to Table 4, Appellant, 24 years old and living in Hampden County, could have purchased insurance for \$295 per month for a plan for an individual. Insurance on the individual market was unaffordable for the appellant. See Schedule HC for 2022 Tables 3 and 4, Exhibit 2.

Appellant was eligible for enrollment in the ConnectorCare program based upon income. The appellant's annual Federal Adjusted Income was \$25,953, less than the income limit for one person (\$38,640). See 956 CMR 12.00 et. seq., Exhibit 2, and Table 2 of Schedule HC 2022. There is no evidence in the record that Appellant was eligible for any other government sponsored programs.

Appellant does not remember whether he was offered health insurance through his job. See the testimony of the appellant which I find to be credible.

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

Appellant had the following monthly expenses for basic necessities after the appellant moved to Massachusetts: rent and heat-\$353; electricity-\$60; telephone-\$157; food, household items, and personal care items-\$795; car insurance-\$128; gas-\$150; clothing-\$35; personal loan payment-\$61. Appellant also had moving expenses. See the testimony of appellant which I find to be credible and Exhibit 1.

Appellant's Federal Adjusted Gross Income in 2022 was \$25,953. Appellant's pay before taxes and other deductions came to about \$2,100 per month. His expenses amounted to about \$1,800 from June through December. Once he moved to the Commonwealth in June, he only had part-time work. He was earning less than he was spending on basic necessities from June through September. It was only in October when he obtained full-time work that Appellant's income (before taxes) covered his basic necessities. He had little or no disposable income even after he started working full time. Based upon these facts, I determine that pursuant to 956 CMR 6.08(1)(e), the cost of insurance would have caused Appellant to experience a serious deprivation of basic necessities during the last four months of the year. This constitutes financial hardship, making health insurance unaffordable for the appellant. See Exhibits 1 and 2 and the testimony of the appellant which I find credible. I determine that Appellant experienced a financial hardship throughout the year. See 956 CMR 6.08(3) which allows the consideration of financial issues raised by the appellant.

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

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

PENALTY ASSESSED

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

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

NOTIFICATION OF YOUR RIGHT TO APPEAL TO COURT

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

Cc: Connector Appeals Unit

Hearing Officer

Massachusetts Health Connector Appeals Unit

FINAL APPEAL DECISION: PA22-954

Appeal Decision: The penalty is overturned in full.

Hearing Issue: Appeal of the 2022 Tax Year Penalty

Hearing Date: November 28, 2023

Decision Date: January 28, 2024

AUTHORITY

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

JURISDICTION

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

HEARING RECORD

The appellant appeared at the hearing which was held by telephone on November 28, 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 signed by Appellant on April 1, 2023 with letter attached

Exhibit 2: Appeal Case Information from Schedule HC 2022

Exhibit 3: Notice of Hearing sent to Appellant dated October 20, 2023 for November 28, 2023 hearing

FINDINGS OF FACT

The record shows, and I so find:

1. Appellant, who filed a 2022 Massachusetts tax return as a single person with no dependents claimed, was 36 years old in 2022 (Exhibit 2, Testimony of Appellant).
2. Appellant resided in Berkshire County in 2022. The appellant lived with her parents (Testimony of Appellant, Exhibit 2).
3. Appellant had a Federal Adjusted Income of \$30,966 in 2022 (Testimony of Appellant, Exhibit 2).
4. Appellant had the same job for ten years in a restaurant. In 2021, during the pandemic, Appellant had sporadic work. Several times, the restaurant was closed because of the pandemic. In August, 2021, the appellant had to take time off to care for her brother who is disabled and for her parents who were ill. The appellant also came down with Covid and could not work. In 2022, Appellant worked again all year. Appellant's earnings varied greatly during the year. She earned about \$300 a week from January through May and in October. Appellant earned between \$500 and \$600 a week from June through September and in November and December (Testimony of Appellant).

5. In 2021, Appellant started the year with health insurance through the Connector. When she stopped working to take care of her family members, she did not have enough money to pay the premium and she lost coverage. At this time, Appellant was paying some of her brother's medical expenses. In 2022, Appellant did not have health insurance all year. In January, 2022, she owed the Connector almost \$400 which she had to pay in order to enroll again. She did not have the money, so she was unable to obtain the coverage. Appellant was not offered health insurance through her job (Testimony of Appellant).

6. Appellant has been assessed a penalty for twelve months. The appellant has appealed this assessment (Testimony of Appellant, Exhibits 1 and 2).

7. I take administrative notice of the financial information set forth in Tables 1 through 6 in the DOR 2022 Massachusetts Schedule HC Health Care Instructions and Worksheets. Tables 3 and 4 incorporate affordability and premium schedules adopted by the Board of Directors for the Commonwealth Health Insurance Connector Authority for 2022. Table 2 sets forth income at 300% of the Federal poverty level and Tables 5 and 6 set forth tax penalties in effect for 2022.

8. According to Table 3 of Schedule HC for 2022, the appellant with no dependents claimed with an adjusted gross income of \$30,966 could afford to pay \$108 per month for health insurance. According to Table 4, Appellant, 36 years old and living in Berkshire County, could have purchased insurance for \$319 per month for a plan for an individual. Insurance on the individual market was unaffordable for the appellant (Schedule HC for 2022 Tables 3 and 4, Exhibit 2).

9. According to Table 2 of Schedule HC for 2022, Appellant, who earned less than \$38,640 per year, would have been eligible for the ConnectorCare program based upon income (Table 2 of Schedule HC-2022, and Exhibit 2).

10. Appellant did not incur significant and unexpected increases in essential expenses as a result of domestic violence; the death of a spouse, family member, or partner who shared household expenses; the sudden responsibility for providing full care for an aging parent or other family member, or a natural or human-caused event which caused substantial personal damage in 2022 (Testimony of Appellant).

11. Appellant did not receive any shut-off notices for basic utilities in 2022 (Testimony of Appellant).

12. Appellant did not fall more than thirty days behind in rent payments in 2022 (Testimony of Appellant).

13. Appellant had the following monthly expenses for basic necessities in 2022: rent, electricity, heat-\$860; telephone-\$180; internet-\$96; food, household items, and personal care items-\$720; car insurance-\$110; gas-\$225; car payments-\$543; clothing-\$45; credit card debt-\$900. Appellant owed \$23,000 on her credit card. In addition, Appellant paid \$3,000 for dental care and \$200 for eye care during 2022 (Testimony of Appellant).

ANALYSIS AND CONCLUSIONS OF LAW

The issue on appeal is whether the tax penalty assessed by the Massachusetts Department of Revenue for 2022 should be waived, either in whole or in part.

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

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

Appellant had no health insurance in 2022 that met the Commonwealth's minimum creditable coverage standards. Appellant has been assessed a penalty for twelve months. 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 2022, the appellant with no dependents claimed with an adjusted gross income of \$30,966 could afford to pay \$108 per month for health insurance. According to Table 4, Appellant, 36 years old and living in Berkshire County, could have purchased insurance for \$319 per month for a plan for an individual. Insurance on the individual market was unaffordable for the appellant. See Schedule HC for 2022 Tables 3 and 4, Exhibit 2.

Appellant was eligible for enrollment in the ConnectorCare program based upon income. The appellant's annual Federal Adjusted Income was \$30,966, less than the income limit for one person (\$38,640). However, the appellant had had ConnectorCare coverage in 2021; the coverage was terminated for non-payment. Appellant owed close to \$400. In January, 2022, she did not have \$400 to make the back payment. She was not able to enroll in 2022 because of this debt. If Appellant paid the premiums still due, she would have been eligible. See the testimony of the appellant which I find to be credible, Exhibit 2, 956 CMR 12.00 et. seq., and Table 2 of Schedule HC for 2022.

Appellant was not offered health insurance through her job. See the testimony of the appellant which I find to be credible.

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

Appellant had the following monthly expenses for basic necessities in 2022: rent, electricity, heat-\$860; telephone-\$180; internet-\$96; food, household items, and personal care items-\$720; car insurance-\$110; gas-\$225; car payments-\$543; clothing-\$45; credit card debt-\$900. In addition, Appellant paid \$3,000 for dental care and \$200 for eye care during 2022. See the testimony of appellant which I find to be credible.

Appellant's Federal Adjusted Gross Income in 2022 was \$30,966. Appellant's pay before taxes and other deductions came to about \$2,500 per month, though it varied from month to month. Appellant's expenses amounted to about \$3,600 each month. In addition, Appellant had over \$3,000 in dental and eye care expenses during the year. Appellant had a significant deficit each month. I also note, that in 2021, Appellant was unemployed for a large part of the year because of the pandemic and family health issues. By 2022, the appellant had \$23,000 in credit card debt. Based upon these facts, I determine that pursuant to 956 CMR 6.08(1)(e), the cost of insurance would have caused Appellant to experience a serious deprivation of basic necessities during the year. This constitutes financial hardship, making health insurance unaffordable for the appellant. See Exhibit 2 and the testimony of the appellant

which I find credible. I determine that Appellant experienced a financial hardship throughout the year. See 956 CMR 6.08(3) which allows the consideration of financial issues raised by the appellant.

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

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

PENALTY ASSESSED

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

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

NOTIFICATION OF YOUR RIGHT TO APPEAL TO COURT

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

Cc: Connector Appeals Unit

Hearing Officer

Massachusetts Health Connector Appeals Unit

FINAL APPEAL DECISION: PA22-994

Appeal Decision: Penalty Overturned in Full

Hearing Issue: Appeal of the 2022 Tax Year Penalty

Hearing Date: November 29, 2023

Decision Date: January 4, 2024

AUTHORITY

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

JURISDICTION

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

HEARING RECORD

The appellant appeared at the hearing which was held by telephone on November 29, 2023, and testified under oath. The hearing record consists of her testimony and the following documents which were admitted into evidence without objection:

Ex. 1—Statement of Grounds for Appeal—2022

Ex. 2—Appeal Case Information from Schedule HC ¹

Ex. 3—Notice of Hearing

The record was held open until December 20, 2023, at the conclusion of the hearing for documentation requested by the hearing officer. ² Nothing was submitted in response to the request and the record was closed on January 3, 2024.

FINDINGS OF FACT

The record shows, and I so find:

1. The appellant is 60-years-old, is single and has adult children. She did not have health insurance in 2022. She resided in Middlesex County in 2022. (Testimony, Ex. 2)
2. Prior to 2022, the last time the appellant had health insurance was in 2019. At that time, she had insurance through MassHealth which was terminated when she began to work on a full-time basis. She was subject to a penalty for the 2019, 2020 and 2021 tax years and was unaware that she could appeal

¹ Ex. 2 is a computer printout that extracts information submitted by the appellant on Schedule HC as part of her 2022 Massachusetts income tax return. It also contains information about prior appeals, if any.

² The appellant was sent a form to submit to her employer regarding the cost and terms of health insurance that was offered to her in 2022. It is not known whether the form was submitted to her employer or whether the employer did not return the form to the Health Connector.

the penalty until 2022 when her tax returns were prepared by a tax preparation service and she was advised of her right to appeal. (Testimony)

3. The appellant was employed in 2022 and was eligible for employer provided health insurance. She did not enroll because the cost of a premium for an individual plan was approximately \$600.00/month which she could not afford. (Testimony)
4. The appellant applied for health insurance with MassHealth in the late spring/early summer of 2022. By letter dated November 22, 2022, she was advised that she did not qualify. (Testimony, Ex. 1)
5. The appellant did not have health insurance in 2023. (Testimony)
6. The appellant reported an adjusted gross income of \$36,783.00 on her 2022 federal tax return, and reported that she was single with no dependents. (Ex. 2)
7. In 2022, the appellant had regular monthly expenses of approximately \$2777.00 for rent (\$1250.00), electricity which included heat and hot water averaged over twelve months (\$118.00), cable and internet service (\$210.00), cell phone (\$50.00), automobile loan (\$379.00), automobile insurance (\$125.00), gas (\$45.00), and food (\$600.00). In addition, she paid approximately \$275.00/month for credit card debt. (Testimony)

In addition to the foregoing, I take administrative notice of the 2022 Schedule HC Instructions and Worksheets, available at <http://www.mass.gov.dor/docs/dor/health-care/2022>, and in particular, Tables 1-6 which include the Affordability Schedule and other financial information used in making 2022 individual mandate tax penalty determinations.

ANALYSIS AND CONCLUSIONS OF LAW

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

The appellant submitted a statement of grounds for appeal (Ex. 1), claiming that the individual mandate did not apply to her during 2022, but did not check off a specific ground for the appeal.

According to M.G.L. c. 111M, s. 2, residents are permitted a 63-day gap between periods of coverage without facing a tax penalty; for Tax Year 2022, Administrative Bulletin 03-10: Guidance Regarding M.G.L. c. 111M and M.G.L. c. 176Q, as implemented by 956 CMR 6.00, interprets the 63-day gap in coverage to be three months. As a result, gaps of three months are not subject to penalty. Since the appellant was uninsured for the entire year, she was assessed and is appealing a penalty of twelve months.

The appellant testified that the last time she had health insurance was in 2019 through MassHealth. She testified that she has been subject to a penalty since then and was unaware that she had a right to appeal until she was advised by the tax preparation service that prepared her 2022 tax returns. She testified that she was employed in 2022 and was eligible for employer health insurance, but did not enroll because she could not afford the monthly premium of approximately \$600.00. Finally, she testified that she applied for MassHealth in 2022 and was denied because she did not qualify.

The evidence provided by the appellant established that her income for 2022, \$36,783.00, was less than 300% of the federal poverty level (FPL), which for 2022 was \$38,640.00 for an individual. Table 3 of the Affordability Schedule indicates that an individual filing separately with no dependents with a federal adjusted gross income between \$32,201.00 and \$38,640.00 is deemed to be able to afford a monthly premium of \$153.26 (5.00% of \$36,783.00/12). Table 4 of the Premium Schedule indicates that a 59-year-old individual (the age of the appellant in 2022) in Middlesex County (where the appellant resided in 2022) could have purchased private health insurance for \$435.00 per month, more than the monthly amount deemed affordable from Table 3. Thus, according to the foregoing analysis, the appellant could not have purchased affordable private health insurance in 2022.

The appellant testified that she had access to employer health insurance in 2022 which would have cost approximately \$600.00/month for an individual plan. Since no documentation was returned to the Health Connector to establish what the cost was, her testimony regarding the availability of that insurance will not be considered for purposes of determining whether the coverage was affordable.

Since the appellant's income was within 300% of the FPL, the appellant should have qualified for subsidized health insurance through the Health Connector, assuming she met all other eligibility criteria, and for which she would have been subject to a subsidized premium of approximately \$153.26 per month, pursuant to the aforementioned Affordability Schedule in Table 3.

Even though subsidized health insurance may have been affordable to the appellant under the law, she may nevertheless not be subject to a penalty for failing to get health insurance for the months in question if she can show that she experienced a hardship during 2022. Examples of hardships include being homeless or overdue in rent or mortgage payments, receiving a shut-off notice for utilities, or incurring unexpected increases in basic living expenses due to domestic violence, death of a family member, sudden responsibility for providing care for a family member or fire, flood or natural disaster. In addition, the appellant's tax penalty for 2022 could be waived if she experienced financial circumstances such that the expense of purchasing health insurance would have caused her to experience a serious deprivation of food, shelter, clothing or other necessities. See 956 CMR 6.08.

The evidence presented by the appellant in this case is sufficient to establish that she experienced a financial hardship as defined by law so as to waive her penalty for the months in question. The appellant testified that in 2022, she incurred basic monthly expenses of approximately \$3052.00, including her credit card debt. Those expenses were less than her regular monthly pre-tax income of approximately \$3065.00 by only \$13.25/month, thereby making the cost of a subsidized insurance premium of \$153.26/month unaffordable. Hence, it is concluded that the totality of the evidence presented by the appellant established that she experienced financial circumstances such that the expense of purchasing health insurance that met minimum creditable coverage standards would have caused her to experience a serious deprivation of food, shelter, clothing or other necessities. See 956 CMR 6.08 (1)(e).

Based on the foregoing, the appellant's request for a waiver from the penalty is **granted** for the months for which she was assessed. The determination that the appellant is eligible for a hardship waiver is with respect to 2022 only and is based upon the extent of information submitted in this appeal.

PENALTY ASSESSED

Number of Months Appealed: 12

Number of Months Assessed: 0

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

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

NOTIFICATION OF YOUR RIGHT TO APPEAL TO COURT

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

Hearing Officer

Cc: Connector Appeals Unit

ADDENDUM

If the appellant has not enrolled in employer provided health insurance for 2024, she is strongly encouraged to investigate coverage through the Health Connector either through mahealthconnector.org or by contacting customer service at 1-877-623-6765 for assistance. The open enrollment period runs until January 23, 2024.

Massachusetts Health Connector Appeals Unit

FINAL APPEAL DECISION: PA22-996

Appeal Decision: Penalty Overturned in Full

Hearing Issue: Appeal of the 2022 Tax Year Penalty

Hearing Date: November 29, 2023

Decision Date: December 12, 2023

AUTHORITY

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

JURISDICTION

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

HEARING RECORD

The appellant appeared at the hearing which was held by telephone on November 29, 2023, and testified under oath. The hearing record consists of his testimony and the following documents which were admitted into evidence without objection:

Ex. 1—Statement of Grounds for Appeal—2022

Ex. 2—Appeal Case Information from Schedule HC ¹

Ex. 3—Notice of Hearing

FINDINGS OF FACT

The record shows, and I so find:

1. The appellant is 31-years-old, is single and does not have children. He did not have health insurance in 2022. He resided in Essex County in 2022. (Testimony, Ex. 2)
2. The appellant has worked in the restaurant industry for many years and suffered adverse financial consequences as a result of the pandemic in 2020 and 2021. (Testimony)
3. Prior to 2022, the appellant last had health insurance from January through October, 2021, through an employer. (Testimony)
4. The appellant worked for an employer in 2022 that did not offer health insurance. He investigated insurance options through the Health Connector and determined that he could not afford the cost. (Testimony)

¹ Ex. 2 is a computer printout that extracts information submitted by the appellant on Schedule HC as part of his 2022 Massachusetts income tax return. It also contains information about prior appeals, if any.

5. The appellant lived in two different places in 2022, both located in Essex County. He lived in one apartment from January through May, and a second apartment from June through December. He shared the second apartment with a partner until September after which he paid all the expenses himself. (Testimony)
6. The appellant has been enrolled in health insurance through the Health Connector since January, 2023. (Testimony)
7. The appellant reported an adjusted gross income of \$57,923.00 on his 2022 federal tax return, and reported that he was single with no dependents. (Ex. 2)
8. From January through May, 2022, the appellant had regular monthly expenses of approximately \$1870.00 for rent (\$700.00), heat (\$50.00), electricity and internet service (\$80.00), cell phone (\$80.00), automobile loan payment (\$140.00), automobile insurance (\$220.00), motorcycle loan payment (\$120.00), motorcycle insurance (\$60.00), gas (\$120.00), and food (\$300.00). In addition, he paid \$470.00/month for a personal loan and approximately \$200.00/month for credit card debt. From June through September, 2022, the appellant had regular monthly expenses of approximately \$2115.00 for rent (\$850.00), heat (\$50.00), electricity and internet service (\$150.00), renter's insurance (\$25.00) and the foregoing listed expenses. From October through December, 2022, the appellant had regular monthly expenses of approximately \$2865.00 for rent (\$1600.00) as well as the foregoing listed expenses. (Testimony)

In addition to the foregoing, I take administrative notice of the 2022 Schedule HC Instructions and Worksheets, available at <http://www.mass.gov.dor/docs/dor/health-care/2022>, and in particular, Tables 1-6 which include the Affordability Schedule and other financial information used in making 2022 individual mandate tax penalty determinations.

ANALYSIS AND CONCLUSIONS OF LAW

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

The appellant submitted a statement of grounds for appeal (Ex. 1), claiming that the individual mandate did not apply to him during 2022 because 1) the expense of purchasing health insurance would have caused a serious deprivation of food, clothing, shelter or other necessities; and 2) he incurred a fire, flood, natural disaster or other unexpected natural or human-caused event causing substantial household or personal damage to/for him. He also submitted a letter with his statement in which he stated in part that he works in the restaurant industry which was particularly hard hit during the pandemic and was just beginning to return to normalcy. He stated that health insurance would have cost him approximately \$4344.00 for the year because he did not qualify for subsidies even though his income was barely over the average per capita income. He stated that if he had to pay that, he would have only had \$4861.00 left at the end of the year and would still have had to pay high deductibles if he needed to use his insurance. Finally, he stated that he has been enrolled in unsubsidized insurance in 2023.

According to M.G.L. c. 111M, s. 2, residents are permitted a 63-day gap between periods of coverage without facing a tax penalty; for Tax Year 2022, Administrative Bulletin 03-10: Guidance Regarding M.G.L. c. 111M and M.G.L. c. 176Q, as implemented by 956 CMR 6.00, interprets the 63-day gap in coverage to be three months. As a result, gaps of three months are not subject to penalty. Since the appellant was uninsured for the entire year, he was assessed and is appealing a penalty of twelve months.

The appellant testified credibly that he had insurance in 2021 and has been enrolled in insurance in 2023 through the Health Connector. He testified that the restaurant industry where he is employed was upended during the pandemic and was just beginning to recover, and he suffered adverse personal and financial consequences as a result.²

The evidence provided by the appellant established that his income for 2022, \$57,923.00, was greater than 300% of the federal poverty level (FPL), which for 2022 was \$38,640.00 for an individual. Table 3 of the Affordability Schedule indicates that an individual filing separately with no dependents with a federal adjusted gross income at or above \$51,121.00 is deemed to be able to afford a monthly premium of \$386.15 (8.00% of \$57,923/12). Table 4 of the Premium Schedule indicates that a 30-year-old individual (the age of the appellant in 2022) in Essex County (where the appellant resided in 2022) could have purchased private health insurance for \$277.00 per month, less than the monthly amount deemed affordable from Table 3. Thus, according to the foregoing analysis, the appellant could have purchased affordable private health insurance in 2022.

Even though private health insurance may have been affordable to the appellant under the law, he may nevertheless not be subject to a penalty for failing to get health insurance for the months in question if he can show that he experienced a hardship during 2022. Examples of hardships include being homeless or overdue in rent or mortgage payments, receiving a shut-off notice for utilities, or incurring unexpected increases in basic living expenses due to domestic violence, death of a family member, sudden responsibility for providing care for a family member or fire, flood or natural disaster. In addition, the appellant's tax penalty for 2022 could be waived if he experienced financial circumstances such that the expense of purchasing health insurance would have caused him to experience a serious deprivation of food, shelter, clothing or other necessities. See 956 CMR 6.08.

The evidence presented by the appellant in this case is insufficient to establish that he experienced a financial hardship as defined by law so as to waive his penalty for the months in question. The appellant testified that in 2022, he incurred basic monthly expenses of approximately \$2540.00, including his loan and credit card debt from January through May, \$2785.00 from June through September, and \$3535.00 from October through December. Those expenses were less than his regular monthly pre-tax income of approximately \$4827.00, thereby making a private insurance premium of \$277.00 seemingly manageable. While it is recognized that an approximate difference between income and expenses of \$2287.00 per month at the highest and \$1292.00 at the lowest is not a panacea, it does not appear on its face that the payment of \$277.00 for health insurance would have caused an undue hardship.

Based on the foregoing, it is concluded that the appellant could have afforded private health insurance and failed to establish that he experienced a financial hardship that would entitle him to a waiver of the penalty. Notwithstanding this conclusion, the penalty will be waived for the following reason. The appellant testified that he was enrolled in health insurance prior to 2022 and has been enrolled throughout 2023, thereby demonstrating that the mandate to purchase insurance has not been lost on him. Furthermore, he offered compelling testimony that the pandemic caused enormous damage in his line of work and that he was just beginning to re-establish financial stability. Finally, it is hoped that a waiver of the penalty will motivate him to remain insured in the future. At the same time, he should understand that this extension of leniency is for this year only and he should not rely on a similar result if he is assessed and appeals a penalty in the future.

² The appellant did not offer any evidence on the second ground for this appeal. As such, it will be analyzed on the basis of the first ground set forth in the second paragraph on page two.

Based on the foregoing, the appellant's request for a waiver from the penalty is **granted** for the months for which he was assessed. The determination that the appellant is eligible for a waiver is with respect to 2022 only and is based upon the extent of information submitted in this appeal.

PENALTY ASSESSED

Number of Months Appealed: 12

Number of Months Assessed: 0

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

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

NOTIFICATION OF YOUR RIGHT TO APPEAL TO COURT

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

Hearing Officer

Cc: Connector Appeals Unit

Massachusetts Health Connector Appeals Unit

FINAL APPEAL DECISION: PA22-1045

Appeal Decision: Penalty Overturned in Full

Hearing Issue: Appeal of the 2022 Tax Year Penalty

Hearing Date: December 14, 2023

Decision Date: January 27, 2024

AUTHORITY

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

JURISDICTION

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

HEARING RECORD

The appellant appeared at the hearing which was held by telephone on December 14, 2023, and testified under oath. The hearing record consists of her testimony and the following documents which were admitted into evidence without her objection:

Ex. 1—Statement of Grounds for Appeal—2022

Ex. 2—Appeal Case Information from Schedule HC ¹

Ex. 3—Notice of Hearing

The record was held open at the conclusion of the hearing until January 4, 2024, for documentation requested by the hearing officer. ² Nothing was submitted in response to the request and the record was closed on January 25, 2024.

FINDINGS OF FACT

The record shows, and I so find:

1. The appellant is 34-years-old, is single and does not have children. In 2022, she had health insurance from April 23rd through November 22nd. (Testimony, Ex. 1)
2. The appellant was employed for most of 2021 and had employer provided health insurance for half of that year. She paid a penalty for the remainder of the months that she did not carry insurance. (Testimony)

1

Ex. 2 is a computer printout that extracts information submitted by the appellant on Schedule HC as part of her 2022 Massachusetts income tax return. It also contains information about prior appeals, if any.

² The appellant was asked to submit a summary of benefits offered under her 2022 health insurance plan. It is not known whether the request was submitted to the appellant's insurance provider and/or whether the provider failed to forward the information to the Health Connector.

3. The appellant left that job prior to the end of 2021 and began a new job at some point thereafter. Prior to the commencement of that job, the employer was unable to tell her whether health insurance would be available to her. She considered continuing insurance through her old employer through COBRA, but determined that the cost was unaffordable. She investigated her eligibility for insurance through the Health Connector and was unable to proceed because she had missed the open enrollment period for 2022. (Testimony)
4. After the appellant began working for the new employer, she was advised that it would not offer health insurance. She looked for other insurance options that offered baseline coverage for emergency care and found a provider through a broker. The plan covered hospital indemnity insurance benefits, discount medical benefits and consumer benefits. She was aware that it did not comply with federal standards in that no mental health or maternity benefits were offered. She enrolled in the plan from April 23, 2022, until November 22, 2022, and paid a monthly premium of \$269.95. (Testimony, Ex. 1)
5. The appellant was enrolled in insurance through the Health Connector in 2023, with the exception of one-two months due to issues attributable to automatic payment. (Testimony)
6. Massachusetts requires that health insurance plans must provide a broad range of medical services and comply with minimum creditable coverage standards (MCC). There must be some level of coverage for the following services: ambulatory patient services, diagnostic imaging and screening procedures, emergency services, hospitalization, maternity and newborn care, medical/surgical care, mental health and substance abuse services, prescription drugs and radiation/chemotherapy. There can be no limit on prescriptions drug benefits, the total amount paid for a particular illness or for benefits paid in a single year, or certain services such as a fixed dollar amount per day or stay in the hospital, with the patient responsible for all other charges. There are also requirements regarding what a plan can charge for deductibles and in-network services. See 956 CMR 5.03. [Massachusetts Individual Mandate – Massachusetts Health Connector \(betterhealthconnector.com\)](https://www.mass.gov/info-details/massachusetts-individual-mandate-betterhealthconnector-com)
7. The appellant reported an adjusted gross income (AGI) of \$64,321.00 on her 2022 federal tax return, and reported that she was single with no dependents. (Ex. 2)

In addition to the foregoing, I take administrative notice of the 2022 Schedule HC Instructions and Worksheets, available at [http://www.mass.gov.dor/docs/dor/health-care/2022](http://www.mass.gov/dor/docs/dor/health-care/2022), and in particular, Tables 1-6 which, as discussed below, include the Affordability Schedule and other financial information used in making 2022 individual mandate tax penalty determinations.

ANALYSIS AND CONCLUSIONS OF LAW

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

The appellant submitted a statement of grounds for appeal (Ex. 1), claiming that the individual mandate did not apply to her during 2022 because 1) she purchased health insurance that didn't meet minimum creditable coverage standards since that is what her employer offered, and she felt that her circumstances prevented her from buying other insurance that met the requirements; and 2) for “other” reasons. She also submitted a letter

from her insurance provider verifying the dates of her coverage, the cost of her plan and a “summary of membership benefits”.

The appellant did not have MCC compliant insurance from January through December. According to M.G.L. c. 111M, s. 2, residents are permitted a 63-day gap between periods of coverage without facing a tax penalty; for Tax Year 2022, Administrative Bulletin 03-10: Guidance Regarding M.G.L. c. 111M and M.G.L. c. 176Q, as implemented by 956 CMR 6.00, interprets the 63-day gap in coverage to be three months. As a result, gaps of three months are not subject to penalty. Since the appellant is considered to have been uninsured for the entire year due to the MCC issue, she was assessed and is appealing a penalty of twelve months.

The appellant testified credibly that prior to 2022, she had employer health insurance for part of 2021 and paid a penalty for the months during which she was uninsured. She testified that she started a new job towards the end of the year/beginning of 2022 and it was not clear whether insurance would be available to her. She testified that she considered continuing her previous employer’s insurance through COBRA, but determined that it was unaffordable. She testified that she investigated options through the Health Connector, but had missed the open enrollment period. She testified that after commencing her new job, she was advised that no insurance would be offered to her. She testified that she looked at options on the private market and found a provider that offered coverage for emergency care. She testified that she was aware that the plan did not comply with federal standards in that several key benefits were not offered including maternity care and mental health services. She testified that she enrolled in a plan from April through November, and then enrolled in insurance through the Health Connector from most of 2023.

Since no information was submitted regarding the coverage offered under the appellant’s plan, it is not possible to determine whether it met state MCC requirements. However, it is noted that after the appellant left her job in 2021, she offered credible testimony that she undertook a diligent search to enroll in health insurance for 2022 including consideration of a COBRA plan, investigation of Health Connector options, and a determination that her new employer would not offer insurance. At that point, her alternatives were limited and she settled on a policy that offered some type of hospitalization and emergency care coverage, even though she knew that it did not comply with federal standards.

Based on the totality of the evidence, it is concluded that although the appellant did not have MCC-compliant coverage due to a confluence of circumstances, she was enrolled in some type of coverage for most of 2022 and clearly did not manifest an intent to avoid obtaining insurance. Furthermore, she was enrolled in insurance for most of 2021 and 2023 thereby demonstrating that the importance of the mandate has not been lost on her.

Accordingly, the appellant’s request for a waiver of the penalty is **granted** for the months in question. The determination that she is eligible for a waiver is with respect to 2022, only and is based upon the extent of information submitted by her in this appeal.

PENALTY ASSESSED

Number of Months Appealed: 12

Number of Months Assessed: 0

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

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

NOTIFICATION OF YOUR RIGHT TO APPEAL TO COURT

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

Hearing Officer

Cc: Connector Appeals Unit

Massachusetts Health Connector Appeals Unit

FINAL APPEAL DECISION: PA22-1123

Appeal Decision: Penalty Overturned in Full

Hearing Issue: Appeal of the 2022 Tax Year Penalty

Hearing Date: December 18, 2023

Decision Date: January 25, 2024

AUTHORITY

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

JURISDICTION

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

HEARING RECORD

The appellant appeared at the hearing which was held by telephone on December 18, 2023, and testified under oath. The hearing record consists of her testimony and the following documents which were admitted into evidence without her objection:

- Ex. 1—Statement of Grounds for Appeal—2022
- Ex. 2—Appeal Case Information from Schedule HC ¹
- Ex. 3—Notice of Hearing

The record was held open at the conclusion of the hearing for documentation requested by the hearing officer. The documentation was submitted in a timely manner and was marked as follows:

- Ex. 4—Health Insurance Plan Summary of Medical Benefits

FINDINGS OF FACT

The record shows, and I so find:

1. The appellant is 44-years-old, is single and does not have children. In 2022, she had health insurance for the entire year. (Testimony, Ex. 1)
2. The appellant was employed in 2022 on a part-time basis and was not eligible for employer health insurance due to her part-time status. She previously had employer health insurance in 2020 but lost it when she was separated from her position due to the pandemic. Thereafter, she was able to enroll in insurance through the Health Connector which continued for about one year. (Testimony)

1

Ex. 2 is a computer printout that extracts information submitted by the appellant on Schedule HC as part of her 2022 Massachusetts income tax return. It also contains information about prior appeals, if any.

3. The appellant investigated her eligibility for insurance through the Health Connector and determined that the cost of a premium for a monthly plan would have been approximately \$400.00 which she could not afford. She subsequently did a Google search for “less expensive insurance” and found an out-of-state insurance company which covered approximately 80% of procedures performed at hospitals, including her local hospital which was a member of its covered network. The monthly cost for an individual plan was \$211.00 and she enrolled for all of 2022. (Testimony, Ex. 1)
4. At the time that the appellant purchased health insurance, she was not aware that Massachusetts requires all health insurance policies to comply with minimum creditable coverage (MCC) standards. She only learned of the requirement when she filed her 2022 tax returns early in 2023. (Testimony)
5. The appellant’s health insurance plans offered the following benefits in 2022: primary care office visits where the plan paid up to \$50.00 per visit with a limit of three visits per year; specialist office visits where the plan paid up to \$50.00 per visit with a limit of three visits per year; emergency room visits where the plan paid up to \$50.00 per visit with a limit of one visit per plan year; and hospital inpatient services where the plan paid up to \$100.00 with a limit of 30 days per plan year. For behavioral health services, there was a 24/7 virtual clinic limited to three consultations per year and a mental health chatbot available on a 24/7 basis. There was no coverage for diagnostic tests, imaging, pregnancy and childbirth services, or prescription drugs. (Ex.4)
6. Massachusetts MCC-compliant plans must provide a broad range of medical services. There must be some level of coverage for the following services: ambulatory patient services, diagnostic imaging and screening procedures, emergency services, hospitalization, maternity and newborn care, medical/surgical care, mental health and substance abuse services, prescription drugs and radiation/chemotherapy. There can be no limit on prescriptions drug benefits, the total amount paid for a particular illness or for benefits paid in a single year, or certain services such as a fixed dollar amount per day or stay in the hospital, with the patient responsible for all other charges. There are also requirements regarding what a plan can charge for deductibles and in-network services. See 956 CMR 5.03. [Massachusetts Individual Mandate – Massachusetts Health Connector \(betterhealthconnector.com\)](https://www.mass.gov/info-details/massachusetts-individual-mandate-betterhealthconnector-com)
7. The appellant re-enrolled in health insurance from the same carrier in 2023. (Testimony)
8. The appellant reported an adjusted gross income (AGI) of \$63,259.00 on her 2022 federal tax return, and reported that she was single with no dependents. (Ex. 2)

In addition to the foregoing, I take administrative notice of the 2022 Schedule HC Instructions and Worksheets, available at [http://www.mass.gov.dor/docs/dor/health-care/2022](http://www.mass.gov/dor/docs/dor/health-care/2022), and in particular, Tables 1-6 which, as discussed below, include the Affordability Schedule and other financial information used in making 2022 individual mandate tax penalty determinations.

ANALYSIS AND CONCLUSIONS OF LAW

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

The appellant submitted a statement of grounds for appeal (Ex. 1), claiming that the individual mandate did not apply to her during 2022 because 1) she purchased health insurance that didn't meet minimum creditable coverage standards since that is what her employer offered, and she felt that her circumstances prevented her from buying other insurance that met the requirements; and 2) for "other" reasons. She also submitted a letter with her statement in which she stated in part that she purchased health insurance for the whole year which was accepted at most state facilities.

The appellant did not have MCC compliant insurance from January through December. According to M.G.L. c. 111M, s. 2, residents are permitted a 63-day gap between periods of coverage without facing a tax penalty; for Tax Year 2022, Administrative Bulletin 03-10: Guidance Regarding M.G.L. c. 111M and M.G.L. c. 176Q, as implemented by 956 CMR 6.00, interprets the 63-day gap in coverage to be three months. As a result, gaps of three months are not subject to penalty. Since the appellant is considered to have been uninsured for the entire year due to the MCC issue, she was assessed and is appealing a penalty of twelve months.

The appellant testified credibly that prior to 2022, she had employer health insurance in 2020 which she lost when she was separated from her job due to the pandemic, and thereafter she was enrolled in insurance through the Health Connector for approximately one year. She testified that the cost of insurance through the Connector in 2022 would have been approximately \$400.00/month which she could not afford. She testified that she found less expensive insurance on the internet which appeared to meet her medical needs and enrolled in a plan for all of 2022 for which she paid \$211.00/month. She testified that she was unaware that the insurance did not comply with Massachusetts MCC standards until she prepared her 2022 tax returns in early 2023. Finally, she testified that she remained enrolled in the same insurance for all of 2023.

A review of the appellant's plan reveals that it does not offer many of the services that the state requires in order to comply with MCC standards including ambulatory patient services, diagnostic imaging and screening procedures, maternity and newborn care, prescription drugs, and radiation/chemotherapy. Furthermore, the plan imposes a dollar limit for a hospital visit as well as limiting the total number of days spent in a hospital per year, neither is which is permissible under state standards. These are not insignificant matters and the coverage offered under her plan does not remotely approximate the "broad coverage" that the state envisions.

It is noted that the appellant was unaware that her plan did not comply with MCC requirements until 2023 when she prepared her 2022 tax returns. Given her lack of knowledge as well as the fact that she did not demonstrate an intent to evade the mandate by not obtaining insurance, the penalty will be waived for the period in question.

Based on the totality of the evidence, the appellant's request for a waiver of the penalty is **granted** for the months in question. The determination that she is eligible for a waiver is with respect to 2022, only and is based upon the extent of information submitted by her in this appeal.

PENALTY ASSESSED

Number of Months Appealed: 12

Number of Months Assessed: 0

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

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

NOTIFICATION OF YOUR RIGHT TO APPEAL TO COURT

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

Hearing Officer

Cc: Connector Appeals Unit

ADDENDUM

The appellant testified that she enrolled in the same insurance plan for 2023, presumably before she discovered the MCC problems with her 2022 insurance. She was encouraged to investigate 2024 health insurance options through the Health Connector during the open enrollment period. She is advised that a similar extension of leniency may not be granted should she be assessed and appeal a penalty in the future.

Massachusetts Health Connector Appeals Unit

FINAL APPEAL DECISION: PA22-1124

Appeal Decision: Penalty Overturned in Full

Hearing Issue: Appeal of the 2022 Tax Year Penalty

Hearing Date: December 18, 2023

Decision Date: January 5, 2024

AUTHORITY

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

JURISDICTION

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

HEARING RECORD

The appellant appeared at the hearing which was held by telephone on December 18, 2023, and testified under oath. The hearing record consists of her testimony and the following documents which were admitted into evidence without objection:

- Ex. 1—Statement of Grounds for Appeal—2022
- Ex. 2—Appeal Case Information from Schedule HC ¹
- Ex. 3—Notice of Hearing

The record was held open at the conclusion of the hearing for documentation requested by the hearing officer. The documentation was submitted in a timely manner and was marked as follows:

- Ex. 4—2022 IRS Form 1095-A
- Ex. 5—2022 IRS Form 1095-B

FINDINGS OF FACT

The record shows, and I so find:

1. The appellant is 59-years-old, is single and has adult children. She had minimum creditable coverage (MCC) health insurance for the months of January through May, 2022. (Testimony, Exs. 4,5)
2. The appellant was employed on a part-time basis in 2022 and was not eligible for employer health insurance due to her part-time status. (Testimony)

¹ Ex. 2 is a computer printout that extracts information submitted by the appellant on Schedule HC as part of her 2022 Massachusetts income tax return. It also contains information about prior appeals, if any.

3. In 2022, the appellant had health insurance through the Health Connector from January through March, and through MassHealth from March through May. (Testimony, Exs. 4,5)
4. The appellant prepared her tax returns for 2022 and mistakenly indicated on her Schedule HC that she did not have health insurance from January through May. (Testimony, Ex. 2)
5. By notice dated October 26, 2022, Eversource advised the appellant that her electric service would be shut off on November 23, 2022, if she was unable to pay her overdue balance of \$135.05 by November 22, 2022. She avoided a shutoff of her service by entering into a payment plan that began in April, 2023. (Testimony, Ex. 1)

ANALYSIS AND CONCLUSIONS OF LAW

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

The appellant submitted a statement of grounds for appeal (Ex. 1) claiming that the individual mandate did not apply to her during 2022 because she received a shut-off notice, was shut off, or was refused delivery of essential utilities.

According to M.G.L. c. 111M, s. 2, residents are permitted a 63-day gap between periods of coverage without facing a tax penalty; for Tax Year 2022, Administrative Bulletin 03-10: Guidance Regarding M.G.L. c. 111M and M.G.L. c. 176Q, as implemented by 956 CMR 6.00, interprets the 63-day gap in coverage to be three months. As a result, gaps of three months are not subject to penalty. Although the appellant had MCC insurance from January through May, she was assessed and is appealing a penalty of twelve months based on the information she provided on her Schedule HC.

The appellant testified credibly that she was enrolled in health insurance through the Health Connector and MassHealth from January through May. She further testified that she mistakenly indicated on her Schedule HC that she was uninsured for the entire year.

The appellant’s testimony was corroborated by a 2022 IRS Form 1095-A and a 2022 IRS Form 1095-B which indicated that she had MCC insurance from January through May. Accordingly, the appellant is not subject to a penalty for those months.

With respect to the remaining months of 2022, the appellant testified that she received a shutoff notice for her electric service in October, 2022, and entered into a payment plan with her provider to avoid termination.

The appellant may not be subject to a penalty for failing to get health insurance for the months in question if she can show that she experienced a hardship during 2022. Examples of hardships include being homeless or overdue in rent or mortgage payments, receiving a shut-off notice for utilities, incurring unexpected increases in basic living expenses due to domestic violence, death of a family member, or sudden responsibility for providing care for a family member, or fire, flood or natural disaster. In addition, the appellant’s tax penalty for 2022 could be waived if she experienced financial circumstances such that the expense of purchasing health insurance would have caused her to experience a serious deprivation of food, shelter, clothing or other necessities. See 956 CMR 6.08.

The appellant's testimony regarding the shutoff of her electricity was corroborated by a notice from Eversource indicating that her service would be terminated on November 23, 2022, unless she paid \$135.05 by November 22, 2022. She was able to avoid a shutoff by entering into a payment plan which began in April, 2023. Accordingly, it is concluded that the appellant established through substantial and credible evidence that she experienced a financial hardship within the meaning of 956 CMR 6.08(1)(b) as a result of which she should not be subject to a penalty for the months of June through December.

Based on the foregoing, the appellant is not subject to a penalty for the months of January through May, and her request for a waiver from the penalty for the remaining months of 2022 is **granted**. The determination that the appellant is eligible for a hardship waiver is with respect to 2022, only and is based upon the extent of information submitted by her in this appeal.

PENALTY ASSESSED

Number of Months Appealed: 12

Number of Months Assessed: 0

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

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

NOTIFICATION OF YOUR RIGHT TO APPEAL TO COURT

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

Hearing Officer

Cc: Connector Appeals Unit

Massachusetts Health Connector Appeals Unit

FINAL APPEAL DECISION: PA22-1118

Appeal Decision Appeal Allowed

Hearing Issue: Appeal of the 2022 Tax Year Penalty

Hearing Date: December 22, 2023

Decision Date: December 28, 2023

AUTHORITY

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

JURISDICTION

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

HEARING RECORD

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

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

- Exhibit 1: Notice of Hearing dated November 17, 2023
- Exhibit 2: Appeal Case Information from form Schedule HC
- Exhibit 3: Statement of Grounds for Appeal Dated May 3, 2023
- Exhibit 4: Written Statement of Appeal Dated May 3, 2023

FINDINGS OF FACT

The record shows, and I so find:

1. The appellant is fifty-four years old and is single. She lives in Suffolk County, Massachusetts. Appellant works in the therapy business.
2. Appellant was working part-time in 2022 and was looking for affordable health insurance. She spoke with an insurance agent and was offered health insurance. This health insurance did not meet minimum credible coverage standards for Massachusetts. As soon as the Appellant received a job in December 2022 she applied for and obtained health insurance coverage. Appellant has health insurance in 2023 and has applied for health insurance for 2024.
3. The Appellant did submit a Statement of Grounds for Appeal-2022 under “During 2022, you purchased health insurance that didn’t meet minimum creditable coverage standards because that is what your employer offered, and you felt your circumstances prevented you from buying other insurance that met those requirements” .
4. I take administrative notice of the information set forth in tables 1 through 6 in the Department of Revenue Schedule HC Health Care Instructions and Worksheets (Schedule HC Instructions). Tables 3 & 4 incorporate the affordability schedules adopted by the board of directors of the Commonwealth Health Insurance Connector Authority for 2022. Table 1 sets forth the income eligibility standards for various family sizes at 150% of the federal poverty level and Table 2 sets forth the income eligibility standards for various family sizes at 300 per cent of the federal poverty level, which is the income eligibility standard for the government-subsidized health insurance program. See Mass. G.L. c. 118H, s.3(a)(1). Tables 5 and 6 set forth the tax penalties for 2022.
5. Based on the appellant’s federal adjusted gross income and the above referenced tables, I find the appellant would not have been eligible for subsidized health insurance, since Appellant’s income of \$98,414.00 was more than \$38,640.00. The monthly premium for health insurance available on the private market in Suffolk County for a 53 year old single person was 422.00. The tables reflect that Appellant could afford \$656.09 This is less than what the appellant is deemed to afford. (Tables 2, 3 & 4 of the Schedule HC Instructions)

ANALYSIS AND CONCLUSIONS OF LAW

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

Appellant was working part-time in 2022 and was looking for affordable health insurance. She spoke with an insurance agent and was offered health insurance. This health insurance did not meet minimum

credible coverage standards for Massachusetts. As soon as the Appellant received a job in December 2022 she applied for and obtained health insurance coverage. Appellant has health insurance in 2023 and has applied for health insurance for 2024.

The Appellant did submit a Statement of Grounds for Appeal-2022 under “During 2022, you purchased health insurance that didn’t meet minimum creditable coverage standards because that is what your employer offered, and you felt your circumstances prevented you from buying other insurance that met those requirements”.

The Health Care Reform Act of 2006 requires every adult resident of Massachusetts to obtain and maintain creditable insurance coverage “so long as it is deemed affordable” under the schedule established by the board of the Connector. Mass. Gen. Laws ch. 111M, § 2(a). Massachusetts residents who fail to indicate on their state tax returns that they obtained the mandated creditable coverage are subject to a tax penalty for each month in which that the individual did not have creditable health insurance. *Id.* at § 2(b). However, individuals with incomes up to 150 percent of the Federal Poverty Level (“FPL”) are not subject to any penalty for non-compliance with the individual mandate. See Massachusetts Department of Revenue Technical Information Release (“TIR”) 13-1, available at <http://www.mass.gov/dor/businesses/help-and-resources/legal-library/tirs/tirs-by-years/2013-releases/tir-13-1.html>. For 2022, 150 percent of the FPL was \$19,320.00 for a single person . *Id.* In addition, a lapse in coverage of 63 days or less is not subject to the section 2(b) penalty. See Administrative Bulletin 03-10 (Dec. 7, 2010), available at <https://www.mahealthconnector.org/portal/binary/com.epicentric.contentmanagement.servlet.ContentDeliveryServlet/Health%2520Care%2520Reform/Regulations/documents/Administrative%20Information%20Bulletin%2003-10.pdf>; see also 830 Mass. Code Regs. 111M.2.1(5)(c) (2008). Thus, no penalty is imposed for lapses in coverage consisting of three or fewer consecutive calendar months. *Id.*

Since Appellant’s 2022 income was more than 150 percent of the FPL, making her potentially subject to an individual mandate penalty, the threshold issue to be addressed is whether creditable health insurance coverage was affordable to her in 2022. In determining affordability, consideration is given first to the amount Appellant is deemed able to afford for health insurance premiums under the Affordability Schedule and second to the cost of health insurance that was available through employer-sponsored plans, government-subsidized programs or on the private insurance market. See 2022 Schedule HC Instructions and Worksheets, *supra*.

Appellant reported a federal AGI of \$98,414.00 in 2022, and Appellant’s filing status was single . EX 2. According to the Affordability Schedule established by the Connector’s board and included in the Instructions and Worksheets of the 2022 Massachusetts Schedule HC, Appellant could afford to pay \$656.09 monthly for health insurance. See 2022 Schedule HC Instructions and Worksheets, *supra* at Table 3. Private insurance would have been available to her from the Premium Tables, at a cost of \$422.00 monthly for coverage. *Id.* at Table 4.

Appellants are subject to the tax penalty unless appellants demonstrate a hardship. 956 Mass. Code Regs. 6.07(1) (2008). The Appellant has presented substantial and credible testimony and documentary evidence to support her contention that she could only afford the health insurance she bought during 2022. To prevail on a hardship appeal, an appellant must establish that “based on all his circumstances,

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

On these facts, I find that Appellant has shown that she was precluded from purchasing affordable health insurance during 2022. 956 Mass. Code Regs. 6.08(3) (2008). Accordingly, I conclude that she is exempt from a tax penalty for her non-compliance with the individual mandate.

Accordingly, Appellant’s appeal is **ALLOWED**, and the 2022 penalty assessed is **OVERTURNED**.

PENALTY ASSESSED

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

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

OR

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

NOTIFICATION OF YOUR RIGHT TO APPEAL TO COURT

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

Hearing Officer

Cc: Connector Appeals Unit

Massachusetts Health Connector Appeals Unit

FINAL APPEAL DECISION: PA22-1119

Appeal Decision Appeal Allowed

Hearing Issue: Appeal of the 2022 Tax Year Penalty

Hearing Date: December 22, 2023

Decision Date: December 29, 2023

AUTHORITY

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

JURISDICTION

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

HEARING RECORD

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

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

- Exhibit 1: Notice of Hearing dated November 17, 2023
- Exhibit 2: Appeal Case Information from form Schedule HC
- Exhibit 3: Statement of Grounds for Appeal Dated May 3, 2023
- Exhibit 4: Written Statement of Appeal Dated May 3, 2023

FINDINGS OF FACT

The record shows, and I so find:

1. The appellant is thirty-one years old and is single. He lives in Middlesex County, Massachusetts. Appellant works in the science business.
2. Appellant moved to the United States in March of 2021. His employer offered health insurance that met Massachusetts standards but was not compliant with his J1 visa, that required the cost of medical evacuation and repatriation to his home country. Appellant purchased health insurance from his home country that covered the above costs but this policy did not meet minimum credible coverage standards for Massachusetts.
3. Appellant has health insurance in 2023 that meets Massachusetts requirements and has applied for health insurance for 2024.
4. The Appellant did submit a Statement of Grounds for Appeal-2022 under “Other. During 2022 other circumstances, such as the Affordability Tables in Schedule HC to you is inequitable” but also should have appealed under “During 2022, you purchased health insurance that didn’t meet minimum creditable coverage standards because that is what your employer offered, and you felt your circumstances prevented you from buying other insurance that met those requirements” . I will hear this appeal under both grounds.
5. I take administrative notice of the information set forth in tables 1 through 6 in the Department of Revenue Schedule HC Health Care Instructions and Worksheets (Schedule HC Instructions). Tables 3 & 4 incorporate the affordability schedules adopted by the board of directors of the Commonwealth Health Insurance Connector Authority for 2022. Table 1 sets forth the income eligibility standards for various family sizes at 150% of the federal poverty level and Table 2 sets forth the income eligibility standards for various family sizes at 300 per cent of the federal poverty level, which is the income eligibility standard for the government-subsidized health insurance program. See Mass. G.L. c. 118H, s.3(a)(1). Tables 5 and 6 set forth the tax penalties for 2022.
6. Based on the appellant’s federal adjusted gross income and the above referenced tables, I find the appellant would not have been eligible for subsidized health insurance, since Appellant’s income of \$75,172.00 was more than \$38,640.00. The monthly premium for health insurance available on the private market in Middlesex County for a 30 year old single person was 277.00. The tables reflect that Appellant could afford \$501.14 This is less than what the appellant is deemed to afford. (Tables 2, 3 & 4 of the Schedule HC Instructions)

ANALYSIS AND CONCLUSIONS OF LAW

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

Appellant moved to the United States in March of 2021. His employer offered health insurance that met Massachusetts standards but was not compliant with his J1 visa, that required the cost of medical evacuation and repatriation to his home country. Appellant purchased health insurance from his home country that covered the above costs but this policy did not meet minimum credible coverage standards for Massachusetts.

The Appellant did submit a Statement of Grounds for Appeal-2022 under “Other. During 2022 other circumstances, such as the Affordability Tables in Schedule HC to you is inequitable” but also should have appealed under “During 2022, you purchased health insurance that didn’t meet minimum credible coverage standards because that is what your employer offered, and you felt your circumstances prevented you from buying other insurance that met those requirements” . I will hear this appeal under both grounds.

The Health Care Reform Act of 2006 requires every adult resident of Massachusetts to obtain and maintain credible insurance coverage “so long as it is deemed affordable” under the schedule established by the board of the Connector. Mass. Gen. Laws ch. 111M, § 2(a). Massachusetts residents who fail to indicate on their state tax returns that they obtained the mandated credible coverage are subject to a tax penalty for each month in which that the individual did not have credible health insurance. *Id.* at § 2(b). However, individuals with incomes up to 150 percent of the Federal Poverty Level (“FPL”) are not subject to any penalty for non-compliance with the individual mandate. *See* Massachusetts Department of Revenue Technical Information Release (“TIR”) 13-1, available at <http://www.mass.gov/dor/businesses/help-and-resources/legal-library/tirs/tirs-by-years/2013-releases/tir-13-1.html>. For 2022, 150 percent of the FPL was \$19,320.00 for a single person . *Id.* In addition, a lapse in coverage of 63 days or less is not subject to the section 2(b) penalty. *See* Administrative Bulletin 03-10 (Dec. 7, 2010), available at <https://www.mahealthconnector.org/portal/binary/com.epicentric.contentmanagement.servlet.ContentDeliveryServlet/Health%2520Care%2520Reform/Regulations/documents/Administrative%20Information%20Bulletin%2003-10.pdf>; *see also* 830 Mass. Code Regs. 111M.2.1(5)(c) (2008). Thus, no penalty is imposed for lapses in coverage consisting of three or fewer consecutive calendar months. *Id.*

Since Appellant’s 2022 income was more than 150 percent of the FPL, making him potentially subject to an individual mandate penalty, the threshold issue to be addressed is whether credible health insurance coverage was affordable to him in 2022. In determining affordability, consideration is given first to the amount Appellant is deemed able to afford for health insurance premiums under the Affordability Schedule and second to the cost of health insurance that was available through employer-sponsored plans, government-subsidized programs or on the private insurance market. *See* 2022 Schedule HC Instructions and Worksheets, *supra*.

Appellant reported a federal AGI of \$75,172.00 in 2022, and Appellant’s filing status was single . EX 2. According to the Affordability Schedule established by the Connector’s board and included in the

Instructions and Worksheets of the 2022 Massachusetts Schedule HC, Appellant could afford to pay \$501.14 monthly for health insurance. See 2022 Schedule HC Instructions and Worksheets, *supra* at Table 3. Private insurance would have been available to him from the Premium Tables, at a cost of \$277.00 monthly for coverage. *Id.* at Table 4.

Appellants are subject to the tax penalty unless appellants demonstrate a hardship. 956 Mass. Code Regs. 6.07(1) (2008). The Appellant has presented substantial and credible testimony and documentary evidence to support his contention that he could only afford the health insurance he bought during 2022. To prevail on a hardship appeal, an appellant must establish that “based on all his circumstances, minimum creditable coverage was not affordable to him[er] because [s]he experienced a hardship.” *Id.* at 6.08(1).

On these facts, I find that Appellant has shown that he was precluded from purchasing affordable health insurance during 2022. 956 Mass. Code Regs. 6.08(3) (2008). Accordingly, I conclude that he is exempt from a tax penalty for his non-compliance with the individual mandate.

Accordingly, Appellant’s appeal is **ALLOWED**, and the 2022 penalty assessed is **OVERTURNED**.

PENALTY ASSESSED

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

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

OR

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

NOTIFICATION OF YOUR RIGHT TO APPEAL TO COURT

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

Hearing Officer

Cc: Connector Appeals Unit

Massachusetts Health Connector Appeals Unit

FINAL APPEAL DECISION: PA22-1128

Appeal Decision Appeal Allowed

Hearing Issue: Appeal of the 2022 Tax Year Penalty

Hearing Date: December 20, 2023

Decision Date: December 28, 2023

AUTHORITY

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

JURISDICTION

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

HEARING RECORD

The Appellant appeared at the hearing, which was held by telephone, on December 20, 2023. The procedures to be followed during the hearing were reviewed with the Appellant who was then sworn in. Exhibits were marked and admitted into evidence with no objection from the Appellant.

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

Exhibit 1: Notice of Hearing dated November 17, 2023

Exhibit 2: Appeal Case Information from form Schedule HC

Exhibit 3: Statement of Grounds for Appeal Dated May 5, 2023

FINDINGS OF FACT

The record shows, and I so find:

1. The appellant is twenty-eight years old and is single. She lives in Worcester County, Massachusetts. Appellant works in the department store business.
2. Appellant works for a company that is headquartered in North Carolina. The company offers health insurance and the Appellant has purchased same for 2023 but it does not meet the Massachusetts minimum standards.
3. The Appellant's monthly expenses totaled \$1,251.00, consisting of cell phone \$125.00, car insurance \$121.00, car gas \$30, credit card \$550.00 food \$676.00, entertainment \$25.00.
4. The Appellant did submit a Statement of Grounds for Appeal-2022 under "During 2022, you purchased health insurance that didn't meet minimum creditable coverage standards because that is what your employer offered, and you felt your circumstances prevented you from buying other insurance that met those requirements" and should have appealed under "During 2022, the expense of purchasing health insurance would have caused a serious deprivation of food, shelter, clothing or other necessities". I will hear this appeal under both of these grounds.
5. I take administrative notice of the information set forth in tables 1 through 6 in the Department of Revenue Schedule HC Health Care Instructions and Worksheets (Schedule HC Instructions). Tables 3 & 4 incorporate the affordability schedules adopted by the board of directors of the Commonwealth Health Insurance Connector Authority for 2022. Table 1 sets forth the income eligibility standards for various family sizes at 150% of the federal poverty level and Table 2 sets forth the income eligibility standards for various family sizes at 300 per cent of the federal poverty level, which is the income eligibility standard for the government-subsidized health insurance program. See Mass. G.L. c. 118H, s.3(a)(1). Tables 5 and 6 set forth the tax penalties for 2022.
6. Based on the appellant's federal adjusted gross income and the above referenced tables, I find the appellant may have been eligible for subsidized health insurance, since Appellant's income of \$24,823.00 was less than \$38,640.00. The monthly premium for health insurance available on the private market in Worcester County for a 28 year old single person was \$277.00. The tables reflect that Appellant could afford \$59.97 This is more than what the appellant is deemed to afford. (Tables 2, 3 & 4 of the Schedule HC Instructions)

ANALYSIS AND CONCLUSIONS OF LAW

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

Appellant works for a company that is headquartered in North Carolina. The company offers health insurance and the Appellant has purchased same for 2023 but it does not meet the Massachusetts minimum standards.

The Appellant did submit a Statement of Grounds for Appeal-2022 under “During 2022, you purchased health insurance that didn’t meet minimum creditable coverage standards because that is what your employer offered, and you felt your circumstances prevented you from buying other insurance that met those requirements” and should have appealed under “During 2022, the expense of purchasing health insurance would have caused a serious deprivation of food, shelter, clothing or other necessities” . I will hear this appeal under both of these grounds.

The Health Care Reform Act of 2006 requires every adult resident of Massachusetts to obtain and maintain creditable insurance coverage “so long as it is deemed affordable” under the schedule established by the board of the Connector. Mass. Gen. Laws ch. 111M, § 2(a). Massachusetts residents who fail to indicate on their state tax returns that they obtained the mandated creditable coverage are subject to a tax penalty for each month in which that the individual did not have creditable health insurance. *Id.* at § 2(b). However, individuals with incomes up to 150 percent of the Federal Poverty Level (“FPL”) are not subject to any penalty for non-compliance with the individual mandate. See Massachusetts Department of Revenue Technical Information Release (“TIR”) 13-1, available at <http://www.mass.gov/dor/businesses/help-and-resources/legal-library/tirs/tirs-by-years/2013-releases/tir-13-1.html>. For 2022, 150 percent of the FPL was \$19,320.00 for a single person . *Id.* In addition, a lapse in coverage of 63 days or less is not subject to the section 2(b) penalty. See Administrative Bulletin 03-10 (Dec. 7, 2010), available at <https://www.mahealthconnector.org/portal/binary/com.epicentric.contentmanagement.servlet.ContentDeliveryServlet/Health%2520Care%2520Reform/Regulations/documents/Administrative%20Information%20Bulletin%2003-10.pdf>; see also 830 Mass. Code Regs. 111M.2.1(5)(c) (2008). Thus, no penalty is imposed for lapses in coverage consisting of three or fewer consecutive calendar months. *Id.*

Since Appellant’s 2022 income was more than 150 percent of the FPL, making her potentially subject to an individual mandate penalty, the threshold issue to be addressed is whether creditable health insurance coverage was affordable to her in 2022. In determining affordability, consideration is given first to the amount Appellant is deemed able to afford for health insurance premiums under the Affordability Schedule and second to the cost of health insurance that was available through employer-sponsored plans, government-subsidized programs or on the private insurance market. See 2022 Schedule HC Instructions and Worksheets, *supra*.

Appellant reported a federal AGI of \$24,823.00 in 2022, and Appellant’s filing status was single . EX 2. According to the Affordability Schedule established by the Connector’s board and included in the Instructions and Worksheets of the 2022 Massachusetts Schedule HC, Appellant could afford to pay \$59.97 monthly for health insurance. See 2022 Schedule HC Instructions and Worksheets, *supra* at Table 3. Private insurance would have been available to her from the Premium Tables, at a cost of \$277.00 monthly for coverage. *Id.* at Table 4.

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

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

Appellant is deemed to afford \$59.97 for health insurance coverage because of her income. Private insurance in the marketplace was \$277.00 per month, which is more than she could afford. On these facts, I find that Appellant has shown that she was precluded from purchasing affordable health insurance during 2022. 956 Mass. Code Regs. 6.08(3) (2008). Accordingly, I conclude that she is exempt from a tax penalty for her non-compliance with the individual mandate.

Accordingly, Appellant’s appeal is **ALLOWED**, and the 2022 penalty assessed is **OVERTURNED**.

PENALTY ASSESSED

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

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

OR

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

NOTIFICATION OF YOUR RIGHT TO APPEAL TO COURT

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

Hearing Officer

Cc: Connector Appeals Unit

Massachusetts Health Connector Appeals Unit

FINAL APPEAL DECISION: PA22-1131

Appeal Decision Appeal Denied

Hearing Issue: Appeal of the 2022 Tax Year Penalty

Hearing Date: December 20, 2023

Decision Date: December 28, 2023

AUTHORITY

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

JURISDICTION

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

HEARING RECORD

The Appellant appeared at the hearing, which was held by telephone, on December 20, 2023. The procedures to be followed during the hearing were reviewed with the Appellant who was then sworn in. Exhibits were marked and admitted into evidence with no objection from the Appellant.

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

- Exhibit 1: Notice of Hearing dated November 17, 2023
- Exhibit 2: Appeal Case Information from form Schedule HC
- Exhibit 3: Statement of Grounds for Appeal Dated May 2, 2023
- Exhibit 4: Written Statement of Appeal
- Exhibit 5: Prior Appeal Year 2020

FINDINGS OF FACT

The record shows, and I so find:

1. The appellant is thirty-two years old and is single. She lives in Essex County, Massachusetts. Appellant works in the insurance business.
2. Appellant does not have health insurance in 2023. She has not had health insurance since 2017. Appellant stated that insurance through the Health Connector is too expensive. Appellant has had termination notices of her electricity and gas but no termination has taken place. Appellant had the same issue of notice of termination of her electricity and gas in her appeal of the 2020 year penalty without termination.
3. The Appellant's monthly expenses totaled \$4,620.00, consisting of mortgage \$2,550.00, heat and light \$212.00, water \$133.00, internet and cable \$100.00, cell phone \$150.00, car \$275.00, car insurance \$200.00, car gas \$120.00, food \$700.00, credit card \$450.00, clothing \$40.00, toiletries \$70.00, 401K loan repayment \$133.00.
4. The Appellant did submit a Statement of Grounds for Appeal-2022 under "During 2022, the expense of purchasing health insurance would have caused a serious deprivation of food, shelter, clothing or other necessities" .
5. I take administrative notice of the information set forth in tables 1 through 6 in the Department of Revenue Schedule HC Health Care Instructions and Worksheets (Schedule HC Instructions). Tables 3 & 4 incorporate the affordability schedules adopted by the board of directors of the Commonwealth Health Insurance Connector Authority for 2022. Table 1 sets forth the income eligibility standards for various family sizes at 150% of the federal poverty level and Table 2 sets forth the income eligibility standards for various family sizes at 300 per cent of the federal poverty level, which is the income eligibility standard for the government-subsidized health insurance program. See Mass. G.L. c. 118H, s.3(a)(1). Tables 5 and 6 set forth the tax penalties for 2022.
6. Based on the appellant's federal adjusted gross income and the above referenced tables, I find the appellant may have been eligible for subsidized health insurance, since Appellant's income of \$65,260.00 was more than \$38,640.00. The monthly premium for health insurance available on the private market in Essex County for a 31 year old single person was \$290.00. The tables reflect that Appellant could afford \$435.06 This is less than what the appellant is deemed to afford. (Tables 2, 3 & 4 of the Schedule HC Instructions)

ANALYSIS AND CONCLUSIONS OF LAW

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

Appellant does not have health insurance in 2023. She has not had health insurance since 2017. Appellant stated that insurance through the Health Connector is too expensive. Appellant has had termination notices of her electricity and gas but no termination has taken place. Appellant had the same issue of notice of termination of her electricity and gas in her appeal of the 2020 year penalty without termination.

The Appellant did submit a Statement of Grounds for Appeal-2022 under “During 2022, the expense of purchasing health insurance would have caused a serious deprivation of food, shelter, clothing or other necessities” .

The Health Care Reform Act of 2006 requires every adult resident of Massachusetts to obtain and maintain creditable insurance coverage “so long as it is deemed affordable” under the schedule established by the board of the Connector. Mass. Gen. Laws ch. 111M, § 2(a). Massachusetts residents who fail to indicate on their state tax returns that they obtained the mandated creditable coverage are subject to a tax penalty for each month in which that the individual did not have creditable health insurance. *Id.* at § 2(b). However, individuals with incomes up to 150 percent of the Federal Poverty Level (“FPL”) are not subject to any penalty for non-compliance with the individual mandate. See Massachusetts Department of Revenue Technical Information Release (“TIR”) 13-1, available at <http://www.mass.gov/dor/businesses/help-and-resources/legal-library/tirs/tirs-by-years/2013-releases/tir-13-1.html>. For 2022, 150 percent of the FPL was \$19,320.00 for a single person . *Id.* In addition, a lapse in coverage of 63 days or less is not subject to the section 2(b) penalty. See Administrative Bulletin 03-10 (Dec. 7, 2010), available at <https://www.mahealthconnector.org/portal/binary/com.epicentric.contentmanagement.servlet.ContentDeliveryServlet/Health%2520Care%2520Reform/Regulations/documents/Administrative%20Information%20Bulletin%2003-10.pdf>; see also 830 Mass. Code Regs. 111M.2.1(5)(c) (2008). Thus, no penalty is imposed for lapses in coverage consisting of three or fewer consecutive calendar months. *Id.*

Since Appellant’s 2022 income was more than 150 percent of the FPL, making her potentially subject to an individual mandate penalty, the threshold issue to be addressed is whether creditable health insurance coverage was affordable to her in 2022. In determining affordability, consideration is given first to the amount Appellant is deemed able to afford for health insurance premiums under the Affordability Schedule and second to the cost of health insurance that was available through employer-sponsored plans, government-subsidized programs or on the private insurance market. See 2022 Schedule HC Instructions and Worksheets, *supra*.

Appellant reported a federal AGI of \$65,260.00 in 2022, and Appellant’s filing status was single . EX 2. According to the Affordability Schedule established by the Connector’s board and included in the Instructions and Worksheets of the 2022 Massachusetts Schedule HC, Appellant could afford to pay \$435.06 monthly for health insurance. See 2022 Schedule HC Instructions and Worksheets, *supra* at

Table 3. Private insurance would have been available to her from the Premium Tables, at a cost of \$290.00 monthly for coverage. *Id.* at Table 4.

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

Appellant is deemed to afford \$435.06 for health insurance coverage because of her income. Private insurance in the marketplace was \$290.00 per month, which is less than she could afford. On these facts, I find that Appellant has not shown that she was precluded from purchasing affordable health insurance during 2022. 956 Mass. Code Regs. 6.08(3) (2008). Accordingly, I conclude that she not is exempt from a tax penalty for her non-compliance with the individual mandate.

Accordingly, Appellant’s appeal is **DENIED**, and the 2022 penalty assessed is **UPHELD**.

PENALTY ASSESSED

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

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

OR

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

NOTIFICATION OF YOUR RIGHT TO APPEAL TO COURT

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

Hearing Officer

Cc: Connector Appeals Unit

Massachusetts Health Connector Appeals Unit

FINAL APPEAL DECISION: PA22-1287

Appeal Decision Appeal Allowed

Hearing Issue: Appeal of the 2022 Tax Year Penalty

Hearing Date: January 24, 2024

Decision Date: January 30, 2024

AUTHORITY

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

JURISDICTION

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

HEARING RECORD

The Appellant appeared at the hearing, which was held by telephone, on January 24, 2024. The procedures to be followed during the hearing were reviewed with the Appellant who was then sworn in. Exhibits were marked and admitted into evidence with no objection from the Appellant.

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

- Exhibit 1: Notice of Hearing dated December 14, 2023
- Exhibit 2: Appeal Case Information from form Schedule HC
- Exhibit 3: Statement of Grounds for Appeal Dated May 15, 2023
- Exhibit 4: Written Statement of Appeal

FINDINGS OF FACT

The record shows, and I so find:

1. The appellant is twenty-eight years old and is single. She lives in Middlesex County, Massachusetts. Appellant worked in the retail business.
2. Appellant was working two jobs, one full-time and one part-time. She was transitioning from her full-time job to her part-time job because it was a better position and she thought she would be working full-time and that the company would be offering health insurance to her. The part-time company never obtained health insurance for its employees. She then applied for health insurance with her full-time company and in August 2022 she obtained health insurance.
3. Appellant did have health insurance in 2023 and does have health insurance in 2024.
4. The Appellant did submit a Statement of Grounds for Appeal-2022 under "Other: During 2022 other circumstances, such as: applying the Affordability Tables in Schedule HC to you is inequitable".
5. I take administrative notice of the information set forth in tables 1 through 6 in the Department of Revenue Schedule HC Health Care Instructions and Worksheets (Schedule HC Instructions). Tables 3 & 4 incorporate the affordability schedules adopted by the board of directors of the Commonwealth Health Insurance Connector Authority for 2022. Table 1 sets forth the income eligibility standards for various family sizes at 150% of the federal poverty level and Table 2 sets forth the income eligibility standards for various family sizes at 300 per cent of the federal poverty level, which is the income eligibility standard for the government-subsidized health insurance program. See Mass. G.L. c. 118H, s.3(a)(1). Tables 5 and 6 set forth the tax penalties for 2022.
6. Based on the appellant's federal adjusted gross income and the above referenced tables, I find the appellant would not have been eligible for subsidized health insurance, since Appellant's income of \$57,144.00 was more than \$38,640.00. The monthly premium for health insurance available on the private market in Middlesex County for a 27 year old single person was \$277.00. The tables reflect that Appellant could afford \$380.96 This is less than what the appellant is deemed to afford. (Tables 2, 3 & 4 of the Schedule HC Instructions)

ANALYSIS AND CONCLUSIONS OF LAW

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

Appellant was working two jobs, one full-time and one part-time. She was transitioning from her full-time job to her part-time job because it was a better position and she thought she would be working full-time and that the company would be offering health insurance to her. The part-time company never obtained health insurance for its employees. She then applied for health insurance with her full-time company and in August 2022 she obtained health insurance.

The Appellant did submit a Statement of Grounds for Appeal-2022 under “Other: During 2022 other circumstances, such as: applying the Affordability Tables in Schedule HC to you is inequitable”.

The Health Care Reform Act of 2006 requires every adult resident of Massachusetts to obtain and maintain creditable insurance coverage “so long as it is deemed affordable” under the schedule established by the board of the Connector. Mass. Gen. Laws ch. 111M, § 2(a). Massachusetts residents who fail to indicate on their state tax returns that they obtained the mandated creditable coverage are subject to a tax penalty for each month in which that the individual did not have creditable health insurance. *Id.* at § 2(b). However, individuals with incomes up to 150 percent of the Federal Poverty Level (“FPL”) are not subject to any penalty for non-compliance with the individual mandate. See Massachusetts Department of Revenue Technical Information Release (“TIR”) 13-1, available at <http://www.mass.gov/dor/businesses/help-and-resources/legal-library/tirs/tirs-by-years/2013-releases/tir-13-1.html>. For 2022, 150 percent of the FPL was \$19,320.00 for a single person. *Id.* In addition, a lapse in coverage of 63 days or less is not subject to the section 2(b) penalty. See Administrative Bulletin 03-10 (Dec. 7, 2010), available at <https://www.mahealthconnector.org/portal/binary/com.epicentric.contentmanagement.servlet.ContentDeliveryServlet/Health%2520Care%2520Reform/Regulations/documents/Administrative%20Information%20Bulletin%2003-10.pdf>; see also 830 Mass. Code Regs. 111M.2.1(5)(c) (2008). Thus, no penalty is imposed for lapses in coverage consisting of three or fewer consecutive calendar months. *Id.*

Since Appellant’s 2022 income was more than 150 percent of the FPL, making her potentially subject to an individual mandate penalty, the threshold issue to be addressed is whether creditable health insurance coverage was affordable to her in 2022. In determining affordability, consideration is given first to the amount Appellant is deemed able to afford for health insurance premiums under the Affordability Schedule and second to the cost of health insurance that was available through employer-sponsored plans, government-subsidized programs or on the private insurance market. See 2022 Schedule HC Instructions and Worksheets, *supra*.

Appellant reported a federal AGI of \$57,144.00 in 2022, and Appellant’s filing status was single. EX 2. According to the Affordability Schedule established by the Connector’s board and included in the Instructions and Worksheets of the 2022 Massachusetts Schedule HC, Appellant could afford to pay 380.96 monthly for health insurance. See 2022 Schedule HC Instructions and Worksheets, *supra* at Table 3. Private insurance would have been available to her from the Premium Tables, at a cost of \$277.00 monthly for coverage. *Id.* at Table 4.

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

Appellant tried to obtain health insurance from her part-time employer and when that failed obtained health insurance from her full-time employer. On these facts, I find that Appellant has shown that she was precluded from purchasing affordable health insurance during 2022. 956 Mass. Code Regs. 6.08(3) (2008). Accordingly, I conclude that she is exempt from a tax penalty for her non-compliance with the individual mandate.

Accordingly, Appellant's appeal is **ALLOWED**, and the 2022 penalty assessed is **OVERTURNED**.

PENALTY ASSESSED

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

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

OR

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

NOTIFICATION OF YOUR RIGHT TO APPEAL TO COURT

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

Hearing Officer

Cc: Connector Appeals Unit

Massachusetts Health Connector Appeals Unit

FINAL APPEAL DECISION: PA21-2299

Appeal Decision Appeal Approved.

Hearing Issue: Appeal of the 2021 Tax Year Penalty

Hearing Date: November 14, 2023

Decision Date: December 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

Appellant appeared at the hearing, which was held by telephone, on November 9, 2023. The hearing record consists of the Appellant's testimony, and the following documents which were admitted into evidence without objection by Appellant:

- Exhibit 1: Notice of Hearing (10-16-23) (2 pages);
- Exhibit 2: Information from Schedule HC TY 2021 (1 page);
- Exhibit 3: Statement of Grounds for Appeal (5-1-22) (with letter and documents) (9 pages);
- Exhibit 4: Vacate dismissal letter (6-26-23) (2 pages);
- Exhibit 5: Prior hearing notice (2-2-23) (2 pages); and
- Exhibit 6: Email to DOR (7-31-23) (1 page).

FINDINGS OF FACT

The record shows, and I so find:

1. Appellant, age 41 during 2021, from Hampden County, filed single on the tax return with a family size of 1. (Exhibit 2).
2. Appellant did have health insurance for January 2021, but did not have health insurance for the remaining months of 2021. (Appellant's testimony, Exhibit 2). Appellant became unemployed and thought that the health insurance was being continued and did not become aware that it was not continued during 2021. (Exhibit 3, Testimony).
3. Appellant's Federal Adjusted Gross Income for 2021 was \$37,506.00 (Exhibit 2).

4. Appellant's expenses for food, shelter, clothing, transportation, child support and other necessities used a lot of the income. The monthly expenses totaled approximately \$2,214.00 or \$26,568 per year. (Testimony).
5. 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.
6. Appellant could not afford health insurance based on the tables in Schedule HC. According to Table 4, the health insurance would cost \$311.00 for coverage. According to Table 3, Appellant was deemed to afford \$156.00.
7. Private insurance was not affordable for the Appellant in 2021. (Schedule HC for 2021).
8. Appellant's AGI was just under 300% of the Federal Poverty Level for a family size of 1, and Appellant therefore may have qualified for subsidized health insurance through the Health Connector. (Schedule HC for 2021).
9. Appellant claimed that they should be granted a waiver based on the grounds that they had a shut off notice. Appellant also claimed that they thought they had health insurance, and, Appellant claims that paying for health insurance would have caused a serious deprivation of food, shelter, clothing and other necessities. (Testimony of Appellant, Exhibit 3).
10. 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).
11. Appellant was not homeless, was not thirty days or more behind in rent in 2021 and did not receive eviction notices. Appellant did receive a shut-off notice for basic utilities. (Appellant's Testimony, Exhibit 3).

ANALYSIS AND CONCLUSIONS OF LAW

The issue on appeal is whether the tax penalty assessed by the Massachusetts Department of Revenue for 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 for January 2021, but did not have health insurance for the remaining months of 2021. They have been assessed a tax penalty for eight 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 \$37,506.00 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 \$156.00 per month; according to Table 4, Appellant, who was 41 years old in 2021, from Hampden County, and filed the 2021 Massachusetts taxes as single with a family size of 1, would have had to pay \$311.00 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 Appellant thought they had health insurance. Appellant also claimed that they received a shut off notice and that paying for health insurance would have caused a serious deprivation of food, shelter, clothing and other necessities. Appellant's expenses for necessities used a lot of the income. For these reasons, the waiver of the penalty is approved.

Appellant should note that the waiver of the penalty is based upon the facts that I have determined to be true for the 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: 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 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: PA21-2359

Appeal Decision Appeal Approved.

Hearing Issue: Appeal of the 2021 Tax Year Penalty

Hearing Date: January 16, 2024

Decision Date: January 23, 2024

AUTHORITY

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

JURISDICTION

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

HEARING RECORD

Appellant appeared at the hearing, which was held by telephone, on January 16, 2024. 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 (12-5-23) (2 pages);
- Exhibit 2: Information from Schedule HC TY 2021 (1 page);
- Exhibit 3: Statement of Grounds for Appeal (5-15-22) (with letter and documents) (6 pages); and
- Exhibit 4: Prior hearing notice (3-9-23) (2 pages).

FINDINGS OF FACT

The record shows, and I so find:

1. Appellant, age 61 during 2021, from Worcester County, filed married filing separately on the tax return with a family size of 2. (Exhibit 2).
2. Appellant did have health insurance for December 2021, but did not have health insurance for the remaining months of 2021. (Appellant's testimony, Exhibit 2). Appellant's spouse turned 65 and went on Medicare, and Appellant then lost the insurance through the spouse's employer. Appellant had to wait for open enrollment, and enrolled in insurance that did not meet minimum creditable coverage. Appellant then went on health insurance through the Health Connector for December 2021. (Testimony, Exhibit 3).

3. Appellant's and Appellant's spouse's Federal Adjusted Gross Income for 2021 was \$145,291.00 (Exhibit 2). Appellant's income during 2021 was approximately \$50,000.00 and Appellant and Appellant's spouse kept their incomes separate. (Testimony).
4. Appellant's share of expenses for food, shelter, clothing, transportation, assisting their daughter and other necessities used a lot of the Appellant's individual income. The monthly expenses totaled approximately \$3,425.00 or \$41,100.00 per year. (Testimony).
5. 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.
6. Appellant could 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, Appellant was deemed to afford \$968.00, taking into account Appellant and Appellant's spouse's income.
7. Private insurance was affordable for the Appellant in 2021. (Schedule HC for 2021).
8. Appellant's AGI was over 300% of the Federal Poverty Level for a family size of 2, and Appellant therefore would not have qualified for subsidized health insurance through the Health Connector. (Schedule HC for 2021).
9. 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, and that Appellant had health insurance that did not meet MCC. (Testimony of Appellant, Exhibit 3).
10. 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).
11. 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 for December 2021, but did not have health insurance that met MCC for the remaining months of 2021. They have been assessed a tax penalty for eight 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 for Appellant and Appellant's spouse of \$145,291.00 was deemed to have been able to afford health insurance on the private market. According to Table 3, Appellant could have afforded to pay \$968.00 per month; according to Table 4, Appellant, who was 61 years old in 2021, from Worcester County, and filed the 2021 Massachusetts taxes as married filing separately 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.

With regard to the hardship waiver of the penalty, Appellant claimed that Appellant they had health insurance but it did not meet MCC. Appellant also 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 a lot of the Appellant's separate income. For these reasons, the waiver of the penalty is approved.

Appellant should note that the waiver of the penalty is based upon the facts that I have determined to be true for the 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: 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 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: PA21-2663

Appeal Decision Appeal Approved.

Hearing Issue: Appeal of the 2021 Tax Year Penalty

Hearing Date: November 9, 2023

Decision Date: December 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

Appellant appeared at the hearing, which was held by telephone, on November 9, 2023. The hearing record consists of the Appellant's testimony, and the following documents which were admitted into evidence without objection by Appellant:

- Exhibit 1: Notice of Hearing (10-18-23) (2 pages);
- Exhibit 2: Information from Schedule HC TY 2021 (1 page); and
- Exhibit 3: Statement of Grounds for Appeal (10-4-22) (5 pages).

FINDINGS OF FACT

The record shows, and I so find:

1. Appellant, age 32 during 2021, from Barnstable County, filed single on the tax return with a family size of 1. (Exhibit 2).
2. Appellant did have health insurance for 2023, but it did not meet minimum creditable coverage. (Appellant's testimony, Exhibit 2). Appellant made monthly payments to the insurance company but did not receive any 1099-HC. (Testimony).
3. Appellant's Federal Adjusted Gross Income for 2021 was \$63,400.00 (Exhibit 2).
4. Appellant lives with a significant other who is on disability and Appellant covers the household expenses for the most part. Appellant's expenses for food, shelter, clothing, transportation and other necessities used a lot of the income but not all of the income. The monthly expenses totaled approximately \$3,159.00 or \$37,908.00 per year. (Testimony).

5. 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.
6. Appellant could afford health insurance based on the tables in Schedule HC. According to Table 4, the health insurance would cost \$268.00 for coverage. According to Table 3, Appellant was deemed to afford \$422.00.
7. Private insurance was affordable for the Appellants in 2021. (Schedule HC for 2021).
8. Appellants' AGI was over 300% of the Federal Poverty Level for a family size of 2, and Appellant therefore would not have qualified for subsidized health insurance through the Health Connector. (Schedule HC for 2021).
9. 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 of that prior to the end of 2021. Also, Appellant claims that paying for health insurance would have caused a serious deprivation of food, shelter, clothing and other necessities. (Testimony of Appellant, Exhibit 3).
10. 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).
11. 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 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 \$63,400.00 was deemed to have been able to afford health insurance on the private market. According to Table 3, Appellant could have afforded to pay \$422.00 per month; according to Table 4, Appellant, who was 32 years old in 2021, from Barnstable County, and filed the 2021 Massachusetts taxes as single with a family size of 1, would have had to pay \$268.00 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 Appellant had health insurance that did not meet minimum creditable coverage and that they were not aware that it did not meet minimum creditable coverage during 2021. Appellant also 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 a lot of the income. For these reasons, the waiver of the penalty is approved.

Appellant should note that the waiver of the penalty is based upon the facts that I have determined to be true for the 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: PA21-2713

Appeal Decision Appeal Approved.

Hearing Issue: Appeal of the 2021 Tax Year Penalty

Hearing Date: November 9, 2023

Decision Date: December 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

Appellant appeared at the hearing, which was held by telephone, on November 9, 2023. The hearing record consists of the Appellant's testimony, and the following documents which were admitted into evidence without objection by Appellant:

- Exhibit 1: Notice of Hearing (10-18-23) (2 pages);
- Exhibit 2: Information from Schedule HC TY 2021 (1 page); and
- Exhibit 3: Statement of Grounds for Appeal/Vacate Dismissal (2-15-23) (with letter) (2 pages).

FINDINGS OF FACT

The record shows, and I so find:

1. Appellant, age 52 during 2021, from Middlesex County, filed head of household on the tax return with a family size of 2. (Exhibit 2).
2. Appellant did not have health insurance for 2023. (Appellant's testimony, Exhibit 2). Appellant's employer did not provide health insurance for Appellant who worked 16 hours a week, and Appellant believed they could not afford health insurance (Testimony).
3. Appellant's Federal Adjusted Gross Income for 2021 was \$50,727.00 (Exhibit 2).
4. Appellant's expenses for food, shelter, clothing, transportation and other necessities used most of the income. The monthly expenses totaled approximately \$3,000.00 or \$36,000.00 per year. (Testimony).
5. Appellant now has health insurance through MassHealth. (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 \$928.00 for coverage. According to Table 3, Appellant was deemed to afford \$209.00.
8. Private insurance was not affordable for the Appellants in 2021. (Schedule HC for 2021).
9. Appellants' AGI was just under 300% of the Federal Poverty Level for a family size of 2, 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 \$50,727.00 was deemed not to have been able to afford health insurance on the private market. According to Table 3, Appellant could have afforded to pay \$209.00 per month; according to Table 4, Appellant, who was 52 years old in 2021, from Middlesex County, and filed the 2021 Massachusetts taxes as head of household with a family size of 2, would have had to pay \$928.00 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 most of the income. Further, Appellant now has health insurance. For these reasons, the waiver of the penalty is approved.

Appellant should note that the waiver of the penalty is based upon the facts that I have determined to be true for the 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: PA21-2723

Appeal Decision Appeal Approved.

Hearing Issue: Appeal of the 2021 Tax Year Penalty

Hearing Date: November 14, 2023

Decision Date: December 29, 2023

AUTHORITY

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

JURISDICTION

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

HEARING RECORD

Appellants appeared at the hearing, which was held by telephone, on November 14, 2023. The hearing record consists of the Appellants' testimony, and the following documents which were admitted into evidence without objection by Appellants:

- Exhibit 1: Notice of Hearing (10-16-23) (2 pages);
- Exhibit 2: Information from Schedule HC TY 2021 (1 page); and
- Exhibit 3: Statement of Grounds for Appeal (6-5-23) (with letter and documents) (7 pages).

FINDINGS OF FACT

The record shows, and I so find:

1. Appellants, ages 27 and 25 during 2021, from Middlesex County, filed married filing jointly on the tax return with a family size of 3. (Exhibit 2).
2. One of Appellants had health insurance for the entire year, and the other Appellant did have health insurance for January through June of 2021, but did not have health insurance for the remaining months of 2021. (Appellant's testimony, Exhibit 2). Appellant became unemployed and tried to obtain affordable health insurance but was not able to do so. (Exhibit 3, Testimony).
3. Appellant's Federal Adjusted Gross Income for 2021 was \$112,329.00 (Exhibit 2). Most of that income was earned from January through June when Appellant was employed (75%) and the remaining 25% was from the months when Appellant did not employment. (Testimony).
4. Appellants had a baby in March of 2021 that increased expenses. (Testimony, Exhibit 3).

5. Appellant's expenses for food, shelter, clothing, transportation, child expenses and other necessities used a lot of the income for the months that Appellant did not have health insurance. The monthly expenses totaled approximately \$2,275.00 and the monthly income for those months was approximately \$4,000.00. (Testimony).
6. Appellant did obtain health insurance in 2022 through the spouse Appellant's employer.
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. Appellant could afford health insurance based on the tables in Schedule HC. According to Table 4, the health insurance would cost \$680.00 for coverage. According to Table 3, Appellant was deemed to afford \$748.00. If only the income for the period during the months Appellant did not have health insurance is used, then Appellant could not afford the insurance. In that case, Appellant would be deemed to afford \$276.00 per month.
9. Private insurance was affordable for the Appellant in 2021. (Schedule HC for 2021).
10. Appellant's AGI was over 300% of the Federal Poverty Level for a family size of 1, and Appellant therefore would not have qualified for subsidized health insurance through the Health Connector. (Schedule HC for 2021).
11. Appellant claimed that they should be granted a waiver based on the grounds that they had a increased expenses due to the birth of a child, and also that paying for health insurance would have caused a serious deprivation of food, shelter, clothing and other necessities. (Testimony of Appellant, Exhibit 3).
12. Appellant did not incur significant and unexpected increases in essential expenses as a result of domestic violence or the sudden responsibility for providing full care for an aging parent or other family member; and did not incur such expenses due to the death of a spouse, family member, or partner who shared household expenses. Appellant did not incur additional expenses as a result of a fire, flood, or other natural or man-made disaster in 2021 (Exhibit 3).
13. 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 for January through June of 2021, but did not have health insurance for the remaining months of 2021. They have been assessed a tax penalty for three 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 \$112,329.00 was deemed to have been able to afford health insurance on the private market. According to Table 3, Appellant could have afforded to pay \$748.00 per month; according to Table 4, Appellant, who was 27 years old in 2021, from Middlesex County, and filed the 2021 Massachusetts taxes as married filing jointly with a family size of 3, would have had to pay \$680.00 for coverage per month for insurance on the private market. If only the income for the months when Appellant did not have health insurance is used, then Appellant could not afford health insurance, as Appellant would be deemed to afford \$276.00 per month for those months. 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 also claimed that they had expenses for the birth of a child and the extra expenses for a child. Appellant's expenses for necessities used a lot of the income during the months Appellant did not have insurance. Appellant obtained insurance in 2022. For these reasons, the waiver of the penalty is approved.

Appellant should note that the waiver of the penalty is based upon the facts that I have determined to be true for the 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: 3/0 Number of Months Assessed: 0/0

If the number of months assessed is zero (0) because your penalty has been overturned, the Connector has notified the Department of Revenue that you should NOT be assessed a penalty for Tax Year 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: PA21-2731

Appeal Decision Appeal Approved.

Hearing Issue: Appeal of the 2021 Tax Year Penalty

Hearing Date: November 14, 2023

Decision Date: December 29, 2023

AUTHORITY

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

JURISDICTION

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

HEARING RECORD

Appellant appeared at the hearing, which was held by telephone, on November 14, 2023. The hearing record consists of the Appellant's testimony, and the following documents which were admitted into evidence without objection by Appellants:

- Exhibit 1: Notice of Hearing (10-16-23) (2 pages);
- Exhibit 2: Information from Schedule HC TY 2021 (1 page);
- Exhibit 3: Email to vacate dismissal (8-31-23) (1 page); and
- Exhibit 4: Email from Appeals Unit to DOR to hold assessment (9-27-23) (1 page).

FINDINGS OF FACT

The record shows, and I so find:

1. Appellant, age 52 during 2021, from Plymouth County, filed single on the tax return with a family size of 1. (Exhibit 2).
2. Appellant did have health insurance for October through December of 2021, but did not have health insurance for the remaining months of 2021. (Appellant's testimony, Exhibit 2). Appellant was unemployed during 2021 until October, and tried to obtain affordable health insurance but was not able to do so. (Exhibit 3, Testimony).
3. Appellant's Federal Adjusted Gross Income for 2021 was \$75,098.00 (Exhibit 2). Most of that income was earned from October through December when Appellant was employed. Appellant's unemployment income was approximately \$780.00 per week or \$3,380.00 per month.

Appellant indicated that the unemployment income was only for six months during 2021, and then there were three months with no income. (Testimony).

4. Appellant's expenses for food, shelter, clothing, transportation, and other necessities used all of the income for the months that Appellant did not have health insurance. The monthly expenses totaled approximately \$5,215.00 and the monthly income for those months was approximately \$3,380.00. (Testimony).
5. Appellant did obtain health insurance in October 2021 through the Appellant's employer.
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 \$390.00 for coverage. According to Table 3, Appellant was deemed to afford \$500.00. If only the income for the period during the months Appellant did not have health insurance is used, then Appellant could not afford the insurance. In that case, Appellant would be deemed to afford \$251.00 per month.
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 for a family size of 1, 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 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 have health insurance for October through December of 2021, but did not have health insurance for the remaining months of 2021. They have been assessed a tax penalty for six 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 \$75,098.00 was deemed to have been able to afford health insurance on the private market. According to Table 3, Appellant could have afforded to pay \$500.00 per month; according to Table 4, Appellant, who was 52 years old in 2021, from Plymouth 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. If only the income for the months when Appellant did not have health insurance is used, then Appellant could not afford health insurance, as Appellant would be deemed to afford \$251.00 per month for those months. 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 during the months Appellant did not have insurance. Appellant obtained insurance in October 2021. For these reasons, the waiver of the penalty is approved.

Appellant should note that the waiver of the penalty is based upon the facts that I have determined to be true for the 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: 6 Number of Months Assessed: 0

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

NOTIFICATION OF YOUR RIGHT TO APPEAL TO COURT

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

Hearing Officer

Cc: Connector Appeals Unit

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

Massachusetts Health Connector Appeals Unit

FINAL APPEAL DECISION: PA22-1110

Appeal Decision Appeal Approved.

Hearing Issue: Appeal of the 2022 Tax Year Penalty

Hearing Date: December 20, 2023

Decision Date: January 16, 2024

AUTHORITY

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

JURISDICTION

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

HEARING RECORD

Appellant appeared at the hearing, which was held by telephone, on December 20, 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 (11-17-23) (2 pages);
- Exhibit 2: Information from Schedule HC TY 2022 (1 page);
- Exhibit 3: Statement of Grounds for Appeal (5-3-23) (with letter and documents) (24 pages).

FINDINGS OF FACT

The record shows, and I so find:

1. Appellant, age 30 during 2022, from Middlesex County filed single on the tax return with a family size of 1. (Exhibit 2).
2. Appellant did have health insurance for June, July and August of 2022, but did not have health insurance for the remaining months of 2022. (Appellant's testimony, Exhibit 2).
3. Appellant's Federal Adjusted Gross Income for 2022 was \$72,870.00 (Exhibit 2).
4. Appellant's family lives with Appellant and Appellant covers most of the expenses for the family, as well as paying off the brother's college expenses. In addition, the family took a trip to Sri Lanka for the anniversary of their father's death as required by their culture. (Testimony).

5. Appellant's expenses for food, shelter, transportation, including the trip to Sri Lanka, and other necessities used a lot of the income. The expenses totaled approximately \$5,446.00 per month or \$65,352.00 per year. (Testimony).
6. I take administrative notice of the financial information set forth in Tables 1 through 6 in the DOR 2022 Massachusetts Schedule HC Health Care Instructions and Worksheets. Tables 3 and 4 incorporate affordability and premium schedules adopted by the Board of Directors for the Commonwealth Health Insurance Connector Authority for 2022. Table 2 sets forth income at 300% of the Federal poverty level and Tables 5 and 6 set forth tax penalties in effect for 2022.
7. Appellant could afford health insurance based on the tables in Schedule HC. According to Table 4, the health insurance would cost \$277.00 for coverage. According to Table 3, Appellant was deemed to afford \$485.00.
8. Private insurance was affordable for the Appellant in 2022. (Schedule HC for 2022).
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 2022).
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 2022 (Exhibit 3).
12. Appellant was not homeless, was not thirty days or more behind in rent in 2022 and did not receive eviction notices. Appellant did not receive a shut-off notice for basic utilities. (Appellant's Testimony, Exhibit 3).

ANALYSIS AND CONCLUSIONS OF LAW

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

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

Appellant did have health insurance for June, July and August of 2022, but did not have health insurance for the remaining months of 2022. They have been assessed a tax penalty for three months. Appellant appealed the assessment. See Exhibits 2, and 3. To determine if the penalty should be waived in whole or in part, we must consider whether affordable insurance which met minimum creditable coverage standards was available to the Appellant through employment, through the private market, or through a government-sponsored program. If affordable insurance was available, we must determine if such insurance was, in fact, not affordable to the Appellant because they experienced a financial hardship as defined in 956 CMR 6.08.

Private insurance was affordable for the Appellant during 2022. According to Tables 3 and 4 of the HC Schedule for 2022, Appellant, with an adjusted gross income of \$72,870.00 was deemed to have been able to afford health insurance on the private market. According to Table 3, Appellant could have afforded to pay \$485.00 per month; according to Table 4, Appellant, who was 30 years old in 2022, from Middlesex County and filed the 2022 Massachusetts taxes as single with a family size of 1, would have had to pay \$277.00 for coverage per month for insurance on the private market. See CMR 6.05 (1)(2), Schedule HC Tables 3 and 4, and Exhibit 2.

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

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

PENALTY ASSESSED

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

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

NOTIFICATION OF YOUR RIGHT TO APPEAL TO COURT

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

Hearing Officer

Cc: Connector Appeals Unit

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

Massachusetts Health Connector Appeals Unit

FINAL APPEAL DECISION: PA22-1112

Appeal Decision Appeal Approved.

Hearing Issue: Appeal of the 2022 Tax Year Penalty

Hearing Date: December 20, 2023

Decision Date: January 16, 2024

AUTHORITY

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

JURISDICTION

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

HEARING RECORD

Appellant appeared at the hearing, which was held by telephone, on December 20, 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 (11-17-23) (2 pages);
- Exhibit 2: Information from Schedule HC TY 2022 (1 page);
- Exhibit 3: Statement of Grounds for Appeal (5-3-23) (with letter and documents) (7 pages).

FINDINGS OF FACT

The record shows, and I so find:

1. Appellants, ages 62 and 56 during 2022, from Worcester County filed married filing jointly on the tax return with a family size of 3. (Exhibit 2).
2. Appellants did not have health insurance for 2022. (Appellant's testimony, Exhibit 2).
3. Appellants' Federal Adjusted Gross Income for 2022 was \$40,508.00 (Exhibit 2).
4. Appellants were not employed for the first seven months of 2022, and lived on their savings. (Testimony, Exhibit 3).
5. Appellants' expenses for food, shelter, transportation, and other necessities used all of the income. The expenses totaled approximately \$5,030.00 per month or \$60,360.00 per year. (Testimony).

6. I take administrative notice of the financial information set forth in Tables 1 through 6 in the DOR 2022 Massachusetts Schedule HC Health Care Instructions and Worksheets. Tables 3 and 4 incorporate affordability and premium schedules adopted by the Board of Directors for the Commonwealth Health Insurance Connector Authority for 2022. Table 2 sets forth income at 300% of the Federal poverty level and Tables 5 and 6 set forth tax penalties in effect for 2022.
7. Appellants could not afford health insurance based on the tables in Schedule HC. According to Table 4, the health insurance would cost \$1,031.00 for coverage. According to Table 3, Appellants were deemed to afford \$116.00.
8. Private insurance was not affordable for the Appellants in 2022. (Schedule HC for 2022).
9. Appellants' AGI was under 300% of the Federal Poverty Level for a family of 3, and Appellants therefore may have qualified for subsidized health insurance through the Health Connector. (Schedule HC for 2022).
10. 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).
11. Appellants did not incur significant and unexpected increases in essential expenses as a result of domestic violence or the sudden responsibility for providing full care for an aging parent or other family member; and did not incur such expenses due to the death of a spouse, family member, or partner who shared household expenses. Appellants did not incur additional expenses as a result of a fire, flood, or other natural or man-made disaster in 2022 (Exhibit 3).
12. Appellants were not homeless, were not thirty days or more behind in rent in 2022 and did not receive eviction notices. Appellants did not receive a shut-off notice for basic utilities. (Appellant's Testimony, Exhibit 3).

ANALYSIS AND CONCLUSIONS OF LAW

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

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

Appellants did not have health insurance for 2022. They have been assessed a tax penalty for twelve 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 2022. According to Tables 3 and 4 of the HC Schedule for 2022, Appellants, with an adjusted gross income of \$40,508.00 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 \$116.00 per month; according to Table 4, Appellants, who were 62 and 56 years old in 2022, from Worcester County and filed the 2022 Massachusetts taxes as married filing jointly with a family size of 3, would have had to pay \$1,031.00 for coverage per month for insurance on the private market. See CMR 6.05 (1)(2), Schedule HC Tables 3 and 4, and Exhibit 2.

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

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

PENALTY ASSESSED

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

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

NOTIFICATION OF YOUR RIGHT TO APPEAL TO COURT

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

Hearing Officer

Cc: Connector Appeals Unit

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

Massachusetts Health Connector Appeals Unit

FINAL APPEAL DECISION: PA22-1115

Appeal Decision Appeal Approved.

Hearing Issue: Appeal of the 2022 Tax Year Penalty

Hearing Date: December 20, 2023

Decision Date: January 16, 2024

AUTHORITY

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

JURISDICTION

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

HEARING RECORD

Appellant appeared at the hearing, which was held by telephone, on December 20, 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 (11-17-23) (2 pages);
- Exhibit 2: Information from Schedule HC TY 2022 (1 page);
- Exhibit 3: Statement of Grounds for Appeal (5-2-23) (with letter and documents) (7 pages).

FINDINGS OF FACT

The record shows, and I so find:

1. Appellant, age 27 during 2022, from Worcester County filed single on the tax return with a family size of 1. (Exhibit 2).
2. Appellant did not have health insurance for 2022 that met minimum creditable coverage. (Appellant's testimony, Exhibit 2).
3. Appellant's Federal Adjusted Gross Income for 2022 was \$47,296.00 (Exhibit 2).
4. Appellant moved to Massachusetts in January 2022 and was not aware of the requirement for health insurance, and the employer did not offer health insurance. (Testimony).
5. Appellant became aware of the requirement when Appellant filed the 2022 taxes, and signed up for health insurance through the Health Connector for 2024. (Testimony).

6. I take administrative notice of the financial information set forth in Tables 1 through 6 in the DOR 2022 Massachusetts Schedule HC Health Care Instructions and Worksheets. Tables 3 and 4 incorporate affordability and premium schedules adopted by the Board of Directors for the Commonwealth Health Insurance Connector Authority for 2022. Table 2 sets forth income at 300% of the Federal poverty level and Tables 5 and 6 set forth tax penalties in effect for 2022.
7. Appellant could afford health insurance based on the tables in Schedule HC. According to Table 4, the health insurance would cost \$277.00 for coverage. According to Table 3, Appellant was deemed to afford \$299.00.
8. Private insurance was affordable for the Appellant in 2022. (Schedule HC for 2022).
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 2022).
10. Appellant claimed that they should be granted a waiver based on the grounds that Appellant was not aware of the requirement and obtained insurance for 2024 when Appellant learned of the requirement. (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 2022 (Exhibit 3).
12. Appellant was not homeless, was not thirty days or more behind in rent in 2022 and did not receive eviction notices. Appellant did not receive a shut-off notice for basic utilities. (Appellant's Testimony, Exhibit 3).

ANALYSIS AND CONCLUSIONS OF LAW

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

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

Appellant did not have health insurance for 2022. They have been assessed a tax penalty for three months. Appellant appealed the assessment. See Exhibits 2, and 3. To determine if the penalty should be waived in whole or in part, we must consider whether affordable insurance which met minimum creditable coverage standards was available to the Appellant through employment, through the private

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

Private insurance was affordable for the Appellant during 2022. According to Tables 3 and 4 of the HC Schedule for 2022, Appellant, with an adjusted gross income of \$47,296.00 was deemed to have been able to afford health insurance on the private market. According to Table 3, Appellant could have afforded to pay \$299.00 per month; according to Table 4, Appellant, who was 27 years old in 2022, from Worcester County and filed the 2022 Massachusetts taxes as single with a family size of 1, would have had to pay \$277.00 for coverage per month for insurance on the private market. See CMR 6.05 (1)(2), Schedule HC Tables 3 and 4, and Exhibit 2.

With regard to the hardship waiver of the penalty, Appellant claimed that Appellant moved to Massachusetts in January of 2022, and was not aware of the requirement for health insurance until Appellant filed the 2022 taxes. Appellant obtained health insurance through the Health Connector for 2024. For these reasons, the waiver of the penalty is approved.

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

PENALTY ASSESSED

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

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

NOTIFICATION OF YOUR RIGHT TO APPEAL TO COURT

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

Hearing Officer

Cc: Connector Appeals Unit

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

Massachusetts Health Connector Appeals Unit

FINAL APPEAL DECISION: PA22-1133

Appeal Decision Appeal Approved.

Hearing Issue: Appeal of the 2022 Tax Year Penalty

Hearing Date: January 16, 2024

Decision Date: January 23, 2024

AUTHORITY

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

JURISDICTION

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

HEARING RECORD

Appellant appeared at the hearing, which was held by telephone, on January 16, 2024. 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 (12-5-23) (2 pages);
- Exhibit 2: Information from Schedule HC TY 2022 (1 page);
- Exhibit 3: Statement of Grounds for Appeal (5-3-23) (3 pages).

FINDINGS OF FACT

The record shows, and I so find:

1. Appellant, age 62 during 2022, from Worcester County, filed married filing separately on the tax return with a family size of 2. (Exhibit 2).
2. Appellant did have health insurance for July through November of 2022, but did not have health insurance for the remaining months of 2022. (Appellant's testimony, Exhibit 2). Appellant's spouse had turned 65 in 2021 and went on Medicare, and Appellant then lost the insurance through the spouse's employer. Appellant had to wait for open enrollment, and enrolled in insurance that did not meet minimum creditable coverage. Appellant then went on health insurance through the employer for July through November of 2022, but then left that job and had to wait 90 days to obtain health insurance through the new employer. (Testimony, Exhibit 3).

3. Appellant's and Appellant's spouse's Federal Adjusted Gross Income for 2022 was \$110,234.00 (Exhibit 2). Appellant's income during 2022 was less than half of the total and Appellant and Appellant's spouse kept their incomes separate. (Testimony).
4. Appellant's share of expenses for food, shelter, clothing, transportation, assisting their daughter and other necessities used a lot of the Appellant's individual income. The monthly expenses totaled approximately \$3,425.00 or \$41,100.00 per year. (Testimony).
5. I take administrative notice of the financial information set forth in Tables 1 through 6 in the DOR 2022 Massachusetts Schedule HC Health Care Instructions and Worksheets. Tables 3 and 4 incorporate affordability and premium schedules adopted by the Board of Directors for the Commonwealth Health Insurance Connector Authority for 2022. Table 2 sets forth income at 300% of the Federal poverty level and Tables 5 and 6 set forth tax penalties in effect for 2022.
6. Appellant could not afford health insurance based on the tables in Schedule HC. According to Table 4, the health insurance would cost \$869.00 for coverage. According to Table 3, Appellant was deemed to afford \$734.00, taking into account Appellant and Appellant's spouse's income.
7. Private insurance was not affordable for the Appellant in 2022. (Schedule HC for 2022).
8. Appellant's AGI was over 300% of the Federal Poverty Level for a family size of 2, and Appellant therefore would not have qualified for subsidized health insurance through the Health Connector. (Schedule HC for 2022).
9. 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, and that Appellant had health insurance for several months of the year. (Testimony of Appellant, Exhibit 3).
10. Appellant did not incur significant and unexpected increases in essential expenses as a result of domestic violence or the sudden responsibility for providing full care for an aging parent or other family member; and did not incur such expenses due to the death of a spouse, family member, or partner who shared household expenses. Appellant did not incur additional expenses as a result of a fire, flood, or other natural or man-made disaster in 2022 (Exhibit 3).
11. Appellant was not homeless, was not thirty days or more behind in rent in 2022 and did not receive eviction notices. Appellant did not receive a shut-off notice for basic utilities. (Appellant's Testimony, Exhibit 3).

ANALYSIS AND CONCLUSIONS OF LAW

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

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

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

Appellant did have health insurance for July through November of 2022, but did not have health insurance for the remaining months of 2022. They have been assessed a tax penalty for three months. Appellant appealed the assessment. See Exhibits 2, and 3. To determine if the penalty should be waived in whole or in part, we must consider whether affordable insurance which met minimum creditable coverage standards was available to the Appellant through employment, through the private market, or through a government-sponsored program. If affordable insurance was available, we must determine if such insurance was, in fact, not affordable to the Appellant because they experienced a financial hardship as defined in 956 CMR 6.08.

Private insurance was not affordable for the Appellant during 2022. According to Tables 3 and 4 of the HC Schedule for 2022, Appellant, with an adjusted gross income for Appellant and Appellant’s spouse of \$110,234.00 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 \$734.00 per month; according to Table 4, Appellant, who was 62 years old in 2022, from Worcester County, and filed the 2022 Massachusetts taxes as married filing separately with a family size of 2, would have had to pay \$869.00 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 Appellant they had health insurance for several months of 2022. Appellant also 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 a lot of the Appellant’s separate income. For these reasons, the waiver of the penalty is approved.

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

PENALTY ASSESSED

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

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

NOTIFICATION OF YOUR RIGHT TO APPEAL TO COURT

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

Hearing Officer

Cc: Connector Appeals Unit

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

Massachusetts Health Connector Appeals Unit

FINAL APPEAL DECISION: PA22-1143

Appeal Decision Appeal Approved.

Hearing Issue: Appeal of the 2022 Tax Year Penalty

Hearing Date: December 27, 2023

Decision Date: January 23, 2024

AUTHORITY

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

JURISDICTION

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

HEARING RECORD

Appellant appeared at the hearing, which was held by telephone, on December 27, 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 (11-24-23) (2 pages);
- Exhibit 2: Information from Schedule HC TY 2022 (1 page);
- Exhibit 3: Statement of Grounds for Appeal (5-5-23) (with letter and documents) (11 pages).

FINDINGS OF FACT

The record shows, and I so find:

1. Appellant, age 30 during 2022, from Suffolk County filed married filing jointly on the tax return with a family size of 2. (Exhibit 2).
2. Appellant did not have health insurance for 2022 in Massachusetts, but did not move to Massachusetts until May 2022. Appellant's spouse had health insurance for all of 2022. (Appellant's testimony, Exhibit 2).
3. Appellant's and Appellant's spouse's Federal Adjusted Gross Income for 2022 was \$74,099.00 (Exhibit 2).
4. Appellant moved to Massachusetts in May 2022 and began a job but was not able to enroll in the health insurance because it was not open enrollment. Appellant also was not able to enroll in

Appellant's spouse's insurance. Appellant tried to obtain health insurance through the Health Connector but was not able to do so as well. (Testimony, Exhibit 3).

5. Appellant did enroll in health insurance for 2023 during the November open enrollment. (Testimony).
6. I take administrative notice of the financial information set forth in Tables 1 through 6 in the DOR 2022 Massachusetts Schedule HC Health Care Instructions and Worksheets. Tables 3 and 4 incorporate affordability and premium schedules adopted by the Board of Directors for the Commonwealth Health Insurance Connector Authority for 2022. Table 2 sets forth income at 300% of the Federal poverty level and Tables 5 and 6 set forth tax penalties in effect for 2022.
7. Appellant could not afford health insurance based on the tables in Schedule HC. According to Table 4, the health insurance would cost \$554.00 for coverage for a married couple with no dependents. According to Table 3, Appellant was deemed to afford \$493.00.
8. Private insurance was not affordable for the Appellant in 2022. (Schedule HC for 2022).
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 2022).
10. Appellant claimed that they should be granted a waiver based on the grounds that Appellant was not able to obtain health insurance during 2022 and did attempt to do so and did enroll when able to do so for 2023. In addition, Appellant did not move to Massachusetts until May 2022. (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 2022 (Exhibit 3).
12. Appellant was not homeless, was not thirty days or more behind in rent in 2022 and did not receive eviction notices. Appellant did not receive a shut-off notice for basic utilities. (Appellant's Testimony, Exhibit 3).

ANALYSIS AND CONCLUSIONS OF LAW

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

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

Appellant did not have health insurance for 2022 in Massachusetts, but did not move to Massachusetts until May 2022. They have been assessed a tax penalty for twelve months, but it should have been for five months. Appellant appealed the assessment. See Exhibits 2, and 3. To determine if the penalty should be waived in whole or in part, we must consider whether affordable insurance which met minimum creditable coverage standards was available to the Appellant through employment, through the private market, or through a government-sponsored program. If affordable insurance was available, we must determine if such insurance was, in fact, not affordable to the Appellant because they experienced a financial hardship as defined in 956 CMR 6.08.

Private insurance was not affordable for the Appellant during 2022. According to Tables 3 and 4 of the HC Schedule for 2022, Appellant, with an adjusted gross income of \$74,099.00 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 \$493.00 per month; according to Table 4, Appellant, who was 30 years old in 2022, from Suffolk County and filed the 2022 Massachusetts taxes as married filing jointly with a family size of 2, would have had to pay \$554.00 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 Appellant moved to Massachusetts in May 2022, and was not able to obtain health insurance but did make efforts to do so. Appellant did enroll for 2023 when able to do so. For these reasons, the waiver of the penalty is approved.

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

PENALTY ASSESSED

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

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

NOTIFICATION OF YOUR RIGHT TO APPEAL TO COURT

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

Hearing Officer

Cc: Connector Appeals Unit

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

Massachusetts Health Connector Appeals Unit

FINAL APPEAL DECISION: PA22-1147

Appeal Decision Appeal Approved.

Hearing Issue: Appeal of the 2022 Tax Year Penalty

Hearing Date: December 27, 2023

Decision Date: January 23, 2024

AUTHORITY

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

JURISDICTION

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

HEARING RECORD

Appellant appeared at the hearing, which was held by telephone, on December 27, 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 (11-24-23) (2 pages);
- Exhibit 2: Information from Schedule HC TY 2022 (1 page);
- Exhibit 3: Statement of Grounds for Appeal (5-3-23) (2 pages).

FINDINGS OF FACT

The record shows, and I so find:

1. Appellant, age 36 during 2022, from Norfolk County filed single on the tax return with a family size of 1. (Exhibit 2).
2. Appellant did not have health insurance for 2022. (Appellant's testimony, Exhibit 2).
3. Appellant's Federal Adjusted Gross Income for 2022 was \$31,874.00 (Exhibit 2).
4. Appellant moved to Massachusetts from Arizona and was not offered health insurance from the employer. Appellant did enroll in health insurance through the Health Connector in 2023. (Testimony).
5. Appellant's expenses for food, shelter, clothing and transportation used most of the income. The monthly expenses were \$2,183.00 or \$26,196.00 per year. (Testimony).

6. I take administrative notice of the financial information set forth in Tables 1 through 6 in the DOR 2022 Massachusetts Schedule HC Health Care Instructions and Worksheets. Tables 3 and 4 incorporate affordability and premium schedules adopted by the Board of Directors for the Commonwealth Health Insurance Connector Authority for 2022. Table 2 sets forth income at 300% of the Federal poverty level and Tables 5 and 6 set forth tax penalties in effect for 2022.
7. Appellant could not afford health insurance based on the tables in Schedule HC. According to Table 4, the health insurance would cost \$298.00 for coverage. According to Table 3, Appellant was deemed to afford \$111.00.
8. Private insurance was not affordable for the Appellant in 2022. (Schedule HC for 2022).
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 2022).
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 2022 (Exhibit 3).
12. Appellant was not homeless, was not thirty days or more behind in rent in 2022 and did not receive eviction notices. Appellant did not receive a shut-off notice for basic utilities. (Appellant's Testimony, Exhibit 3).

ANALYSIS AND CONCLUSIONS OF LAW

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

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

Appellant did not have health insurance for 2022. They have been assessed a tax penalty for twelve months. Appellant appealed the assessment. See Exhibits 2, and 3. To determine if the penalty should be waived in whole or in part, we must consider whether affordable insurance which met minimum creditable coverage standards was available to the Appellant through employment, through the private market, or through a government-sponsored program. If affordable insurance was available, we must

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

Private insurance was not affordable for the Appellant during 2022. According to Tables 3 and 4 of the HC Schedule for 2022, Appellant, with an adjusted gross income of \$31,874.00 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 \$111.00 per month; according to Table 4, Appellant, who was 36 years old in 2022, from Norfolk County and filed the 2022 Massachusetts taxes as single with a family size of 1, would have had to pay \$298.00 for coverage per month for insurance on the private market. See CMR 6.05 (1)(2), Schedule HC Tables 3 and 4, and Exhibit 2.

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

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

PENALTY ASSESSED

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

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

NOTIFICATION OF YOUR RIGHT TO APPEAL TO COURT

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

Hearing Officer

Cc: Connector Appeals Unit

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

Massachusetts Health Connector Appeals Unit

FINAL APPEAL DECISION: PA22-1170

Appeal Decision Appeal Approved.

Hearing Issue: Appeal of the 2022 Tax Year Penalty

Hearing Date: November 9, 2023

Decision Date: December 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

Appellant appeared at the hearing, which was held by telephone, on November 9, 2023. The hearing record consists of the Appellant's testimony, and the following documents which were admitted into evidence without objection by Appellant:

- Exhibit 1: Notice of Hearing (10-18-23) (2 pages);
- Exhibit 2: Information from Schedule HC TY 2022 (1 page);
- Exhibit 3: Statement of Grounds for Appeal (5-2-23) (2 pages).

FINDINGS OF FACT

The record shows, and I so find:

1. Appellant, age 33 during 2022, from Barnstable County filed single on the tax return with a family size of 1. (Exhibit 2).
2. Appellant did not have health insurance for 2022. (Appellant's testimony, Exhibit 2).
3. Appellant's Federal Adjusted Gross Income for 2022 was \$64,400.00 (Exhibit 2).
4. Appellant's significant other lives with Appellant and has a disability and Appellant covers most of the expenses as a result (Testimony).
5. Appellant's expenses for food, shelter, transportation and other necessities used a lot of the income. The expenses totaled approximately \$3,473.00 per month or \$41,688.00 per year. (Testimony).

6. I take administrative notice of the financial information set forth in Tables 1 through 6 in the DOR 2022 Massachusetts Schedule HC Health Care Instructions and Worksheets. Tables 3 and 4 incorporate affordability and premium schedules adopted by the Board of Directors for the Commonwealth Health Insurance Connector Authority for 2022. Table 2 sets forth income at 300% of the Federal poverty level and Tables 5 and 6 set forth tax penalties in effect for 2022.
7. Appellant could afford health insurance based on the tables in Schedule HC. According to Table 4, the health insurance would cost \$290.00 for coverage. According to Table 3, Appellant was deemed to afford \$429.00.
8. Private insurance was affordable for the Appellant in 2022. (Schedule HC for 2022).
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 2022).
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 2022 (Exhibit 3).
12. Appellant was not homeless, was not thirty days or more behind in rent in 2022 and did not receive eviction notices. Appellant did not receive a shut-off notice for basic utilities. (Appellant's Testimony, Exhibit 3).

ANALYSIS AND CONCLUSIONS OF LAW

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

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

Appellant did not have health insurance for 2022. They have been assessed a tax penalty for twelve months. Appellant appealed the assessment. See Exhibits 2, and 3. To determine if the penalty should be waived in whole or in part, we must consider whether affordable insurance which met minimum creditable coverage standards was available to the Appellant through employment, through the private

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

Private insurance was affordable for the Appellant during 2022. According to Tables 3 and 4 of the HC Schedule for 2022, Appellant, with an adjusted gross income of \$64,400.00 was deemed to have been able to afford health insurance on the private market. According to Table 3, Appellant could have afforded to pay \$429.00 per month; according to Table 4, Appellant, who was 33 years old in 2022, from Barnstable County and filed the 2022 Massachusetts taxes as single with a family size of 1, would have had to pay \$290.00 for coverage per month for insurance on the private market. See CMR 6.05 (1)(2), Schedule HC Tables 3 and 4, and Exhibit 2.

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 a lot of the income. For these reasons, the waiver of the penalty is approved.

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

PENALTY ASSESSED

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

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

NOTIFICATION OF YOUR RIGHT TO APPEAL TO COURT

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

Hearing Officer

Cc: Connector Appeals Unit

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

Massachusetts Health Connector Appeals Unit

FINAL APPEAL DECISION: PA22-1252

Appeal Decision Appeal Allowed

Hearing Issue: Appeal of the 2022 Tax Year Penalty

Hearing Date: January 26, 2024

Decision Date: January 31, 2024

AUTHORITY

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

JURISDICTION

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

HEARING RECORD

The Appellant appeared at the hearing, which was held by telephone, on January 26, 2024. The procedures to be followed during the hearing were reviewed with the Appellant and his mother who were then sworn in. Exhibits were marked and admitted into evidence with no objection from the Appellant.

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

- Exhibit 1: Notice of Hearing dated December 7, 2023
- Exhibit 2: Appeal Case Information from form Schedule HC
- Exhibit 3: Statement of Grounds for Appeal Dated May 13, 2023
- Exhibit 4: Written Statement of Appeal Dated May 13, 2023

FINDINGS OF FACT

The record shows, and I so find:

1. The appellant is thirty-five years old and is single. He lives in Middlesex County, Massachusetts.
2. Appellant works in the automotive business. Appellant was completing his taxes for 2021 and realized he was being penalized for not having health insurance in 2021. He immediately went to a Mass Health Center to enroll in a health plan. Appellant was too late to apply for a health plan for 2022 and had to wait until November 2022 to enroll, which he did for December 2022. Appellant is a diabetic and pays child support for his two children.
3. Appellant did have health insurance in 2023 and does have health insurance in 2024.
4. The Appellant's monthly expenses totaled \$3,500.00, consisting of rent \$1,000.00, cell phone \$350.00, car insurance \$250.00, car gas \$250.00, food \$200.00, clothing \$200.00, extras for children \$200.00, child support \$800.00, tools \$200.00 .
5. The Appellant did not submit a Statement of Grounds for Appeal-2022 but should have appealed under " During 2022, the expense of purchasing health insurance would have caused a serious deprivation of food, shelter, clothing or other necessities". I will hear his appeal under this ground.
6. I take administrative notice of the information set forth in tables 1 through 6 in the Department of Revenue Schedule HC Health Care Instructions and Worksheets (Schedule HC Instructions). Tables 3 & 4 incorporate the affordability schedules adopted by the board of directors of the Commonwealth Health Insurance Connector Authority for 2022. Table 1 sets forth the income eligibility standards for various family sizes at 150% of the federal poverty level and Table 2 sets forth the income eligibility standards for various family sizes at 300 per cent of the federal poverty level, which is the income eligibility standard for the government-subsidized health insurance program. See Mass. G.L. c. 118H, s.3(a)(1). Tables 5 and 6 set forth the tax penalties for 2022.
7. Based on the appellant's federal adjusted gross income and the above referenced tables, I find the appellant would not have been eligible for subsidized health insurance, because Appellant's income of \$54,407.00 was more than \$38,640.00. The monthly premium for health insurance available on the private market in Middlesex County for a 34 year old single

person was \$290.00. The tables reflect that Appellant could afford 362.71 This is less than what the appellant is deemed to afford. (Tables 2, 3 & 4 of the Schedule HC Instructions)

ANALYSIS AND CONCLUSIONS OF LAW

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

Appellant works in the automotive business. Appellant was completing his taxes for 2021 and realized he was being penalized for not having health insurance in 2021. He immediately went to a Mass Health Center to enroll in a health plan. Appellant was too late to apply for a health plan for 2022 and had to wait until November 2022 to enroll, which he did for December 2022. Appellant is a diabetic and pays child support for his two children.

The Appellant did not submit a Statement of Grounds for Appeal-2022 but should have appealed under “During 2022, the expense of purchasing health insurance would have caused a serious deprivation of food, shelter, clothing or other necessities”. I will hear his appeal under this ground.

The Health Care Reform Act of 2006 requires every adult resident of Massachusetts to obtain and maintain creditable insurance coverage “so long as it is deemed affordable” under the schedule established by the board of the Connector. Mass. Gen. Laws ch. 111M, § 2(a). Massachusetts residents who fail to indicate on their state tax returns that they obtained the mandated creditable coverage are subject to a tax penalty for each month in which that the individual did not have creditable health insurance. *Id.* at § 2(b). However, individuals with incomes up to 150 percent of the Federal Poverty Level (“FPL”) are not subject to any penalty for non-compliance with the individual mandate. See Massachusetts Department of Revenue Technical Information Release (“TIR”) 13-1, available at <http://www.mass.gov/dor/businesses/help-and-resources/legal-library/tirs/tirs-by-years/2013-releases/tir-13-1.html>. For 2022, 150 percent of the FPL was \$19,320.00 for a single person. In addition a lapse in coverage of 63 days or less is not subject to the section 2(b) penalty. See Administrative Bulletin 03-10 (Dec. 7, 2010), available at <https://www.mahealthconnector.org/portal/binary/com.epicentric.contentmanagement.servlet.ContentDeliveryServlet/Health%2520Care%2520Reform/Regulations/documents/Administrative%20Information%20Bulletin%2003-10.pdf>; see also 830 Mass. Code Regs. 111M.2.1(5)(c) (2008). Thus, no penalty is imposed for lapses in coverage consisting of three or fewer consecutive calendar months. *Id.*

Since Appellant’s 2022 income was more than 150 percent of the FPL, making him potentially subject to an individual mandate penalty, the threshold issue to be addressed is whether creditable health insurance coverage was affordable to him in 2022. In determining affordability, consideration is given first to the amount Appellant is deemed able to afford for health insurance premiums under the Affordability Schedule and second to the cost of health insurance that was

available through employer-sponsored plans, government-subsidized programs or on the private insurance market. See 2022 Schedule HC Instructions and Worksheets, *supra*.

Appellant reported a federal AGI of 54,407.00 in 2022, and Appellant’s filing status was single. EX 2. According to the Affordability Schedule established by the Connector’s board and included in the Instructions and Worksheets of the 2022 Massachusetts Schedule HC, Appellant could afford to pay \$362.71 monthly for health insurance. See 2022 Schedule HC Instructions and Worksheets, *supra* at Table 3. Private insurance would have been available to him from the Premium Tables, at a cost of \$290.00 monthly for coverage *Id.* at Table 4.

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

On these facts, I find that Appellant has shown that he was precluded from purchasing affordable health insurance during 2022. 956 Mass. Code Regs. 6.08(3) (2008). Accordingly, I conclude that he is exempt from a tax penalty for his non-compliance with the individual mandate.

Accordingly, Appellant’s appeal is **APPROVED**, and the 2022 penalty assessed is **OVERTURNED**.

PENALTY ASSESSED

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

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

OR

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

NOTIFICATION OF YOUR RIGHT TO APPEAL TO COURT

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

Hearing Officer

Cc: Connector Appeals Unit

Massachusetts Health Connector Appeals Unit

FINAL APPEAL DECISION: PA22-1288

Appeal Decision Appeal Allowed

Hearing Issue: Appeal of the 2022 Tax Year Penalty

Hearing Date: January 24, 2024

Decision Date: January 30, 2024

AUTHORITY

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

JURISDICTION

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

HEARING RECORD

The Appellant appeared at the hearing, which was held by telephone, on January 24, 2024. The procedures to be followed during the hearing were reviewed with the Appellant who was then sworn in. Exhibits were marked and admitted into evidence with no objection from the Appellant.

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

- Exhibit 1: Notice of Hearing dated December 14, 2023
- Exhibit 2: Appeal Case Information from form Schedule HC
- Exhibit 3: Statement of Grounds for Appeal Dated May 12, 2023
- Exhibit 4: Written Statement of Appeal

FINDINGS OF FACT

The record shows, and I so find:

1. The appellant is Twenty-two years old and is single. He lives in Bristol County, Massachusetts.
2. Appellant worked for the city in a janitorial position. His mother's aunt became terminally ill. Appellant left his position to help his mother in full-time care of his aunt. After his aunt died in July 2022, the Appellant took a job as a personal care assistant for his grandfather who was in declining health. Appellant was in a probationary period until 2023, when he was able to obtain health insurance.
3. Appellant did have health insurance in 2023 and has health insurance in 2024.
4. The Appellant did submit a Statement of Grounds for Appeal-2022 under the grounds for Appeal " During 2022 other circumstances, such as applying the Affordability Tables in Schedule HC to you is inequitable".
5. I take administrative notice of the information set forth in tables 1 through 6 in the Department of Revenue Schedule HC Health Care Instructions and Worksheets (Schedule HC Instructions). Tables 3 & 4 incorporate the affordability schedules adopted by the board of directors of the Commonwealth Health Insurance Connector Authority for 2022. Table 1 sets forth the income eligibility standards for various family sizes at 150% of the federal poverty level and Table 2 sets forth the income eligibility standards for various family sizes at 300 per cent of the federal poverty level, which is the income eligibility standard for the government-subsidized health insurance program. See Mass. G.L. c. 118H, s.3(a)(1). Tables 5 and 6 set forth the tax penalties for 2022.
6. Based on the appellant's federal adjusted gross income and the above referenced tables, I find the appellant would not have been eligible for subsidized health insurance, because Appellant's income of \$40,545.00 was more than \$38,640.00. The monthly premium for health insurance available on the private market in Bristol County for a 21 year old single person was \$277.00. The tables reflect that Appellant could afford \$251.71 This is more than what the appellant is deemed to afford. (Tables 2, 3 & 4 of the Schedule HC Instructions)

ANALYSIS AND CONCLUSIONS OF LAW

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

Appellant worked for the city in a janitorial position. His mother’s aunt became terminally ill. Appellant left his position to help his mother in full-time care of his aunt. After his aunt died in July 2022, the Appellant took a job as a personal care assistant for his grandfather who was in declining health. Appellant was in a probationary period until 2023, when he was able to obtain health insurance.

The Appellant did submit a Statement of Grounds for Appeal-2022 under the grounds for Appeal “ During 2022 other circumstances, such as applying the Affordability Tables in Schedule HC to you is inequitable”.

The Health Care Reform Act of 2006 requires every adult resident of Massachusetts to obtain and maintain creditable insurance coverage “so long as it is deemed affordable” under the schedule established by the board of the Connector. Mass. Gen. Laws ch. 111M, § 2(a). Massachusetts residents who fail to indicate on their state tax returns that they obtained the mandated creditable coverage are subject to a tax penalty for each month in which that the individual did not have creditable health insurance. *Id.* at § 2(b). However, individuals with incomes up to 150 percent of the Federal Poverty Level (“FPL”) are not subject to any penalty for non-compliance with the individual mandate. See Massachusetts Department of Revenue Technical Information Release (“TIR”) 13-1, available at <http://www.mass.gov/dor/businesses/help-and-resources/legal-library/tirs/tirs-by-years/2013-releases/tir-13-1.html>. For 2022, 150 percent of the FPL was \$19,320.00 for a single person. In addition a lapse in coverage of 63 days or less is not subject to the section 2(b) penalty. See Administrative Bulletin 03-10 (Dec. 7, 2010), available at <https://www.mahealthconnector.org/portal/binary/com.epicentric.contentmanagement.servlet.ContentDeliveryServlet/Health%2520Care%2520Reform/Regulations/documents/Administrative%20Information%20Bulletin%2003-10.pdf>; see also 830 Mass. Code Regs. 111M.2.1(5)(c) (2008). Thus, no penalty is imposed for lapses in coverage consisting of three or fewer consecutive calendar months. *Id.*

Since Appellant’s 2022 income was more than 150 percent of the FPL, making him potentially subject to an individual mandate penalty, the threshold issue to be addressed is whether creditable health insurance coverage was affordable to him in 2022. In determining affordability, consideration is given first to the amount Appellant is deemed able to afford for health insurance premiums under the Affordability Schedule and second to the cost of health insurance that was available through employer-sponsored plans, government-subsidized programs or on the private insurance market. See 2022 Schedule HC Instructions and Worksheets, *supra*.

Appellant reported a federal AGI of \$40,545.00 in 2022, and Appellant’s filing status was single. EX 2. According to the Affordability Schedule established by the Connector’s board and included in the Instructions and Worksheets of the 2022 Massachusetts Schedule HC, Appellant could afford to pay

\$251.71 monthly for health insurance. See 2022 Schedule HC Instructions and Worksheets, *supra* at Table 3. Private insurance would have been available to him from the premium Tables, at a cost of \$298.00 monthly for coverage *Id.* at Table 4.

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

On these facts, I find that Appellant has shown that he was precluded from purchasing affordable health insurance during 2022. 956 Mass. Code Regs. 6.08(3) (2008). Accordingly, I conclude that he is exempt from a tax penalty for his non-compliance with the individual mandate.

Accordingly, Appellant’s appeal is **ALLOWED**, and the 2022 penalty assessed is **OVERTURNED**.

PENALTY ASSESSED

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

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

OR

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

NOTIFICATION OF YOUR RIGHT TO APPEAL TO COURT

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

Hearing Officer

Cc: Connector Appeals Unit

HisMassachusetts Health Connector Appeals Unit

FINAL APPEAL DECISION: PA22809

Appeal Decision: The penalty is overturned in full.

Hearing Issue: Appeal of the 2022 Tax Year Penalty

Hearing Date: October 10, 2023

Decision Date: December 15, 2023

AUTHORITY

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

JURISDICTION

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

HEARING RECORD

The appellant appeared at the hearing which was held by telephone on October 10, 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 signed by Appellant on March 17, 2023

Exhibit 2: Appeal Case Information from Schedule HC 2022

Exhibit 3: Notice of Hearing sent to Appellant dated September 12, 2023 for October 10, 2023 hearing

FINDINGS OF FACT

The record shows, and I so find:

1. Appellant, who filed a 2022 Massachusetts tax return as a single person with no dependents claimed, was 27 years old in 2022 (Exhibit 2, Testimony of Appellant).
2. Appellant resided in Worcester County in 2022. From January through March, Appellant lived with relatives. In April, Appellant and his sister moved into a house they had just purchased (Testimony of Appellant, Exhibit 2).
3. Appellant had a Federal Adjusted Income of \$46,961 in 2022 (Testimony of Appellant, Exhibit 2).
4. Appellant was employed all year. He had two jobs. He worked as a personal care attendant for a family member. He earned \$1,100 every two weeks. He also worked in a medical lab, earning \$680 a week. Appellant was offered health insurance through the job in the medical lab. It would have cost the appellant about \$400 every two weeks for the coverage. Appellant felt he could not afford the cost (Testimony of Appellant).
5. Appellant had health insurance in January, 2022 through MassHealth. His coverage was terminated at the end of January. Appellant did not realize his coverage had ended until he went to his doctor's during the summer and was informed that he had no insurance (Testimony of Appellant, Exhibit 2).

6. Appellant has been assessed a penalty for eight months, May through December (Testimony of Appellant, Exhibit 2).
7. I take administrative notice of the financial information set forth in Tables 1 through 6 in the DOR 2022 Massachusetts Schedule HC Health Care Instructions and Worksheets. Tables 3 and 4 incorporate affordability and premium schedules adopted by the Board of Directors for the Commonwealth Health Insurance Connector Authority for 2022. Table 2 sets forth income at 300% of the Federal poverty level and Tables 5 and 6 set forth tax penalties in effect for 2022.
8. According to Table 3 of Schedule HC for 2022, the appellant with no dependents claimed with an adjusted gross income of \$46,961 could afford to pay \$297 per month for health insurance. According to Table 4, Appellant, 27 years old and living in Worcester County, could have purchased insurance for \$277 per month for a plan for an individual. Insurance on the individual market was affordable for the appellant (Schedule HC for 2022 Tables 3 and 4, Exhibit 2).
9. According to Table 2 of Schedule HC for 2022, Appellant, who earned more than \$38,640 per year, would have been ineligible for the ConnectorCare program based upon income (Table 2 of Schedule HC-2022, and Exhibit 2).
10. Appellant did not incur significant and unexpected increases in essential expenses as a result of domestic violence; the death of a spouse, family member, or partner who shared household expenses; the sudden responsibility for providing full care for an aging parent or other family member, or a natural or human-caused event which caused substantial personal damage in 2022 (Testimony of Appellant).
11. Appellant did not receive any shut-off notices for basic utilities in 2022 (Testimony of Appellant).
12. Appellant did not fall more than thirty days behind in mortgage payments in 2022 (Testimony of Appellant).
13. Appellant had the following monthly expenses for basic necessities from April through December, 2022: mortgage and property taxes-\$950; electricity-on average \$250; heat-\$125 on average; water-\$34; telephone-\$125; food, household items, and personal care items-\$860; clothing-\$45; car insurance-\$100; gas-\$215; car repairs-\$75; old credit debt-\$250. In addition, Appellant had to pay \$3,000 for closing costs, \$2,000 for moving expenses when he bought a house and moved, and \$800 for repairs of the heating system (Testimony of Appellant).

ANALYSIS AND CONCLUSIONS OF LAW

The issue on appeal is whether the tax penalty assessed by the Massachusetts Department of Revenue for 2022 should be waived, either in whole or in part.

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

Appellant had health insurance which met the Commonwealth's standards in January, 2022. Appellant has been assessed a penalty for eight months, May through December since he is entitled to a three-month grace period after losing coverage. The appellant has appealed the assessment. See Exhibits 1, 2, and Massachusetts General Laws Chapter 111M, Section 2.

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

According to Table 3 of Schedule HC for 2022, the appellant with no dependents claimed with an adjusted gross income of \$46,961 could afford to pay \$297 per month for health insurance. According to Table 4, Appellant, 27 years old and living in Worcester County, could have purchased insurance for \$277 per month for a plan for an individual. Insurance on the individual market was affordable for the appellant. See Schedule HC for 2022 Tables 3 and 4, and Exhibit 2. Appellant could have purchased coverage after he lost his MassHealth coverage at the end of January.

Appellant was ineligible for enrollment in the ConnectorCare program. The appellant's annual Federal Adjusted Income was \$46,961, more than the income limit for one person (\$38,640). See 956 CMR 12.00 et. seq., Exhibit 2, and Table 2 of Schedule HC 2022. There is no evidence in the record that Appellant was eligible for any other government sponsored program.

Appellant was offered health insurance through one of his jobs. The cost would have been about \$800 a month. This coverage was not affordable for the appellant. See also the testimony of the appellant which I find to be credible; Exhibit 2 and Table 3 of Schedule HC for 2022.

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

Appellant had the following expenses for basic necessities from April through December, 2022: mortgage and property taxes-\$950; electricity-on average \$250; heat-\$125 on average; water-\$34; telephone-\$125; food, household items, and personal care items-\$860; clothing-\$45; car insurance-\$100; gas-\$215; car repairs-\$75; old credit debt-\$250. In addition, Appellant had to pay \$3,000 for closing costs, \$2,000 for moving expenses when he bought a house and moved, and \$800 for repairs of the heating system. See the testimony of the appellant which I find to be credible.

Appellant's Federal Adjusted Gross Income in 2022 was \$46,961. Appellant's pay, before taxes and other deductions, came to about \$3,900 per month. Expenses came to about \$3,100. In addition, moving expenses, closing costs and house repairs came to about \$500 a month. If Appellant purchased health insurance through the individual market for \$277 a month, the appellant would have had no money left over after paying for the coverage and basic necessities. He would have had a monthly deficit after deductions for taxes. Based upon these facts, I determine that pursuant to 956 CMR 6.08(1)(e), the cost of insurance would have caused Appellant to experience a serious deprivation of basic necessities. This constitutes financial hardship, making health insurance unaffordable for the appellant. See also Table 4 of Schedule HC for 2022 and 956 CMR 6.08(3).

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

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

PENALTY ASSESSED

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

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

NOTIFICATION OF YOUR RIGHT TO APPEAL TO COURT

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

Cc: Connector Appeals Unit

Hearing Officer

Massachusetts Health Connector Appeals Unit

FINAL APPEAL DECISION: PA22835

Appeal Decision: The penalty is overturned in full.

Hearing Issue: Appeal of the 2022 Tax Year Penalty

Hearing Date: October 24, 2023

Decision Date: January 5, 2024

AUTHORITY

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

JURISDICTION

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

HEARING RECORD

The appellant appeared at the hearing which was held by telephone on October 24, 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 signed by Appellant on March 20, 2023

Exhibit 2: Appeal Case Information from Schedule HC 2022

Exhibit 3: Notice of Hearing sent to Appellant dated October 3, 2023 for October 24, 2023 hearing

FINDINGS OF FACT

The record shows, and I so find:

1. Appellant, who filed a 2022 Massachusetts tax return as a single person with no dependents claimed, was 44 years old in 2022 (Exhibit 2, Testimony of Appellant).
2. Appellant resided in Suffolk County in 2022 (Testimony of Appellant, Exhibit 2).
3. Appellant had a Federal Adjusted Income of \$51,778 in 2022 (Testimony of Appellant, Exhibit 2).
4. Appellant had three jobs in 2022. From January through May, Appellant was a substitute teacher. Appellant was unemployed from June through August when the appellant started working in an afterschool program. This second job lasted until the end of October when Appellant became a substitute teacher again. Appellant earned \$27,000 about at these jobs, receiving about \$550 a week, except when he was unemployed (Testimony of Appellant).
5. Appellant withdrew \$20,000 from a retirement account in 2023 (Testimony of Appellant).
6. Appellant had health insurance which met the Commonwealth's minimum creditable coverage standards through work from September through December. He was not offered health insurance through the job he had from

January through May. He was offered health insurance once he started working in the afterschool program and through his second substitute teaching position (Testimony of Appellant, Exhibit 2).

7. Appellant has been assessed a tax penalty for five months, January through May (Testimony of Appellant, Exhibit 2).

8. I take administrative notice of the financial information set forth in Tables 1 through 6 in the DOR 2022 Massachusetts Schedule HC Health Care Instructions and Worksheets. Tables 3 and 4 incorporate affordability and premium schedules adopted by the Board of Directors for the Commonwealth Health Insurance Connector Authority for 2022. Table 2 sets forth income at 300% of the Federal poverty level and Tables 5 and 6 set forth tax penalties in effect for 2022.

9. According to Table 3 of Schedule HC for 2022, the appellant with no dependents claimed with an adjusted gross income of \$51,778 could afford to pay \$345 per month for health insurance. According to Table 4, Appellant, 44 years old and living in Suffolk County, could have purchased insurance for \$318 per month for a plan for an individual. Insurance on the individual market was affordable for the appellant (Schedule HC for 2022 Tables 3 and 4, Exhibit 2).

10. According to Table 2 of Schedule HC for 2022, Appellant, who earned more than \$38,640 per year, would have been ineligible for the ConnectorCare program based upon income (Table 2 of Schedule HC-2022, and Exhibit 2).

11. Appellant did not incur significant and unexpected increases in essential expenses as a result of domestic violence; the death of a spouse, family member, or partner who shared household expenses; the sudden responsibility for providing full care for an aging parent or other family member, or a natural or human-caused event which caused substantial personal damage in 2022 (Testimony of Appellant).

12. Appellant did not receive any shut-off notices for basic utilities in 2022 (Testimony of Appellant).

13. Appellant did not fall more than thirty days behind in rent payments in 2022 (Testimony of Appellant).

14. Appellant had the following monthly expenses for basic necessities in 2022: rent, including heat and electricity-\$1,200; telephone and internet-\$75; food, household items, and personal care items-\$755; clothing-\$85; car insurance-\$60; gas-\$120. Appellant also had about \$3,000 in car repairs during the year (Testimony of Appellant).

15. At the time of this hearing, Appellant had health insurance (Testimony of Appellant).

ANALYSIS AND CONCLUSIONS OF LAW

The issue on appeal is whether the tax penalty assessed by the Massachusetts Department of Revenue for 2022 should be waived, either in whole or in part.

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

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

Appellant had health insurance which met the Commonwealth's standards from September through December, 2022. Appellant has been assessed a penalty for five months, January through May since he is entitled to a three-month grace period prior to obtaining coverage. The appellant has appealed the assessment. See Exhibits 1, 2, and Massachusetts General Laws Chapter 111M, Section 2.

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

According to Table 3 of Schedule HC for 2022, the appellant with no dependents claimed with an adjusted gross income of \$51,778 could afford to pay \$345 per month for health insurance. According to Table 4, Appellant, 44 years old and living in Suffolk County, could have purchased insurance for \$318 per month for a plan for an individual. Insurance on the individual market was affordable for the appellant. See Schedule HC for 2022 Tables 3 and 4; and Exhibit 2.

Appellant was ineligible for enrollment in the ConnectorCare program. The appellant's annual Federal Adjusted Income was \$51,778, more than the income limit for one person (\$38,640). See 956 CMR 12.00 et. seq., Exhibit 2, and Table 2 of Schedule HC 2022. There is no evidence in the record that Appellant was eligible for any other government sponsored program.

Appellant was not offered health insurance through employment during the months for which the appellant has been assessed a tax penalty. See also the testimony of the appellant which I find to be credible; and Exhibit 2.

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

Appellant had the following expenses for basic necessities in 2022: rent, including heat and electricity-\$1,200; telephone and internet-\$75; food, household items, and personal care items-\$755; clothing-\$85; car insurance-\$60; gas-\$120. Appellant also had about \$3,000 in car repairs during the year (Testimony of Appellant). See the testimony of the appellant which I find to be credible.

Appellant's Federal Adjusted Gross Income in 2022 was \$51,778. Appellant's pay, before taxes and other deductions, came to about \$4,300 per month. However, during the months for which Appellant has been assessed a tax penalty, Appellant earned far less. His net pay was about \$2,200 a month. His expenses for basic necessities came to about \$2,325. He also had expenses of about \$3,000 for car repairs during the year. Health insurance would have cost Appellant \$318 a month on the individual market. Taking these facts into account, I determine that from January through May, the cost of purchasing health insurance would have caused the appellant to experience a serious deprivation of basic necessities. See the testimony of the appellant which I find to be credible and 956 CMR 6.08(1)(e), and Table 4 of Schedule HC for 2022. This constitutes financial hardship, making health insurance unaffordable for the appellant.

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

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

PENALTY ASSESSED

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

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

NOTIFICATION OF YOUR RIGHT TO APPEAL TO COURT

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

Cc: Connector Appeals Unit

Hearing Officer

Massachusetts Health Connector Appeals Unit

FINAL APPEAL DECISION: PA22-915

Appeal Decision: Penalty Overturned in Full
Hearing Issue: Appeal of the 2022 Tax Year Penalty
Hearing Date: November 27, 2023
Decision Date: January 15, 2024

AUTHORITY

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

JURISDICTION

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

HEARING RECORD

Appellants appeared at the hearing, which was held by telephone, on November 27, 2023. The procedures to be followed during the hearing were reviewed with Appellants. Appellants were sworn in. Exhibits were marked and admitted in evidence with no objection from Appellants. Appellants testified.

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

- Exhibit 1: Schedule HC for Healthcare from DOR
- Exhibit 2: Notice of Appeal and supporting documents, dated March 25, 2023
- Exhibit 3: Correspondence from Health Connector, dated October 17, 2023

FINDINGS OF FACT

The record shows, and I so find:

1. Appellants were 28 and 26 years old in 2022 (Exhibit 1).
2. Appellants lived in Middlesex County Massachusetts in 2022 (Exhibit 1 and Testimony of Appellant)
3. Appellants filed a Massachusetts 2022 tax return as married filing jointly with no dependents claimed (Exhibit 1).
4. Appellants had an Adjusted Gross Income for 2022 of \$91,827 (Exhibit 1).
5. Appellants worked for the same company in 2021 and both were laid off in late December 2021 (Testimony of Appellant).
6. After the lay-off, Appellants did not know when they would find work again (Testimony of Appellant).
7. Appellants both had employer sponsored health insurance from the former job for January 2023 only (Exhibit 2 and Testimony of Appellant).
8. The Appellants were offered COBRA at a cost of \$900 per month (Exhibit 2 and Testimony of Appellant).
9. Appellants did not sign up for the COBRA due to the cost (Testimony of Appellant).
10. Appellants began jobs with limited hours in February 2022 (Exhibit 2 and Testimony of Appellant).
11. Appellants attempted to obtain affordable health insurance (Testimony of Appellant).
12. Appellant Spouse's job offered employer sponsored health insurance after a year of employment (Exhibit 1 and Testimony of Appellant).

13. Employer sponsored health insurance was not available to Appellant in 2022 (Testimony of Appellant).
14. In addition to Appellants' basic living expenses, Appellants had to pay \$600 in federal taxes due to an error from the previous employer (Testimony of Appellant and Exhibit 1).
15. In June 2022, Appellant was injured outside of the job and could not work for six weeks (Testimony of Appellant).
16. As a result of the injury, Appellant had medical bills that Appellant was responsible for (Testimony of Appellant).
17. Appellant Spouse required serious dental work that cost \$3,800 (Exhibit 1 and Testimony of Appellant).
18. Appellants struggled to pay for basic expenses for most of 2022 (Testimony of Appellant).
19. Appellants' income started to increase during the latter part of 2022 (Testimony of Appellant).
20. Both Appellants began coverage under Appellant Spouse's employer sponsored health insurance beginning in January 2023 (Testimony of Appellant).
21. I take administrative notice of the financial information set forth in Tables 1 through 6 in the DOR 2022 Massachusetts Schedule HC Health Care Instructions and Worksheets. Tables 3 and 4 incorporate affordability and premium schedules adopted by the Board of Directors for the Commonwealth Health Insurance Connector Authority for 2022. Table 2 sets forth income at 300% of the Federal poverty level and Tables 5 and 6 set forth tax penalties in effect for 2022.
22. According to Table 3 of Schedule HC for 2022 a couple filing as married filing jointly with no dependents, with an adjusted gross income of \$91,827.00 could afford to pay \$612 per month for private insurance. According to Table 4, Appellants, were 26 and 28 with no dependents and lived in Middlesex County could have purchased private insurance for a cost of \$554 per month.
23. Private insurance was considered affordable for Appellants in 2022 (Schedule HC for 2022).
24. Appellants, earning more than \$52,260 would not have been income eligible for government subsidized health insurance (Schedule HC for 2022).
25. Appellants did not have health insurance during February through December 2022 (Testimony of Appellant and Exhibit 2).
26. Appellants have each been assessed a penalty for twelve months for 2022 (Exhibit 1).
27. Appellants filed a hardship Appeal on March 25, 2023 (Exhibit 2).

ANALYSIS AND CONCLUSIONS OF LAW

G.L.c. 111M, § 2, also called the "individual mandate," requires every adult resident of Massachusetts to obtain health insurance that meets minimum creditable coverage standards "[s]o long as it is deemed affordable" under the schedule set by the board of directors for the Commonwealth Health Insurance Connector Authority. Residents who do not obtain insurance or who do not obtain insurance that meets the minimum creditable coverage standard are subject to a tax penalty for "each of the months" that the individual did not have health insurance as required by the individual mandate. There is a three-month grace period to allow the taxpayer to obtain health insurance coverage or to make the transition between health insurance policies. See G. L. c. 111M, sec. 2(b) and for Tax Year 2022, Administrative Bulletin 03-10: Guidance Regarding M.G.L. c. 111M and M.G.L. c. 176Q, as implemented by 956 CMR 6.00, 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.

Appellants have been assessed a tax penalty for twelve months. To determine if the penalty should be waived in whole or in part, we must consider whether affordable insurance was available to Appellants before we consider whether Appellants suffered a financial hardship. See 956 CMR 6.

Private health insurance was considered affordable for Appellants in 2022, so we must consider whether the purchase of insurance would have caused Appellants to experience a hardship. Appellants both lost their jobs in

December 2021 and in February were only able to find jobs with limited hours. Appellant Spouse began a job that offered employer sponsored health insurance but the coverage would not begin for one year. In addition to struggling to pay their basic expenses, Appellants faced a tax penalty due to an error by the former employer and Appellant had an accident that prevented Appellant to work for six weeks. Appellants began to earn more income towards the end of the year and they both began employer sponsored health insurance for 2023. Given these circumstances, I find that Appellants suffered a hardship. See Schedule HC for 2022, 956 CMR 6.08 (1)(c), Exhibits 1, 2 and Testimony of Appellants, which I find to be credible.

I find the penalty assessed against Appellant for 2022 should be waived in its entirety.

PENALTY ASSESSED

Number of Months Appealed: 12/12

Number of Months Assessed: 0/0

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

OR

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

NOTIFICATION OF YOUR RIGHT TO APPEAL TO COURT

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

Massachusetts Health Connector Appeals Unit

FINAL APPEAL DECISION: PA22-917

Appeal Decision: Penalty Overturned in Full
Hearing Issue: Appeal of the 2022 Tax Year Penalty
Hearing Date: November 27, 2023
Decision Date: January 6, 2024

AUTHORITY

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

JURISDICTION

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

HEARING RECORD

Appellant appeared at the hearing, which was held by telephone, on November 27, 2023. The procedures to be followed during the hearing were reviewed with Appellant. Appellant was sworn in. Exhibits were marked and admitted in evidence with no objection from Appellant. Appellant testified.

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

- Exhibit 1: Schedule HC for Healthcare from DOR
- Exhibit 2: Notice of Appeal and supporting documents, dated March 14, 2023
- Exhibit 3: Correspondence from Health Connector, dated October 17, 2023

FINDINGS OF FACT

The record shows, and I so find:

1. Appellant was 30 years old in 2022 (Exhibit 1).
2. Appellant lived in Worcester County Massachusetts in 2022 (Exhibit 1 and Testimony of Appellant)
3. Appellant filed a Massachusetts 2022 tax return as single with no dependents claimed (Exhibit 1).
4. Appellant had an Adjusted Gross Income for 2022 of \$34,116 (Exhibit 1).
5. During 2022, Appellant both worked and studied to obtain a professional license (Exhibit 2 and Testimony of Appellant).
6. Appellant struggled to pay for basic expenses during 2022 (Testimony of Appellant).
7. Employer sponsored health insurance was not available to Appellant in for most of 2022 (Testimony of Appellant).
8. Appellant made many attempts to obtain health insurance in early 2022 (Testimony of Appellant).
9. Appellant applied for health insurance through the Health Connector but did not sign up due to the cost (Testimony of Appellant).
10. Appellant could not afford the cost of health insurance while paying for rent, utilities, food, car insurance, car expenses and student expenses (Testimony of Appellant).
11. Appellant began a new job in October 2022 and began employer sponsored health insurance in November 2022 (Exhibit 1 and Testimony of Appellant).

12. I take administrative notice of the financial information set forth in Tables 1 through 6 in the DOR 2022 Massachusetts Schedule HC Health Care Instructions and Worksheets. Tables 3 and 4 incorporate affordability and premium schedules adopted by the Board of Directors for the Commonwealth Health Insurance Connector Authority for 2022. Table 2 sets forth income at 300% of the Federal poverty level and Tables 5 and 6 set forth tax penalties in effect for 2022.

13. According to Table 3 of Schedule HC for 2022 a person filing as single with no dependents, with an adjusted gross income of \$34,116 could afford to pay \$142 per month for private insurance. According to Table 4, Appellant, who was 30 with no dependents and lived in Worcester County could have purchased private insurance for a cost of \$277 per month.

14. Private insurance was not considered affordable for Appellant in 2022 (Schedule HC for 2022).

15. Appellant, earning less than \$38,640 would have been income eligible for government subsidized health insurance (Schedule HC for 2022).

16. Appellant did not have health insurance during January through October 2022 (Testimony of Appellant and Exhibit 1).

17. Appellant has been assessed a penalty for seven months for 2022 (Exhibit 1).

18. Appellant filed a hardship Appeal on March 14, 2023 (Exhibit 2).

ANALYSIS AND CONCLUSIONS OF LAW

G.L.c. 111M, § 2, also called the “individual mandate,” requires every adult resident of Massachusetts to obtain health insurance that meets minimum creditable coverage standards “[s]o long as it is deemed affordable” under the schedule set by the board of directors for the Commonwealth Health Insurance Connector Authority. Residents who do not obtain insurance or who do not obtain insurance that meets the minimum creditable coverage standard are subject to a tax penalty for “each of the months” that the individual did not have health insurance as required by the individual mandate. There is a three-month grace period to allow the taxpayer to obtain health insurance coverage or to make the transition between health insurance policies. See G. L. c. 111M, sec. 2(b) and for Tax Year 2022, Administrative Bulletin 03-10: Guidance Regarding M.G.L. c. 111M and M.G.L. c. 176Q, as implemented by 956 CMR 6.00, which interprets the 63-day gap in coverage to be three months. The Connector’s regulations provide for a waiver of the tax penalty in the case of financial hardship. See 956 CMR 6.08.

Appellant has been assessed a tax penalty for seven months. To determine if the penalty should be waived in whole or in part, we must consider whether affordable insurance was available to Appellant, before we consider whether Appellant suffered a financial hardship. See 956 CMR 6.

Government subsidized health insurance was considered affordable for Appellant in 2022, so we must consider whether the purchase of insurance would have caused Appellant to experience a hardship. Appellant worked and studied for professional licensure during 2022. Appellant struggled to pay for basic necessities. I find that Appellant suffered a hardship and health insurance was not affordable until Appellant obtained a new job with employer sponsored health insurance that began in November 2022. See Schedule HC for 2022, 956 CMR 6.08 (1)(e), Exhibits 1, 2 and Testimony of Appellant, which I find to be credible.

I find the penalty assessed against Appellant for 2022 should be waived in its entirety.

PENALTY ASSESSED

Number of Months Appealed: 7

Number of Months Assessed: 0

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

OR

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

NOTIFICATION OF YOUR RIGHT TO APPEAL TO COURT

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

Massachusetts Health Connector Appeals Unit

FINAL APPEAL DECISION: PA21-2326

Appeal Decision: Appeal Approved.

Hearing Issue: Appeal of the 2021 Tax Year Penalty

Hearing Date: January 19, 2024

Decision Date: January 23, 2024

AUTHORITY

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

JURISDICTION

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

HEARING RECORD

The Appellant appeared at the hearing, which was held by telephone, on January 19, 2024¹. 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 5, 2023.
- Exhibit 2: Appeal Case Information from Schedule HC 2021.
- Exhibit 3: Statement of Grounds for Appeal dated May 12, 2023.
- Exhibit 4: Appellant's letter dated March 20, 2023 requesting that a prior dismissal be vacated after the Appellant failed to attend a previously scheduled Hearing on March 10, 2023.

FINDINGS OF FACT

The record shows, and I so find:

1. The Appellant, age 28 in October, 2021 filed their 2021 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 \$48,620 (Exhibit 2).
4. The Appellant did not have health insurance for any months of tax year 2021 and consequently has been assessed a twelve-month penalty (Exhibit 2).

¹ This appeal was heard with case number PA22-1208. Since two separate tax years were appealed, two separate decisions will be issued.

5. The Appellant filed an appeal of the assessment in May, 2022 (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 \$48,620 could afford to pay \$308 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 affordable for the Appellant in tax year 2021.
8. The Appellant was not financially eligible for ConnectorCare coverage in 2021 because the Appellant's income of \$48,620 was greater 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) (Exhibit 2).
9. The Appellant testified that were employed as a bar tender in tax year 2021 and was paid \$10 per hour plus tips. The Appellant said that because of the pandemic their income was very uncertain and some months they earned as little as \$400 per week. The Appellant said that due to their high living expenses and uncertain income they could not afford a monthly health insurance premium (Appellant Testimony).
10. The Appellant's monthly living expenses of \$2,525 Included: rent-\$880; electricity-\$80; heat-\$180; internet-\$75; water-\$15; car insurance \$75; car loan-\$200; gasoline-\$80; clothing-\$100; cleaning supplies and covid tests- \$100; food- \$500 and pet food/care \$150. The Appellant had also noted car maintenance of \$1,200 per year. The Appellant said that in the winter months their gas heating bills were high at the same time as their income was lower and they were one to two months behind in their utility payments. I found the Appellant to be credible (Exhibit 4 and Appellant Testimony).

ANALYSIS AND CONCLUSIONS OF LAW

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

The Appellant 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 has been assessed a twelve-month penalty. The Appellant appealed the penalty 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 \$48,620 could afford to pay \$308 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 affordable for the Appellant in tax year 2021.

The Appellant would not have been eligible for ConnectorCare coverage based upon the household's income that was greater 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 (1).

The Appellant testified that the adjusted gross income figure does not accurately reflect their financial circumstances for all months of tax year 2021. The Appellant explained that they were employed as a bartender earning \$10 per hour plus tips. The Appellant said that due to the pandemic business was not always good and during the winter months the Appellant said that they made only about \$400 per week. The Appellant said that the cost of gas heat was high at the same time, and they fell behind in their payments for a couple of months. The Appellant said that due to the high cost of their living expenses and the uncertainty of their tip income, the Appellant could not afford a health insurance premium payment. The Appellant testified to significant monthly expenses of approximately \$2,535 and indicated that it was difficult to meet these expenses with uncertain fluctuating after tax income.

Under these circumstances the Appellant has demonstrated that purchasing health insurance would have caused the Appellant significant financial hardship. The Appellant's twelve-month penalty is waived in full. 956 CMR 6.08.

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

Massachusetts Health Connector Appeals Unit

FINAL APPEAL DECISION: PA21-2612

Appeal Decision: The tax penalty is upheld.

Hearing Issue: Appeal of the 2021 Tax Year Penalty

Hearing Date: July 10, 2023

Decision Date: December 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 Massachusetts General Laws Chapter 111M, Section 4 and 956 CMR 6.07.

HEARING RECORD

The Appellant was a married person filing jointly with three dependents in 2021. The Appellant and the Appellant's spouse appeared at the hearing, which was held by telephone on July 10, 2023. The procedures to be followed during the hearing were reviewed with the Appellant. Exhibits were marked and admitted into evidence with no objection from the Appellant. The hearing officer left the record open for the Appellant to provide additional evidence, but the Appellant did not provide such additional evidence. The hearing record consists of the Appellant's testimony and the following documents that were admitted into evidence:

- Exhibit 1: Appeal Case Information from Schedule HC 2021 (1 page).
- Exhibit 2: August 2, 2022 dismissal of appeal by Health Connector for failure to submit statement of grounds and Appellant's letter appealing tax penalty, dated August 2, 2022 (2 pages)
- Exhibit 3: Health Connector Appeals Unit Notice of Hearing on July 10, 2023 (2 pages).
- Exhibit 4: Final Appeal Decision PA 20-839 (3 pages)
- Exhibit 5: Open Record Request, dated July 10, 2023 (2 pages)

FINDINGS OF FACT

The record shows, and I so find:

1. The Appellant filed their federal income tax return as a married person filing jointly with three dependents claimed. (Exhibit 1).

2. The Appellant turned 34 in August 2021. (Exhibit 1). The Appellant's spouse turned 35 in November 2021. (Exhibit 1).
3. The Appellant lived in Suffolk County in 2021. (Exhibit 1).
4. According to the Appellant's Schedule HC, the Appellant's federal Adjusted Gross Income ("AGI") for 2021 was \$116,752. (Exhibit 1).
5. According to the Appellant's Schedule HC, the Appellant did not have health insurance that met Massachusetts' minimum creditable coverage (MCC) requirements for any month in 2021. The Appellant was assessed a 12-month tax penalty for 2021. (Exhibit 1).
6. According to the Appellant's Schedule HC, the Appellant's spouse did not have health insurance that met MCC requirements for any month in 2021. The Appellant's spouse was not assessed a tax penalty for 2021. (Exhibit 1).
7. The Appellant submitted a letter in support of their appeal in which they stated that they were unemployed from March 16, 2020 to September 4, 2021 and that their spouse was working part-time. The Appellant stated in their letter that they faced a financial hardship during this time and were not able to have health insurance. (Exhibit 2).
8. I take administrative notice of the financial information set forth in Tables 1 through 6 in the Department of Revenue ("DOR") 2021 Massachusetts Schedule HC Health Care Instruction and Worksheets. Tables 3 and 4 incorporate affordability and premium schedules adopted by the Board of Directors for the Commonwealth Health Insurance Connector Authority for 2021. Table 2 sets forth income at 300% of the federal poverty level, and Tables 5 and 6 set forth tax penalties in effect for 2021.
9. The Appellant's AGI of \$116,752 was more than 300% of the Federal Poverty Level, which was \$92,040 for a family of five in 2021. (See Table 2 of Schedule HC-2021 and 956 CMR 12.04).
10. According to Table 3 of Schedule HC for 2021, the Appellant, who filed their federal tax return as a married person filing jointly with three dependents and claimed an adjusted gross income of \$116,752, could have afforded to pay \$778 per month for health insurance. The calculation is as follows: Table 3 states that a married person filing jointly with one or more dependents whose 2021 AGI was \$86,881 or more could have spent 8% of their earnings on health insurance; 8% of \$116,752 is \$9,340, and one-twelfth of \$9,340 is \$778.
11. According to Table 4 of Schedule HC for 2021, the least expensive health insurance plan available on the private market to the Appellant, a married person filing jointly age 31-34 with three dependents living in Suffolk County in January 2021, cost \$684 per month.
12. The hearing officer left the record open and requested that the Appellant provide a list of their monthly expenses for basic necessities in 2021, including food/groceries; rent; heat/hot water;

electricity; cable/Internet; phone; clothing; car/transportation; gas/repairs/insurance; and any large one-time expenses for a basic necessity in 2021.

13. The Health Connector did not receive any documents from the Appellant in response to its open record request.

ANALYSIS AND CONCLUSIONS OF LAW

The case is before me on the Appellant's appeal from the DOR's assessment of a twelve-month tax penalty because the Appellant's tax forms indicated that they did not have health insurance that met Massachusetts' minimum creditable coverage ("MCC") standards for any month in 2021. The issue to be decided is whether the tax penalty should be waived in whole or in part.

I begin by summarizing the legal rules underlying this appeal. The tax penalty was enacted by the Massachusetts Legislature to encourage compliance with G.L. c. 111M, § 2, also called the "individual mandate." The mandate requires every adult resident of Massachusetts to obtain health insurance coverage "[s]o long as it is deemed affordable" under the schedule set by the board of directors for the Commonwealth Health Insurance Connector Authority ("Connector"). G.L. c. 111M, § 2(a). Any health insurance policy must also satisfy the Massachusetts MCC standards for a taxpayer to avoid the penalty.

If these requirements are not met, a tax penalty is assessed for each of the months that the individual did not have health insurance as required by the individual mandate. There is, however, a three-month grace period to allow the taxpayer to obtain health insurance coverage or to make the transition between health insurance policies. See G.L. c. 111M, § 2(b) and Administrative Information Bulletin 03-10: Guidance Regarding M.G.L. c. 111M and M.G.L. c. 176Q, as implemented by 956 CMR 6.00 (clarifying that for purposes of penalty calculation, taxpayers will not be subject to penalty if they had lapses in coverage consisting of three or fewer consecutive calendar months). The Connector's regulations also provide for a waiver of the tax penalty in cases of hardship. See 956 CMR 6.07-08.

To determine if the penalty should be waived in whole or in part, there must be a determination as to whether affordable insurance that met MCC standards was available to the Appellant through the private market, through employment, or through a government-subsidized program. If affordable insurance was available, it must be determined whether such insurance was not in fact affordable to the Appellant because the Appellant experienced a hardship as defined in 956 CMR 6.08.

First, I conclude that the Appellant did not have access to affordable health insurance meeting MCC standards through a government-sponsored program because the Appellant's AGI in 2021 exceeded 300% of the FPL. Finding of Fact No. 9.

Second, I conclude that the Appellant did have access to affordable health insurance meeting MCC standards through the private market. According to Table 3 of the Schedule HC, the Appellant could have afforded to pay \$778 per month for health insurance, and according to Table 4 of the Schedule HC, the Appellant could have purchased health insurance on the private market for \$684 per month. Findings of Fact Nos. 10 and 11. The Appellant submitted a letter stating that they suffered a financial

hardship in 2021, and the hearing officer left the record open for the Appellant to submit a list of their expenses for basic necessities in 2021 so that the hearing officer could determine whether the Appellant suffered a hardship such that they could not afford health insurance through the private market. (Exhibits 2 and 5). The Appellant did not submit any documentation in response to the Health Connector's open record request. As a result, there is insufficient information to conclude that the Appellant suffered a financial hardship and that their penalty should be waived.

Reviewing the totality of the evidence, I find that the Appellant's twelve-month tax penalty should be upheld. See G.L. c. 111M, § 2 and 956 CMR 6.07(8).

PENALTY ASSESSED

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

If the number of months assessed is zero (0) because your penalty has been overturned, the Connector has notified the Department of Revenue that you should NOT be assessed a penalty for Tax Year 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: PA21-2613

Appeal Decision: The tax penalty is upheld.

Hearing Issue: Appeal of the 2021 Tax Year Penalty

Hearing Date: July 10, 2023

Decision Date: December 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 Massachusetts General Laws Chapter 111M, Section 4 and 956 CMR 6.07.

HEARING RECORD

The Appellant appeared at the hearing, which was held by telephone, on July 10, 2023. The procedures to be followed during the hearing were reviewed with the Appellant. Exhibits were marked and admitted into evidence with no objection from the Appellant. The hearing was left open for the Appellant to provide additional documentation. The hearing record consists of the Appellant's testimony and the following documents that were admitted into evidence:

- Exhibit 1: Appeal Case Information from Schedule HC 2021 (1 page).
- Exhibit 2: Statement of Grounds for Appeal and Supporting Documentation (9 pages).
- Exhibit 3: Notice of July 10, 2023 hearing (2 pages).
- Exhibit 4: Open record request, dated July 12, 2023

FINDINGS OF FACT

The record shows, and I so find:

1. The Appellant, who turned age 29 in October 2021, filed their federal income tax return as a single person with no dependents claimed. (Exhibit 1).
2. The Appellant lived in Berkshire County in 2021. (Exhibit 1).
3. The Appellant's federal Adjusted Gross Income ("AGI") for 2021 was \$44,934. (Exhibit 1).

4. According to the Appellant's Schedule HC, the Appellant did not have health insurance that met Massachusetts' minimum creditable coverage (MCC) requirements for any month in 2021. The Appellant was assessed a twelve-month tax penalty for 2021. (Exhibit 1).
5. A hearing on the Appellant's appeal took place telephonically on July 10, 2023. (Exhibit 2). The Appellant appeared at the hearing.
6. I take administrative notice of the financial information set forth in Tables 1 through 6 in the Department of Revenue ("DOR") 2021 Massachusetts Schedule HC Health Care Instruction and Worksheets. Tables 3 and 4 incorporate affordability and premium schedules adopted by the Board of Directors for the Commonwealth Health Insurance Connector Authority for 2021. Table 2 sets forth income at 300% of the federal poverty level, and Tables 5 and 6 set forth tax penalties in effect for 2021.
7. The Appellant's AGI of \$44,934 was greater than 300% of the Federal Poverty Level, which was \$38,280 for a single person in 2021. (See Table 2 of Schedule HC-2021 and 956 CMR 12.04).
8. According to Table 3 of Schedule HC for 2021, the Appellant, who filed their federal tax return as a single person with no dependents and claimed an adjusted gross income of \$44,934, could have afforded to pay \$284 per month for health insurance. The calculation is as follows: Table 3 states that a single person with no dependents whose 2021 AGI was between \$44,661 and \$51,040 could have spent 7.6% of their earnings on health insurance; 7.6% of \$44,934 is \$3,414; and one-twelfth of \$3,414 is \$284.
9. According to Table 4 of Schedule HC for 2021, the least expensive health insurance plan meeting Massachusetts' minimum creditable coverage requirements that a single person with no dependents living in Berkshire County and who was 28 years old at the beginning of January 2021 could have purchased on the private market cost \$271 per month.
10. The Appellant checked the following box on their Statement of Grounds for Appeal: "Other. During 2021 other circumstances, such as: applying the Affordability Tables in Schedule HC to you is inequitable (for example, because of family size); that you were unable to obtain government-subsidized insurance even though your income qualified you; or that you didn't reside in Massachusetts during your period of uninsurance." (Exhibit 2).
11. The Appellant included with their Statement of Grounds for Appeal a January 19, 2022 letter from MassHealth stating in relevant part that they did not qualify for MassHealth, Health Safety Net, and the Children's Medical Security Plan because they did not complete the annual eligibility renewal within the allowed time. The letter stated that if the Appellant completed the annual eligibility renewal within 90 days from February 2, 2022, MassHealth would reconsider their eligibility. (Exhibit 2).
12. The Appellant submitted a note with their appeal stating in relevant part that they re-applied for health insurance in January 2022 and received a notification that they had already applied for

health insurance, but that they had not in fact done so. The note also said that the Appellant received mail telling them to “pick a plan” online but that they were unable to do so because they did not have an account and could not access a representative by phone. (Exhibit 2).

13. The Appellant testified that they tried to obtain health insurance through “a healthcare unit” in 2019 but were told that someone with their Social Security number was already enrolled in health insurance. The Appellant testified that someone from the health care unit was supposed to look into the situation for them.
14. The Appellant testified that they could not have afforded to pay \$271 per month for insurance in 2021, given their expenses for rent, car insurance, and other necessities.
15. The Appellant testified that they have health insurance now through their spouse.
16. The hearing officer left the record open and requested that the Appellant submit a list of monthly expenses for basic necessities in 2021, including food/groceries; rent; heat/hot water; electricity; cable/Internet; phone; clothing; car/transportation; gas/repairs/insurance; and any large one-time expenses for a basic necessity during 2021. (Exhibit 4).
17. The Appellant did not submit any documentation in response to the open record request.

ANALYSIS AND CONCLUSIONS OF LAW

The case is before me on the Appellant’s appeal from the DOR’s assessment of a twelve-month tax penalty, which was assessed against the Appellant because the Appellant’s tax forms indicated that they did not have health insurance that met minimum creditable coverage (“MCC”) standards during any month in 2021. The issue to be decided is whether the tax penalty should be waived in whole or in part.

I begin by summarizing the legal rules underlying this appeal. The tax penalty was enacted by the Massachusetts Legislature to encourage compliance with G.L. c. 111M, § 2, also called the “individual mandate.” The mandate requires every adult resident of Massachusetts to obtain health insurance coverage “[s]o long as it is deemed affordable” under the schedule set by the board of directors for the Commonwealth Health Insurance Connector Authority (“Connector”). G.L. c. 111M, § 2(a). Any health insurance policy must also satisfy the Massachusetts MCC standards for a taxpayer to avoid the penalty.

If these requirements are not met, a tax penalty is assessed for each of the months that the individual did not have health insurance as required by the individual mandate. There is, however, a three-month grace period to allow the taxpayer to obtain health insurance coverage or to make the transition between health insurance policies. See G.L. c. 111M, § 2(b) and Administrative Information Bulletin 03-10: Guidance Regarding M.G.L. c. 111M and M.G.L. c. 176Q, as implemented by 956 CMR 6.00 (clarifying that for purposes of penalty calculation, taxpayers will not be subject to a penalty if they had lapses in coverage consisting of three or fewer consecutive calendar months). The Connector’s regulations also provide for a waiver of the tax penalty in cases of hardship. See 956 CMR 6.07-08.

To determine if the penalty should be waived in whole or in part, there must be a determination as to whether affordable insurance that met MCC standards was available to the Appellant through a government-subsidized program, through the private insurance market, or through employment. If affordable insurance was available, it must be determined whether such insurance was not in fact affordable to the Appellant because the Appellant experienced a hardship as defined in 956 CMR 6.08.

First, I conclude that the Appellant could not have obtained affordable health insurance meeting MCC standards through a government-subsidized program because their income exceeded 300% of the Federal Poverty Level. Finding of Fact No. 7.

Second, I conclude that the Appellant had access to affordable health insurance meeting MCC standards through the private market. According to Table 3 of the Schedule HC, the Appellant could have afforded to pay \$284 per month for health insurance, and according to Table 4 of the Schedule HC, the Appellant could have purchased health insurance meeting MCC standards on the private market for \$271 per month. Findings of Fact Nos. 8 and 9. The Appellant testified that they could not have afforded to pay \$271 per month for health insurance, but they failed to provide documentation about their expenses in response to the open record request. Finding of Fact No. 14 and Exhibit 4. As a result, there is insufficient information in the record to conclude that the Appellant suffered a hardship such that they could not have afforded to purchase health insurance meeting MCC standards on the private market.

I note that the Appellant testified that they were told in 2019 that someone with their Social Security number was enrolled in health insurance. Finding of Fact No. 13. I find that any difficulties the Appellant had enrolling in health insurance in 2019 do not justify a waiver of the penalty for 2021, as the Appellant had ample time to resolve any such difficulties.

Reviewing the totality of the evidence, I conclude that the Appellant had access to affordable health insurance meeting MCC standards through the private market and that they did not suffer a hardship that would justify waiving their tax penalty. See G.L. c. 111M, § 2 and 956 CMR 6.07(8). I therefore uphold the Appellant's tax penalty in its entirety.

PENALTY ASSESSED

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

If the number of months assessed is zero (0) because your penalty has been overturned, the Connector has notified the Department of Revenue that you should NOT be assessed a penalty for Tax Year 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: PA21-2690

Appeal Decision: Penalty Overturned in Full
Hearing Issue: Appeal of the 2021 Tax Year Penalty
Hearing Date: October 20, 2023
Decision Date: December 18, 2023

AUTHORITY

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

JURISDICTION

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

HEARING RECORD

Appellant appeared at the hearing, which was held by telephone, on October 20, 2023. The procedures to be followed during the hearing were reviewed with Appellant. Appellant was sworn in. Exhibits were marked and admitted in evidence with no objection from Appellant. Appellant testified.

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

- Exhibit 1: Schedule HC for Healthcare from DOR
- Exhibit 2: Notice of Appeal and supporting documents, dated November 12, 2022
- Exhibit 3: Correspondence from Health Connector, dated September 29, 2023

FINDINGS OF FACT

The record shows, and I so find:

1. Appellant was 60 years old in 2021 and resided in Worcester County from January through November 2021 (Exhibit 1 and testimony of Appellant).
2. Appellant filed a Massachusetts 2021 part year tax return as single with no dependents claimed (Exhibit 1).
3. Appellant had an Adjusted Gross Income for 2021 of \$37,770 (Exhibit 1).
4. In 2021, Appellant lived with a domestic partner from January through November (Testimony of Appellant).
5. Appellant's domestic partner was planning to add Appellant to the partner's health insurance (Testimony of Appellant).
6. The Covid pandemic had a profound effect on Appellant and the domestic partner and family (Testimony of Appellant).
7. There were many issues between Appellant and the domestic partner and the partner's adult children (Testimony of Appellant).
8. Despite many requests, the domestic partner did not add Appellant to the health insurance policy (Testimony of Appellant).
9. Due to the many serious issues between Appellant and the domestic partner, Appellant moved out of the household in November 2021 (Testimony of Appellant).

10. 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.

11. According to Table 3 of Schedule HC for 2021 a person filing as single with no dependents, with an adjusted gross income of \$37,770 could afford to pay \$157 per month for private insurance. According to Table 4, Appellant, who was 60 with no dependents and lived in Worcester County could have purchased private insurance for a cost of \$401 per month.

12. Private insurance was not considered affordable for Appellant in 2021 (Schedule HC for 2021).

13. Appellant, earning less than \$38,280 would have been income eligible for government subsidized health insurance (Schedule HC for 2021).

14. Appellant did not have health insurance for eleven months of 2021 (Testimony of Appellant and Exhibit 1).

15. Appellant has been assessed a penalty of eight months for 2021 (Exhibit 1).

16. Appellant filed a hardship Appeal on November 12, 2022 (Exhibit 2).

ANALYSIS AND CONCLUSIONS OF LAW

G.L.c. 111M, § 2, also called the “individual mandate,” requires every adult resident of Massachusetts to obtain health insurance that meets minimum creditable coverage standards “[s]o long as it is deemed affordable” under the schedule set by the board of directors for the Commonwealth Health Insurance Connector Authority. Residents who do not obtain insurance or who do not obtain insurance that meets the minimum creditable coverage standard are subject to a tax penalty for “each of the months” that the individual did not have health insurance as required by the individual mandate. There is a three-month grace period to allow the taxpayer to obtain health insurance coverage or to make the transition between health insurance policies. See G. L. c. 111M, sec. 2(b) and for Tax Year 2021, Administrative Bulletin 03-10: Guidance Regarding M.G.L. c. 111M and M.G.L. c. 176Q, as implemented by 956 CMR 6.00, which interprets the 63-day gap in coverage to be three months. The Connector’s regulations provide for a waiver of the tax penalty in the case of a financial hardship. See 956 CMR 6.08.

Appellant has been assessed a tax penalty for eight months. To determine if the penalty should be waived in whole or in part, we must consider whether affordable insurance was available to Appellant, before we consider whether Appellant suffered a financial hardship. See 956 CMR 6.

Government subsidized health insurance was considered affordable for Appellant in 2021, so we must consider whether the purchase of insurance would have caused Appellant to experience a hardship. Considering Appellant’s situation and that Appellant did try to obtain health insurance, I find that Appellant suffered a hardship. See Schedule HC for 2021, 956 CMR 6.08 (1)(e), Exhibits 1, 2 and Testimony of Appellant, which I find to be credible.

I find the penalty assessed against Appellants for 2021 should be waived in its entirety.

PENALTY ASSESSED

Number of Months Appealed: 8

Number of Months Assessed: 0

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

Massachusetts Health Connector Appeals Unit

FINAL APPEAL DECISION: PA21-2695

Appeal Decision: Penalty Overturned in Full

Hearing Issue: Appeal of the 2021 Tax Year Penalty

Hearing Date: October 20, 2023

Decision Date: January 2, 2024

AUTHORITY

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

JURISDICTION

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

HEARING RECORD

Appellant appeared at the hearing, which was held by telephone, on October 20, 2023. The procedures to be followed during the hearing were reviewed with Appellant. Appellant was sworn in. Exhibits were marked and admitted in evidence with no objection from Appellant. Appellant testified. At the end of the hearing, the record was left open so that Appellant could submit further information about Appellant's Health sharing arrangement during 2021. Appellant submitted documents which were received on December 5, 2023 and which have been marked as Exhibit 6. The record is now closed.

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

- Exhibit 1: Schedule HC for Healthcare from DOR
- Exhibit 2: Notice of Appeal and supporting documents, dated November 14, 2022
- Exhibit 3: Correspondence from Health Connector dated September 29, 2023
- Exhibit 4: Additional Documents NONE
- Exhibit 5: Historical Documents NONE
- Exhibit 6: Open Record information regarding Appellant's Health Care Sharing Ministry

FINDINGS OF FACT

The record shows, and I so find:

1. Appellant was fifty years old in 2021. Appellant filed a Massachusetts 2021 tax return as married filing jointly with a spouse with two dependents claimed (Exhibit 1).
2. Appellant's spouse passed away on April 8, 2021 (Exhibit 2).
3. Appellants resided in Norfolk County during 2021 (Exhibit 1 and Testimony of Appellant).
4. Appellants' Adjusted Gross Income for 2021 was \$216,709 (Exhibit 1).
5. During 2021, Appellant belonged to a Health Care Sharing Ministry or HCSM. Appellant had sincerely held religious beliefs and did not believe in traditional healthcare (Exhibit 6 and Testimony of Appellant).
6. Appellant was covered by an HCSM in 2021 (Exhibit 6 and Testimony of Appellant).
7. Appellant was assessed a penalty for twelve months for 2021 (Exhibit 1).

8. On November 14, 2022, Appellant appealed the penalty based on incurring a significant, unexpected increase in essential expenses resulting from the death of a spouse and based on being covered by an HCSM (Exhibit 2).

ANALYSIS AND CONCLUSIONS OF LAW

G.L.c. 111M, § 2, also called the “individual mandate,” requires every adult resident of Massachusetts to obtain health insurance that meets minimum creditable coverage standards “[s]o long as it is deemed affordable” under the schedule set by the board of directors for the Commonwealth Health Insurance Connector Authority. Residents who do not obtain insurance or who do not obtain insurance that meets the minimum creditable coverage standard are subject to a tax penalty for “each of the months” that the individual did not have health insurance as required by the individual mandate. There is a three-month grace period to allow the taxpayer to obtain health insurance coverage or to make the transition between health insurance policies. See G. L. c. 111M, sec. 2(b) and for Tax Year 2016, Administrative Bulletin 03-10: Guidance Regarding M.G.L. c. 111M and M.G.L. c. 176Q, as implemented by 956 CMR 6.00, which interprets the 63-day gap in coverage to be three months. The Connector’s regulations provide for a waiver of the tax penalty in the case of a financial hardship. See 956 CMR 6.08 (1).

Appellant’s spouse passed away in 2021, causing Appellant to experience a decrease in income. Additionally, Appellant was covered by an HCSM in 2021 due to Appellant’s sincerely held religious beliefs. Pursuant to 956 CMR 5 (3)(d)1 through 6, a health arrangement provided by an established religious organization comprised of individuals with sincerely held beliefs will be deemed to provide minimum creditable coverage as long as the health arrangement meets the requirements set forth in the regulation. Appellant was covered by a health arrangement that met most of the requirements. However, the HCSM failed to report to the Health Connector for all years as required by the regulation. See “Health Care Sharing Ministries Reporting to the Massachusetts Health Connector in 2020 and 2021 as reported to the Board of Directors Meeting on September 9, 2021”. See 956 CMR 6.08 (1) (d) and 1 (e), 956 CMR 5, Exhibits 1, 2, 6 and Testimony of Appellant which I find to be credible.

Given these circumstances, I find that the penalty assessed against Appellant for 2021 should be waived in its entirety.

PENALTY ASSESSED

Number of Months Appealed: 12

Number of Months Assessed: 0

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

ADDENDUM

The HCSM that Appellant belongs to has missed a reporting period. Appellant should check with the HCSM to make sure that they meet all reporting requirements in Massachusetts.

Massachusetts Health Connector Appeals Unit

FINAL APPEAL DECISION: PA21-2719

Appeal Decision:

Hearing Issue: Appeal of the 2021 Tax Year Penalty

Hearing Date: November 20, 2023

Decision Date: December 19, 2023

AUTHORITY

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

JURISDICTION

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

HEARING RECORD

The Appellant appeared at the hearing, which was held by telephone, on November 20, 2023. The procedures to be followed during the hearing were reviewed with the Appellant who was then sworn in. Exhibits were marked and admitted into evidence with no objection from the Appellant. The hearing record consists of the Appellant's testimony and the following documents which were admitted into evidence:

- Exhibit 1: Health Connector Appeals Unit Notice of Hearing dated October 20, 2023.
- Exhibit 2: Appeal Case Information from Schedule HC 2021.
- Exhibit 3: Statement of Grounds for Appeal signed by the Appellant on May 6, 2023.
- Exhibit 4: The Appellant's letter in support of this appeal, with attachments dated January 9, 2023.
- Exhibit 5: Health Connector Appeals Unit Open Record Form dated November 20, 2023.
- Exhibit 6: Health Connector Open Record Response submitted on November 30, 2023.

FINDINGS OF FACT

The record shows, and I so find:

1. The Appellants with primary taxpayer age 58 in December 2021 and their spouse age 51 in July 2021, filed their 2021 Federal Income Tax return as a married couple with no dependents claimed (Exhibit 2).
2. The Appellants lived in Worcester County, MA in 2021 (Exhibit 2).
3. The Appellants' Federal Adjusted Gross Income for 2021 was \$197,339 (Exhibit 2).
4. The Appellants did not have health insurance that met Massachusetts minimum creditable coverage (MCC) standards for any months in tax year 2021 and consequently both taxpayers have been assessed a twelve-month tax penalty (Exhibit 2).

5. The Appellants filed an appeal of the assessment in May 2023 stating they thought they had adequate coverage (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 Appellants filing the Federal tax return as a married couple with no dependents claimed, with an annual adjusted gross income of \$197,339 could afford to pay \$1,316 per month for health insurance. In accordance with Table 4, the Appellants, with one person age 58, living in Worcester County, could have purchased private insurance for \$802 per month for a plan (Schedule HC for 2021). Private insurance was affordable for the Appellants in tax year 2021.
8. The Appellants would not have been eligible for ConnectorCare coverage in 2021 because the Appellants' income of \$197,339 was greater than 300% of the federal poverty level, which was \$51,720 for a tax household of two in 2021 (See Table 2 of Schedule HC-2021 and 956 CMR 12.04) (Exhibit 2).
9. The Appellant testified that they paid for health insurance in tax year 2020 and called Health Connector Customer Service to renew their plan in early 2021. The Appellant said that Customer Service told them that they were eligible for MassHealth Limited. The Appellant said that no one told them this did not meet MCC standards, and they thought they were all set. I did not find this testimony credible (Exhibit 3 and Appellant Testimony).
10. The record was left open until December 4, 2023 to allow the Health Connector to submit additional evidence (Exhibit 5).
11. Health Connector submitted 50 pages of information. On November 4, 2020 the Appellant updated their application for tax year 2021. The Appellant reported income equal to \$535.38% of the federal poverty level for their household. The Appellant was determined eligible for Health Connector Plans (Exhibit 6, pp. 9-18).
12. On November 4, 2020 Health Connector issued a Final Renewal Notice for tax year 2021. The Appellant was advised that they were not eligible for financial assistance and that their monthly premium would be \$986.41 based on their income (Exhibit 6, pp. 19-24).
13. On November 4, 2020, MassHealth issued an eligibility notice to the Appellant. The Appellant was advised that MassHealth Limited covers emergency services only and does not pay for private doctors, labs, or other routine care. There is no premium for MassHealth Limited (Exhibit 6, pp.25-29).
14. The Appellant telephoned Health Connector Customer Service on January 14, 2021. Health Connector verified the Appellant's identity, and the call was dropped. No discussion of MassHealth Limited was verified (Exhibit 6, p. 33).

15. The Appellant telephoned Health Connector Customer Service on January 15, 2021. Health Connector verified the Appellant's identity and once again the call was dropped. No discussion of MassHealth Limited was verified (Exhibit 6, p. 41).
16. Health Connector forwarded all documentation to the Appellant and the record remained open until December 18, 2023 to allow the Appellant to submit a written response (Exhibits 5, 6).
17. The Appellant did not submit any additional information during the record open period.
18. The Appellant did not allege financial hardship on the Appeal request and did not offer any evidence or testimony alleging financial hardship in tax year 2021 (Exhibits 3, 4 and Appellant Testimony).

ANALYSIS AND CONCLUSIONS OF LAW

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

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

To determine if the penalty should be waived in whole or in part, there must be an evaluation of whether affordable insurance which met 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 Appellants filing the Federal tax return as a married couple with no dependents claimed, with an adjusted gross income of \$197,339 could afford to pay \$1,316 per month for health insurance. In accordance with Table 4, the Appellants with one person age 58, living in Worcester County, could have purchased private insurance for \$802 per month (Schedule HC for 2022). Private insurance was affordable for the Appellants in 2021.

The Appellants were not eligible for ConnectorCare because their income of \$197,339 exceeded 300% of the federal poverty level, which was \$51,720 for a tax household of two in 2021. Since affordable insurance was available to the Appellants in 2021, it must be determined whether the Appellants experienced financial hardship pursuant to 956 CMR 6.08 (1).

The Appellants did not offer any evidence or testimony alleging financial hardship. The basis for the Appellants appeal was that they were given incorrect information by the Health Connector. This allegation is not supported by the evidence in the record.

The Appellants did not have health insurance that met MCC standards. The Appellant testified that because they were eligible for MassHealth Limited coverage, they believed they were all set for tax year 2021. The Appellant said that they spoke with a Customer Service representative about the coverage and were never told that the coverage did not meet MCC standards. I did not find this testimony to be credible because it was at odds with Health Connector policy.

The record was left open to allow the Health Connector to submit Customer Service records as well as copies of eligibility notices issued to the Appellant. The Appellant made two calls to Customer Service in January 2021 and both calls were dropped prior to any discussion regarding the Appellant's eligibility and enrollment. The Appellant received a Final Eligibility Renewal Notice from Health Connector on November 4, 2020 advising them that their monthly premium would be \$986.41 because they did not qualify for financial assistance based on their income. MassHealth notified the Appellant on November 4, 2020 of the fact that MassHealth Limited covered emergency services only. The Appellant was given time to respond to the material submitted by the Health Connector during the record open period, but the Appellant did not submit any additional evidence.

Given the household's income of \$197,339 and the fact that private health insurance was affordable for the Appellants in tax year 2021, the Appellants have failed to demonstrate that the cost of purchasing health insurance for 2021 would have caused the Appellants to experience a serious financial hardship. See 956 CMR 6.08. The Appellants' twelve-month penalty is upheld.

PENALTY ASSESSED

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

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

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: PA22-1008

Appeal Decision: The tax penalty is overturned.

Hearing Issue: Appeal of the 2022 Tax Year Penalty

Hearing Date: December 6, 2023

Decision Date: December 9, 2023

AUTHORITY

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

JURISDICTION

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

HEARING RECORD

The Appellant was a single person with no dependents in 2022. The Appellant appeared at the hearing, which was held by telephone on December 6, 2023, and was combined with a hearing on Appellant's appeal of a 2021 tax penalty (PA 21-1957). The procedures to be followed during the hearing were reviewed with the Appellant, who was then sworn in. Exhibits were marked and admitted into evidence with no objection from the Appellant. The hearing record consists of the Appellant's testimony and the following documents that were admitted into evidence:

Exhibit 1: Appeal Case Information from Schedule HC 2022 (1 page).

Exhibit 2: The Statement of Grounds for Appeal submitted by the Appellant (4 pages).

Exhibit 3: Health Connector Appeals Unit Notice of Hearing on December 6, 2023 (2 pages).

FINDINGS OF FACT

The record shows, and I so find:

1. The Appellant filed their federal income tax return as a single person with no dependents claimed. (Exhibit 1).
2. The Appellant turned 51 in April 2022. (Exhibit 1).
3. The Appellant lived in Suffolk County in 2022. (Exhibit 1).

4. According to the Appellant's Schedule HC, the Appellant's federal Adjusted Gross Income ("AGI") for 2022 was \$33,382. (Exhibit 1).
5. According to the Appellant's Schedule HC, the Appellant did not have health insurance that met Massachusetts' minimum creditable coverage (MCC) requirements for any month in 2022. The Appellant was assessed a 12-month tax penalty for 2022. (Exhibit 1).
6. The Appellant checked off the following boxes on their Statement of Grounds for Appeal: "During 2022, the expenses of purchasing health insurance would have caused a serious deprivation of food, shelter, clothing or other necessities" and "During 2022, you were homeless, more than 30 days in arrears on rent or mortgage payments; or received an eviction or foreclosure notice." (Exhibit 2).
7. I take administrative notice of the financial information set forth in Tables 1 through 6 in the Department of Revenue ("DOR") 2022 Massachusetts Schedule HC Health Care Instruction and Worksheets. Tables 3 and 4 incorporate affordability and premium schedules adopted by the Board of Directors for the Commonwealth Health Insurance Connector Authority for 2022. Table 2 sets forth income at 300% of the federal poverty level, and Tables 5 and 6 set forth tax penalties in effect for 2022.
8. The Appellant's AGI of \$33,382 was less than 300% of the Federal Poverty Level, which was \$38,640 for a single person in 2022. (See Table 2 of Schedule HC-2022 and 956 CMR 12.04).
9. According to Table 3 of Schedule HC for 2022, the Appellant, who filed their federal tax return as a single person with no dependents and claimed an adjusted gross income of \$33,382, could have afforded to pay \$139 per month for health insurance. The calculation is as follows: Table 3 states that a single person with no dependents whose 2022 AGI was between \$32,201 and \$38,640 could have spent 5% of their earnings on health insurance; 5% of \$33,382 is \$1,669, and one-twelfth of \$1,669 is \$139.
10. According to Table 4 of Schedule HC for 2022, the least expensive health insurance plan available on the private market to the Appellant, a single person age 50 living in Suffolk County in January 2022, cost \$422 per month.
11. The Appellant testified that they were homeless in 2022 because they had to give up their apartment after losing their job in November 2020. The Appellant testified that they sometimes stayed with various family members during 2022. The Appellant testified that they use their brother's address as their mailing address.
12. The Appellant testified that they worked at two different temp agencies in 2022. The Appellant testified that they could not always afford to get to work at these temp agencies because they could not afford to pay for gas.

13. The Appellant testified that they believed that the temp agencies offered health insurance but that the Appellant could not afford it. The Appellant testified that they did not remember how much this insurance cost.
14. The Appellant testified that they estimated they had the following monthly expenses in 2022: \$392 for car payment; \$238 for car insurance; \$53 for cellphone; and \$346 for food (based on \$60-\$100 per week). The Appellant testified that they also gave money to the family members with whom they stayed to help out with expenses.
15. The Appellant testified that they are in the process of being hired for a job that will start on December 26, 2023 and that will provide them with health insurance.

ANALYSIS AND CONCLUSIONS OF LAW

The case is before me on the Appellant's appeal from the DOR's assessment of a twelve-month tax penalty because the Appellant's tax forms indicated that they did not have health insurance that met Massachusetts' minimum creditable coverage ("MCC") standards for any month in 2022. The issue to be decided is whether the tax penalty should be waived in whole or in part.

I begin by summarizing the legal rules underlying this appeal. The tax penalty was enacted by the Massachusetts Legislature to encourage compliance with G.L. c. 111M, § 2, also called the "individual mandate." The mandate requires every adult resident of Massachusetts to obtain health insurance coverage "[s]o long as it is deemed affordable" under the schedule set by the board of directors for the Commonwealth Health Insurance Connector Authority ("Connector"). G.L. c. 111M, § 2(a). Any health insurance policy must also satisfy the Massachusetts MCC standards for a taxpayer to avoid the penalty.

If these requirements are not met, a tax penalty is assessed for each of the months that the individual did not have health insurance as required by the individual mandate. There is, however, a three-month grace period to allow the taxpayer to obtain health insurance coverage or to make the transition between health insurance policies. See G.L. c. 111M, § 2(b) and Administrative Information Bulletin 03-10: Guidance Regarding M.G.L. c. 111M and M.G.L. c. 176Q, as implemented by 956 CMR 6.00 (clarifying that for purposes of penalty calculation, taxpayers will not be subject to penalty if they had lapses in coverage consisting of three or fewer consecutive calendar months). The Connector's regulations also provide for a waiver of the tax penalty in cases of hardship. See 956 CMR 6.07-08.

To determine if the penalty should be waived in whole or in part, there must be a determination as to whether affordable insurance that met MCC standards was available to the Appellant through the private market, through employment, or through a government-subsidized program. If affordable insurance was available, it must be determined whether such insurance was not in fact affordable to the Appellant because the Appellant experienced a hardship as defined in 956 CMR 6.08. Each of these issues is addressed in turn.

First, I conclude that the Appellant could not have obtained affordable health insurance meeting MCC requirements through the private market. According to Table 3 of the Schedule HC, the Appellant could

have afforded to pay \$139 per month for insurance, but according to Table 4 of the Schedule HC, the least expensive plan available to the Appellant cost \$422 per month and therefore was not affordable for them. Findings of Fact Nos. 9 and 10.

Second, I conclude that the Appellant did not have access to affordable health insurance through employment. The Appellant testified that they could not have afforded to enroll in health insurance offered by the temp agencies, but the Appellant testified that they could not remember how much insurance through the temp agencies would have cost. Finding of Fact No. 13. I find that although there is no definitive information about the cost of such insurance in the record, the Appellant could not have afforded such insurance because they suffered a hardship. The Appellant credibly testified that they were homeless in 2022 and that at times, they could not afford to pay for gas to get to work. Finding of Fact No. 12. I find that the Appellant's financial situation was sufficiently precarious such that they could not have afforded an additional expense, including employer-sponsored health insurance, and that if they had purchased employer-sponsored health insurance, they likely would have experienced a further deprivation of basic necessities.

Third, I find that the Appellant theoretically had access to affordable health insurance meeting MCC requirements through a government-subsidized program because the Appellant's AGI was less than 300% of the federal poverty level. Finding of Fact No. 8. However, I find that the Appellant did not have actual access to this insurance because, as stated above, the Appellant was homeless and their financial situation was sufficiently precarious such that they could not have afforded an additional expense, including government-subsidized health insurance. I further find that if the Appellant had purchased government-subsidized health insurance, they likely would have experienced a further deprivation of basic necessities.

Reviewing the totality of the evidence, I find that it is appropriate to waive the Appellant's twelve-month tax penalty in its entirety. See G.L. c. 111M, § 2 and 956 CMR 6.07(8) and 6.08(1)(a) and (e).

PENALTY ASSESSED

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

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

NOTIFICATION OF YOUR RIGHT TO APPEAL TO COURT

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

Hearing Officer

cc: Connector Appeals Unit

Massachusetts Health Connector Appeals Unit

FINAL APPEAL DECISION: PA22-1011

Appeal Decision: The tax penalty is partially upheld.

Hearing Issue: Appeal of the 2022 Tax Year Penalty

Hearing Date: December 6, 2023

Decision Date: January 14, 2024

AUTHORITY

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

JURISDICTION

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

HEARING RECORD

The Appellant was a married person filing jointly with one dependent in 2022. The Appellant appeared at the hearing, which was held by telephone, on December 6, 2023. The procedures to be followed during the hearing were reviewed with the Appellant, who was then sworn in. Exhibits were marked and admitted into evidence with no objection from the Appellant. The record was left open for the Appellant to provide additional information, which the Appellant so provided. The hearing record consists of the Appellant's testimony and the following documents that were admitted into evidence:

- Exhibit 1: Appeal Case Information from Schedule HC 2022 (1 page).
- Exhibit 2: The Statement of Grounds for Appeal and supporting documentation submitted by the Appellants (9 pages).
- Exhibit 3: Health Connector Appeals Unit Notice of Hearing on December 6, 2023 (2 pages).
- Exhibit 4: Open Record Request, dated December 6, 2023
- Exhibit 5: Letter from the Appellant's employer, submitted in response to Open Record Request, dated December 26, 2023

FINDINGS OF FACT

The record shows, and I so find:

1. The Appellant filed their federal income tax return as a married person filing jointly with one dependent claimed. (Exhibit 1).

2. The Appellant turned 56 in October 2022, and the Appellant's spouse turned 57 in May 2022. (Exhibit 1).
3. The Appellant lived in Bristol County in 2022. (Exhibit 1).
4. According to the Appellant's Schedule HC, the Appellant and their spouse's federal Adjusted Gross Income ("AGI") for 2022 was \$87,652. (Exhibit 1).
5. According to the Appellant's Schedule HC, the Appellant did not have insurance meeting Massachusetts' minimum creditable coverage (MCC) requirements during any month in 2022 and was assessed a 12-month penalty. Also according to the Appellant's Schedule HC, the Appellant's spouse was not assessed a penalty. (Exhibit 1).
6. The Appellant checked off the following box on their Statement of Grounds for Appeal: "During 2022, you received a shut-off notice, were shut off, or were refused delivery of essential utilities (gas, electric, heating oil, water, primary telephone)." (Exhibit 2). The Appellant submitted shut-off notices from National Grid dated May 17, 2022 and June 7, 2022, with amounts due of \$961.70 and \$733.30, respectively.
7. I take administrative notice of the financial information set forth in Tables 1 through 6 in the Department of Revenue ("DOR") 2022 Massachusetts Schedule HC Health Care Instruction and Worksheets. Tables 3 and 4 incorporate affordability and premium schedules adopted by the Board of Directors for the Commonwealth Health Insurance Connector Authority for 2022. Table 2 sets forth income at 300% of the federal poverty level, and Tables 5 and 6 set forth tax penalties in effect for 2022.
8. The Appellant's AGI of \$87,652 was more than 300% of the Federal Poverty Level, which was \$65,880 for a family of three in 2022. (See Table 2 of Schedule HC-2022 and 956 CMR 12.04).
9. According to Table 3 of Schedule HC for 2022, the Appellant, who filed their federal tax return as a married person filing jointly with one dependent and claimed an adjusted gross income of \$87,652, could have afforded to pay \$555 per month for health insurance. The calculation is as follows: Table 3 states that a family whose 2022 AGI was between \$76,861 and \$87,840 could have spent 7.6% of their earnings on health insurance; 7.6% of \$87,652 is \$6,661, and one-twelfth of \$6,661 is \$555.
10. According to Table 4 of Schedule HC for 2022, the least expensive health insurance family plan available on the private market to the Appellant, who was in a family whose eldest member was 55 or older and living in Bristol County in January 2022, cost \$1031 per month.
11. The Appellant testified that in 2022, their spouse had MassHealth but never used it or activated it.
12. The Appellant testified that they had health insurance through their employer in 2021.

13. The Appellant testified that they and their spouse had difficulties paying their bills and that to save money, they decided that the Appellant would not enroll in employer-sponsored health insurance in 2022.
14. The Appellant testified that they did not know how much it would have cost for them to enroll in their employer-sponsored health insurance in 2022.
15. The Appellant testified that they did not know that health insurance was mandatory in Massachusetts and that they had a health savings account with nearly \$3000 in it and that they assumed they would use those funds if they needed to pay for healthcare services in 2022.
16. The Appellant testified that they received utility shut-off notices in 2022 and that money was tight. The Appellant testified that they owe around \$2000 in utilities right now.
17. The Appellant testified that in 2022, they worked in a food warehouse picking orders and that their hours were inconsistent. The Appellant testified that they are busy in the summer, when there are orders from Cape Cod, but they are given fewer hours in the winter.
18. The Appellant testified that their spouse was unemployed in 2022 and that their combined AGI came entirely from the Appellant's earnings.
19. The Appellant testified that they estimated they had the following basic monthly expenses in 2022: \$1180 for mortgage; \$255 for Internet, cable, and phone; \$97.40 for car insurance; \$184.10 for homeowners' insurance; \$250 for gas; and \$45 for their daughter's cellphone. The Appellant testified that they did not know how much per month they spent on food and utilities.
20. The Appellant testified that they and their spouse have multiple credit cards and at times use them to pay basic expenses.
21. The Appellant testified that they currently have health insurance through their employer and that they enrolled in this health insurance as soon as they were able to do so, after they learned that having health insurance is mandatory in Massachusetts.
22. I left the record open for the Appellant to provide documentation regarding whether their employer offered health insurance that met Massachusetts' minimum creditable coverage (MCC) requirements in 2022, and if so, what the Appellant's minimum monthly contribution would have been for a family plan.
23. In response to my open record request, the Appellant submitted a letter dated December 26, 2023 from their employer, in which their employer stated that they offered health insurance meeting MCC requirements to the Appellant in 2022 and that the Appellant's minimum monthly contribution for a family plan would have been \$221.21. (Exhibits 4 and 5).

ANALYSIS AND CONCLUSIONS OF LAW

The case is before me on the Appellant's appeal from the DOR's assessment of a 12-month tax penalty because the Appellant's tax forms indicated that the Appellant did not have health insurance that met Massachusetts' minimum creditable coverage ("MCC") standards for any month in 2022. The issue to be decided is whether the tax penalty should be waived in whole or in part.

I begin by summarizing the legal rules underlying this appeal. The tax penalty was enacted by the Massachusetts Legislature to encourage compliance with G.L. c. 111M, § 2, also called the "individual mandate." The mandate requires every adult resident of Massachusetts to obtain health insurance coverage "[s]o long as it is deemed affordable" under the schedule set by the board of directors for the Commonwealth Health Insurance Connector Authority ("Connector"). G.L. c. 111M, § 2(a). Any health insurance policy must also satisfy the Massachusetts MCC standards for a taxpayer to avoid the penalty.

If these requirements are not met, a tax penalty is assessed for each of the months that the individual did not have health insurance as required by the individual mandate. There is, however, a three-month grace period to allow the taxpayer to obtain health insurance coverage or to make the transition between health insurance policies. See G.L. c. 111M, § 2(b) and Administrative Information Bulletin 03-10: Guidance Regarding M.G.L. c. 111M and M.G.L. c. 176Q, as implemented by 956 CMR 6.00 (clarifying that for purposes of penalty calculation, taxpayers will not be subject to penalty if they had lapses in coverage consisting of three or fewer consecutive calendar months). The Connector's regulations also provide for a waiver of the tax penalty in cases of hardship. See 956 CMR 6.07-08.

To determine if the penalty should be waived in whole or in part, there must be a determination as to whether affordable insurance that met MCC standards was available to the Appellant through a government-subsidized program, through the private market, or through employment. If affordable insurance was available, it must be determined whether such insurance was not in fact affordable to the Appellant because the Appellant experienced a hardship as defined in 956 CMR 6.08. Each of these issues is addressed in turn.

First, I conclude that the Appellant could not have obtained affordable health insurance meeting MCC requirements through a government-subsidized program because the Appellant's AGI exceeded 300% of the FPL. Finding of Fact No. 8.

Second, I conclude that the Appellant did not have access to affordable health insurance meeting MCC requirements through the private market. According to Table 3 of the Schedule HC, the Appellant could have afforded to spend \$555 per month on health insurance. Finding of Fact No. 9. According to Table 4 of the Schedule HC, the least expensive family plan the Appellant could have purchased cost \$1,031 per month and was therefore not affordable to them. Finding of Fact No. 10.

Third, I conclude that the Appellant could have obtained affordable health insurance from their employer. The Appellant submitted documentation showing that their employer offered health insurance meeting MCC standards in 2022 and that such insurance would have cost the Appellant

\$221.21 for a family plan. (Exhibit 5). Since Table 3 of the Schedule HC shows that the Appellant could have spent \$555 per month on health insurance, this employer-sponsored health insurance was affordable to the Appellant. Finding of Fact. No. 9.

The Appellant has appealed their penalty and stated as grounds for their appeal that they received a shut-off notice for essential utilities. Finding of Fact No. 6 and Exhibit 2. In support of their appeal, the Appellant submitted two shut-off notices from National Grid, one dated May 17, 2022 and with an amount due of \$691.70 and one dated June 7, 2022 with a total amount due of \$733.30. Finding of Fact No. 6 and Exhibit 2.

I find that the Appellant has not provided sufficient evidence to support their request that their penalty be waived in its entirety. The Appellant's employer-sponsored health insurance, which would have cost them \$221.21 per month, was approximately \$333 less than the \$555 the Appellant could have afforded to pay for health insurance. Findings of Fact Nos. 6 and 23 and Exhibit 5. I find that the Appellant has not presented sufficient evidence for me to conclude that it would have been a hardship for the Appellant to pay for employer-sponsored health insurance. Although the Appellant received shut-off notices for utilities, it does not appear from the record that they in fact had insufficient funds to pay for these utilities so as to justify waiver of the Appellant's penalty in its entirety.

I find the Appellant's testimony that they now have health insurance through their employer to be credible. Given the Appellant's efforts to comply with the individual mandate, I find it appropriate to reduce the Appellant's 12-month penalty to 6 months in order to mitigate its harshness.

Reviewing the totality of the evidence, I find that it is appropriate to reduce the Appellant's 12-month tax penalty by 6 months and to uphold 6 months of the Appellant's penalty. See G.L. c. 111M, § 2 and 956 CMR 6.07(8) and 6.08(3).

PENALTY ASSESSED

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

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

NOTIFICATION OF YOUR RIGHT TO APPEAL TO COURT

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

Hearing Officer

cc: Connector Appeals Unit

Massachusetts Health Connector Appeals Unit

FINAL APPEAL DECISION: PA22-1024

Appeal Decision: The tax penalty is overturned.

Hearing Issue: Appeal of the 2022 Tax Year Penalty

Hearing Date: December 11, 2023

Decision Date: December 26, 2023

AUTHORITY

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

JURISDICTION

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

HEARING RECORD

The Appellant was a single person with no dependents in 2022. The Appellant appeared at the hearing, which was held by telephone on December 11, 2023. The procedures to be followed during the hearing were reviewed with the Appellant, who was then sworn in. Exhibits were marked and admitted into evidence with no objection from the Appellant. The hearing record consists of the Appellant's testimony and the following documents that were admitted into evidence:

- Exhibit 1: Appeal Case Information from Schedule HC 2022 (1 page).
- Exhibit 2: The Statement of Grounds for Appeal submitted by the Appellant and supporting documentation (5 pages).
- Exhibit 3: Health Connector Appeals Unit Notice of Hearing on December 11, 2023 (2 pages).

FINDINGS OF FACT

The record shows, and I so find:

1. The Appellant filed their federal income tax return as a single person with no dependents claimed. (Exhibit 1).
2. The Appellant turned 29 in November 2022. (Exhibit 1).
3. The Appellant lived in Hampshire County in 2022. (Exhibit 1).

4. According to the Appellant's Schedule HC, the Appellant's federal Adjusted Gross Income ("AGI") for 2022 was \$51,729. (Exhibit 1).
5. According to the Appellant's Schedule HC, the Appellant did not have health insurance that met Massachusetts' minimum creditable coverage (MCC) requirements for the months of July through December 2022. The Appellant was assessed a 3-month tax penalty for 2022. (Exhibit 1).
6. The Appellant checked off the following boxes on their Statement of Grounds for Appeal: "During 2022, the expense of purchasing health insurance would have caused a serious deprivation of food, shelter, clothing or other necessities" and "During 2022, you incurred a significant, unexpected increase in essential expenses resulting directly from the consequences of domestic violence; the death of a spouse, family member or partner with primary responsibility for child care where household expenses were shared; the sudden responsibility for providing full care for an aging parent or other family member, including a major, extended illness of a child that required you to hire a full-time caretaker for the child." (Exhibit 2).
7. In addition, the Appellant submitted a letter stating that they were unexpectedly laid off from their job that provided health insurance in July 2022 and that, due to the COVID pandemic, it was hard to get an appointment to find health insurance. The Appellant also stated that they were taking care of their father, who was unexpectedly paralyzed and wheelchair bound. (Exhibit 2).
8. I take administrative notice of the financial information set forth in Tables 1 through 6 in the Department of Revenue ("DOR") 2022 Massachusetts Schedule HC Health Care Instruction and Worksheets. Tables 3 and 4 incorporate affordability and premium schedules adopted by the Board of Directors for the Commonwealth Health Insurance Connector Authority for 2022. Table 2 sets forth income at 300% of the federal poverty level, and Tables 5 and 6 set forth tax penalties in effect for 2022.
9. The Appellant's AGI of \$51,729 was more than 300% of the Federal Poverty Level, which was \$38,640 for a single person in 2022. (See Table 2 of Schedule HC-2022 and 956 CMR 12.04).
10. According to Table 3 of Schedule HC for 2022, the Appellant, who filed their federal tax return as a single person with no dependents and claimed an adjusted gross income of \$51,729, could have afforded to pay \$344 per month for health insurance. The calculation is as follows: Table 3 states that a single person with no dependents whose 2022 AGI was \$51,521 or more could have spent 8% of their earnings on health insurance; 8% of \$51,729 is \$4,138, and one-twelfth of \$4,138 is \$344.
11. According to Table 4 of Schedule HC for 2022, the least expensive health insurance plan available on the private market to the Appellant, a single person age 28 living in Hampshire County in July 2022, cost \$344 per month.
12. The Appellant testified that they were laid off from their job, through which they had health insurance, in July 2022.

13. The Appellant testified that it would have cost them approximately \$780 per month to maintain the health insurance offered by their employer following their layoff.
14. The Appellant testified that they were unemployed from July through December 2022 and that they spent much time during this period helping their father, who became paralyzed in 2020, was in and out of hospitals in 2022, and died in February 2023. The Appellant testified that their father had a full-time health aide during the day but that the Appellant frequently stayed overnight with their father and helped with meal preparations and household and yard maintenance.
15. The Appellant testified that they participated in a RESEA (Reemployment Services and Eligibility Assessment Program) and attempted to obtain subsidized health insurance, but that they were told they did not qualify for subsidized health insurance because their previous year's taxes showed that their income was too high.
16. The Appellant testified that they estimated they had the following basic monthly expenses in 2022: \$150 to help their father with utilities; \$600 for a car payment; \$100 for car insurance; \$600-700 for gas (due to traveling 45 minutes between their parents' homes and between the Berkshires and medical facilities in Boston for their father); \$50 for a phone; \$350 for food; \$50 for clothing; and \$100 for toiletries and household supplies.

ANALYSIS AND CONCLUSIONS OF LAW

The case is before me on the Appellant's appeal from the DOR's assessment of a three-month tax penalty because the Appellant's tax forms indicated that they did not have health insurance that met Massachusetts' minimum creditable coverage ("MCC") standards for the months of July through December 2022. The issue to be decided is whether the tax penalty should be waived in whole or in part.

I begin by summarizing the legal rules underlying this appeal. The tax penalty was enacted by the Massachusetts Legislature to encourage compliance with G.L. c. 111M, § 2, also called the "individual mandate." The mandate requires every adult resident of Massachusetts to obtain health insurance coverage "[s]o long as it is deemed affordable" under the schedule set by the board of directors for the Commonwealth Health Insurance Connector Authority ("Connector"). G.L. c. 111M, § 2(a). Any health insurance policy must also satisfy the Massachusetts MCC standards for a taxpayer to avoid the penalty.

If these requirements are not met, a tax penalty is assessed for each of the months that the individual did not have health insurance as required by the individual mandate. There is, however, a three-month grace period to allow the taxpayer to obtain health insurance coverage or to make the transition between health insurance policies. See G.L. c. 111M, § 2(b) and Administrative Information Bulletin 03-10: Guidance Regarding M.G.L. c. 111M and M.G.L. c. 176Q, as implemented by 956 CMR 6.00 (clarifying that for purposes of penalty calculation, taxpayers will not be subject to penalty if they had lapses in

coverage consisting of three or fewer consecutive calendar months). The Connector’s regulations also provide for a waiver of the tax penalty in cases of hardship. See 956 CMR 6.07-08.

To determine if the penalty should be waived in whole or in part, there must be a determination as to whether affordable insurance that met MCC standards was available to the Appellant through employment, through a government-subsidized program, or through the private market. If affordable insurance was available, it must be determined whether such insurance was not in fact affordable to the Appellant because the Appellant experienced a hardship as defined in 956 CMR 6.08. Each of these issues is addressed in turn.

First, I conclude that the Appellant could not have obtained affordable health insurance meeting MCC requirements through employment. The Appellant credibly testified that they were laid off from their job in July 2022 and that it would have cost them approximately \$780 per month to continue their employer-sponsored health insurance. According to Table 3 of the Schedule HC, the Appellant could have afforded to pay up to \$344 per month for health insurance. Finding of Fact No. 10. As a result, the Appellant could not have afforded to pay \$780 per month to continue their employer-sponsored health insurance.

Second, I conclude that the Appellant did not have access to affordable health insurance through a government-subsidized program because their AGI exceeded 300% of the FPL. Finding of Fact No. 9.

Third, I conclude that the Appellant theoretically could have afforded to obtain affordable health insurance on the private market because according to Table 4 of the Schedule HC, they could have purchased a plan for \$295 per month, and according to Table 3 of the Schedule HC, they could have afforded to spend \$344 per month on health insurance. Findings of Fact Nos. 10 and 11. However, I find that in reality, the Appellant could not have afforded to purchase this health insurance. The Appellant credibly testified that they were unemployed from July through December 2022 and that they spent much time during this period caring for their father, who was paralyzed in 2020, was in and out of hospitals in 2022, and died in February 2023. Finding of Fact No. 14. I find that because the Appellant had no income during this period, they experienced financial circumstances such that the purchase of health insurance on the private market likely would have caused them to suffer a serious deprivation of food, shelter, clothing, or other necessities.

Reviewing the totality of the evidence, I find that it is appropriate to waive the Appellant’s three-month tax penalty in its entirety. See G.L. c. 111M, § 2 and 956 CMR 6.07(8) and 6.08(1)(e).

PENALTY ASSESSED

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

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

NOTIFICATION OF YOUR RIGHT TO APPEAL TO COURT

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

Hearing Officer

cc: Connector Appeals Unit

Massachusetts Health Connector Appeals Unit

FINAL APPEAL DECISION: PA22-1027

Appeal Decision: The tax penalty is overturned.

Hearing Issue: Appeal of the 2022 Tax Year Penalty

Hearing Date: December 11, 2023

Decision Date: December 26, 2023

AUTHORITY

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

JURISDICTION

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

HEARING RECORD

The Appellant was a single person with no dependents in 2022. The Appellant appeared at the hearing, which was held by telephone on December 11, 2023. The procedures to be followed during the hearing were reviewed with the Appellant, who was then sworn in. Exhibits were marked and admitted into evidence with no objection from the Appellant. The hearing record consists of the Appellant's testimony and the following documents that were admitted into evidence:

- Exhibit 1: Appeal Case Information from Schedule HC 2022 (1 page).
- Exhibit 2: The Statement of Grounds for Appeal submitted by the Appellant and supporting documentation (6 pages).
- Exhibit 3: Health Connector Appeals Unit Notice of Hearing on December 11, 2023 (2 pages).

FINDINGS OF FACT

The record shows, and I so find:

1. The Appellant filed their federal income tax return as a single person with no dependents claimed. (Exhibit 1).
2. The Appellant turned 29 in April 2022. (Exhibit 1).
3. The Appellant lived in Essex County in 2022. (Exhibit 1).

4. According to the Appellant's Schedule HC, the Appellant's federal Adjusted Gross Income ("AGI") for 2022 was \$43,790. (Exhibit 1).
5. According to the Appellant's Schedule HC, the Appellant did not have health insurance that met Massachusetts' minimum creditable coverage (MCC) requirements for any month in 2022. The Appellant was assessed a 12-month tax penalty for 2022. (Exhibit 1).
6. The Appellant checked off the following box on their Statement of Grounds for Appeal: "Other. During 2022 other circumstances, such as: applying the Affordability Tables in Schedule HC to you is inequitable (for example, because of family size); that you were unable to obtain government-subsidized insurance even though your income qualified you; or that you didn't reside in Massachusetts during your period of uninsurance." (Exhibit 2).
7. In addition, the Appellant wrote on their Statement of Grounds for Appeal: "Of note: I started a new job in 2021, my employer did not notify me that the window to enroll in health insurance closed after 30 days of employment. I then attempted to get health insurance through Health Connector and was denied." (Exhibit 2).
8. The Appellant also submitted a print-out from the Health Connector indicating that the Appellant submitted an application on February 17, 2022 and was eligible for Health Connector Plans and Catastrophic Health Plans. The print-out also stated, "At this time, you do not qualify to enroll in a new or different health insurance plan because you have not had a qualifying event. This means you may need to wait until the next open enrollment period to shop for a new plan." (Exhibit 2).
9. I take administrative notice of the financial information set forth in Tables 1 through 6 in the Department of Revenue ("DOR") 2022 Massachusetts Schedule HC Health Care Instruction and Worksheets. Tables 3 and 4 incorporate affordability and premium schedules adopted by the Board of Directors for the Commonwealth Health Insurance Connector Authority for 2022. Table 2 sets forth income at 300% of the federal poverty level, and Tables 5 and 6 set forth tax penalties in effect for 2022.
10. The Appellant's AGI of \$43,790 was more than 300% of the Federal Poverty Level, which was \$38,640 for a single person in 2022. (See Table 2 of Schedule HC-2022 and 956 CMR 12.04).
11. According to Table 3 of Schedule HC for 2022, the Appellant, who filed their federal tax return as a single person with no dependents and claimed an adjusted gross income of \$43,790, could have afforded to pay \$271 per month for health insurance. The calculation is as follows: Table 3 states that a single person with no dependents whose 2022 AGI was between \$38,641 and \$45,080 could have spent 7.45% of their earnings on health insurance; 7.45% of \$43,790 is \$3,262, and one-twelfth of \$3,262 is \$271.

12. According to Table 4 of Schedule HC for 2022, the least expensive health insurance plan available on the private market to the Appellant, a single person age 28 living in Essex County in January 2022, cost \$277 per month.
13. The Appellant testified that they started a new job on November 1, 2021 and that during orientation, the subject of health insurance came up, and the human resources department said not to worry about health insurance and that they would reach out when it was time for the Appellant to enroll.
14. The Appellant testified that, based on their previous experience, they were under the impression that they could not enroll in health insurance until they had worked for their employer for 90 days. The Appellant testified that they contacted their human resources department when they had worked at their employer for 90 days and were told that the open enrollment period for health insurance had closed.
15. The Appellant testified that they then contacted the Health Connector to try and enroll in health insurance and were notified that they were not eligible to do so.
16. The Appellant testified that they believe that had they been enrolled in employer-sponsored health insurance in 2022, their mandatory employee contribution would have been \$75 per bi-weekly paycheck (or \$162.50 per month).
17. The Appellant testified that they are working at the same job and enrolled in health insurance as soon as they could do so in 2023 and remain insured.

ANALYSIS AND CONCLUSIONS OF LAW

The case is before me on the Appellant's appeal from the DOR's assessment of a twelve-month tax penalty because the Appellant's tax forms indicated that they did not have health insurance that met Massachusetts' minimum creditable coverage ("MCC") standards for any month in 2022. The issue to be decided is whether the tax penalty should be waived in whole or in part.

I begin by summarizing the legal rules underlying this appeal. The tax penalty was enacted by the Massachusetts Legislature to encourage compliance with G.L. c. 111M, § 2, also called the "individual mandate." The mandate requires every adult resident of Massachusetts to obtain health insurance coverage "[s]o long as it is deemed affordable" under the schedule set by the board of directors for the Commonwealth Health Insurance Connector Authority ("Connector"). G.L. c. 111M, § 2(a). Any health insurance policy must also satisfy the Massachusetts MCC standards for a taxpayer to avoid the penalty.

If these requirements are not met, a tax penalty is assessed for each of the months that the individual did not have health insurance as required by the individual mandate. There is, however, a three-month grace period to allow the taxpayer to obtain health insurance coverage or to make the transition between health insurance policies. See G.L. c. 111M, § 2(b) and Administrative Information Bulletin 03-10: Guidance Regarding M.G.L. c. 111M and M.G.L. c. 176Q, as implemented by 956 CMR 6.00 (clarifying

that for purposes of penalty calculation, taxpayers will not be subject to penalty if they had lapses in coverage consisting of three or fewer consecutive calendar months). The Connector's regulations also provide for a waiver of the tax penalty in cases of hardship. See 956 CMR 6.07-08.

To determine if the penalty should be waived in whole or in part, there must be a determination as to whether affordable insurance that met MCC standards was available to the Appellant through a government-subsidized program, through the private market, or through employment. If affordable insurance was available, it must be determined whether such insurance was not in fact affordable to the Appellant because the Appellant experienced a hardship as defined in 956 CMR 6.08. Each of these issues is addressed in turn.

First, I conclude that the Appellant could not have obtained affordable health insurance meeting MCC requirements through a government-subsidized program because their AGI exceeded 300% of the FPL. Finding of Fact No. 10.

Second, I conclude that the Appellant did not have access to affordable health insurance meeting MCC standards on the private market. According to Table 3 of the Schedule HC, the Appellant could have afforded to spend \$271 per month on health insurance, but according to Table 4 of the Schedule HC, the least expensive health insurance plan available to the Appellant would have cost \$277 per month and was therefore not affordable to them. Findings of Fact Nos. 11 and 12.

Third, I conclude that the Appellant effectively did not have access to affordable health insurance meeting MCC standards through employment. The Appellant testified that their employer did not provide information about the open enrollment period for employer-sponsored health insurance and that the Appellant believed they could not enroll in employer-sponsored health insurance until they had worked for their employer for 90 days and that they contacted their employer about enrolling in health after the 90-day period had elapsed and were told that the open enrollment period had closed. Finding of Fact No. 14. The Appellant testified that they contacted the Health Connector to enroll in health insurance after they learned they could not enroll in their employer-sponsored health insurance. Finding of Fact No. 15. I find the Appellant's testimony to be credible because they submitted a document showing that they applied for health insurance through the Health Connector on February 17, 2022, which was just after they had been working for their employer for 90 days. Finding of Fact No. 8 and Exhibit 2. I further find that the Appellant's employer's failure to provide the Appellant with information about their open enrollment period and the Appellant's good faith belief that they could not enroll in employer-sponsored health insurance until they had worked for their employer for 90 days effectively blocked the Appellant from enrolling in such employer-sponsored health insurance.

Reviewing the totality of the evidence, I find that it is appropriate to waive the Appellant's twelve-month tax penalty in its entirety because the Appellant did not have effective access to health insurance meeting MCC standards through a government-subsidized program, the private market, or employment. See G.L. c. 111M, § 2 and 956 CMR 6.07(8) and 6.08(3).

PENALTY ASSESSED

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

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

NOTIFICATION OF YOUR RIGHT TO APPEAL TO COURT

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

Hearing Officer

cc: Connector Appeals Unit

Massachusetts Health Connector Appeals Unit

FINAL APPEAL DECISION: PA22-1049

Appeal Decision: The tax penalty is overturned.

Hearing Issue: Appeal of the 2022 Tax Year Penalty

Hearing Date: December 11, 2023

Decision Date: December 26, 2023

AUTHORITY

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

JURISDICTION

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

HEARING RECORD

The Appellant was a single person with no dependents in 2022. The Appellant appeared at the hearing, which was held by telephone on December 15, 2023. The procedures to be followed during the hearing were reviewed with the Appellant, who was then sworn in. Exhibits were marked and admitted into evidence with no objection from the Appellant. The hearing record consists of the Appellant's testimony and the following documents that were admitted into evidence:

- Exhibit 1: Appeal Case Information from Schedule HC 2022 (1 page).
- Exhibit 2: The Statement of Grounds for Appeal submitted by the Appellant and supporting documentation (6 pages).
- Exhibit 3: Health Connector Appeals Unit Notice of Hearing on December 15, 2023 (2 pages).

FINDINGS OF FACT

The record shows, and I so find:

1. The Appellant filed their federal income tax return as a single person with no dependents claimed. (Exhibit 1).
2. The Appellant turned 36 in January 2022. (Exhibit 1).
3. The Appellant lived in Suffolk County in 2022. (Exhibit 1).

4. According to the Appellant's Schedule HC, the Appellant's federal Adjusted Gross Income ("AGI") for 2022 was \$92,926. (Exhibit 1).
5. According to the Appellant's Schedule HC, the Appellant did not have health insurance that met Massachusetts' minimum creditable coverage (MCC) requirements for any month in 2022. The Appellant was assessed a 12-month tax penalty for 2022. (Exhibit 1).
6. The Appellant checked off the following box on their Statement of Grounds for Appeal: "Other. During 2022 other circumstances, such as: applying the Affordability Tables in Schedule HC to you is inequitable (for example, because of family size); that you were unable to obtain government-subsidized insurance even though your income qualified you; or that you didn't reside in Massachusetts during your period of uninsurance." (Exhibit 2).
7. In addition, the Appellant submitted a letter stating that they tried to enroll in health insurance through the Health Connector website on November 19, 2021 and subsequently uploaded proof of income (pay stub) and proof of residence (utility bill) documents in January 2022, before the open enrollment deadline. The Appellant stated that they believe they uploaded the documents on January 17, 2022, but that the documents have been removed from their account portal so they could not submit them as evidence for their appeal. The Appellant further stated that the Health Connector told the Appellant that the documents had been uploaded before the deadline but that it was too late for the Appellant to enroll in health insurance because the open enrollment period had closed. (Exhibit 2).
8. The Appellant also submitted a print-out showing that they submitted an application for health insurance to the Health Connector on November 19, 2021. (Exhibit 2).
9. I take administrative notice of the financial information set forth in Tables 1 through 6 in the Department of Revenue ("DOR") 2022 Massachusetts Schedule HC Health Care Instruction and Worksheets. Tables 3 and 4 incorporate affordability and premium schedules adopted by the Board of Directors for the Commonwealth Health Insurance Connector Authority for 2022. Table 2 sets forth income at 300% of the federal poverty level, and Tables 5 and 6 set forth tax penalties in effect for 2022.
10. The Appellant's AGI of \$92,926 was more than 300% of the Federal Poverty Level, which was \$38,640 for a single person in 2022. (See Table 2 of Schedule HC-2022 and 956 CMR 12.04).
11. According to Table 3 of Schedule HC for 2022, the Appellant, who filed their federal tax return as a single person with no dependents and claimed an adjusted gross income of \$92,926, could have afforded to pay \$619 per month for health insurance. The calculation is as follows: Table 3 states that a single person with no dependents whose 2022 AGI was \$51,521 or more could have spent 8% of their earnings on health insurance; 8% of \$92,926 is \$7,434, and one-twelfth of \$7,434 is \$619.

12. According to Table 4 of Schedule HC for 2022, the least expensive health insurance plan available on the private market to the Appellant, a single person age 35 living in Suffolk in January 2022, cost \$298 per month.
13. The Appellant testified that at the end of 2021, they changed jobs and that their new job, a dental office, did not offer health insurance.
14. The Appellant testified that as a result, they applied for health insurance through the Health Connector in November 2021 and that the Health Connector told them, through the online portal, that they needed to submit proof of income and proof of residency. The Appellant testified that in addition to changing jobs, they had moved within Massachusetts in 2021.
15. The Appellant testified that they uploaded the proof of income and proof of residency documents to the Health Connector portal prior to the open enrollment deadline. The Appellant testified that they believe they uploaded the documents on January 17, but that the uploaded documents are no longer visible to them on the portal.
16. The Appellant testified that for some reason, their documents were not reviewed by the Health Connector, and the Health Connector subsequently told them that their application had not gone through and that they had missed the deadline for enrolling in health insurance for 2022.
17. The Appellant testified that all of their communications with the Health Connector were on the phone or through the on-line portal and that they do not have a record of the Health Connector notifying them that they had missed the open enrollment deadline.
18. The Appellant testified that they are currently enrolled in health insurance through the Health Connector.

ANALYSIS AND CONCLUSIONS OF LAW

The case is before me on the Appellant's appeal from the DOR's assessment of a twelve-month tax penalty because the Appellant's tax forms indicated that they did not have health insurance that met Massachusetts' minimum creditable coverage ("MCC") standards for any month in 2022. The issue to be decided is whether the tax penalty should be waived in whole or in part.

I begin by summarizing the legal rules underlying this appeal. The tax penalty was enacted by the Massachusetts Legislature to encourage compliance with G.L. c. 111M, § 2, also called the "individual mandate." The mandate requires every adult resident of Massachusetts to obtain health insurance coverage "[s]o long as it is deemed affordable" under the schedule set by the board of directors for the Commonwealth Health Insurance Connector Authority ("Connector"). G.L. c. 111M, § 2(a). Any health insurance policy must also satisfy the Massachusetts MCC standards for a taxpayer to avoid the penalty.

If these requirements are not met, a tax penalty is assessed for each of the months that the individual did not have health insurance as required by the individual mandate. There is, however, a three-month

grace period to allow the taxpayer to obtain health insurance coverage or to make the transition between health insurance policies. See G.L. c. 111M, § 2(b) and Administrative Information Bulletin 03-10: Guidance Regarding M.G.L. c. 111M and M.G.L. c. 176Q, as implemented by 956 CMR 6.00 (clarifying that for purposes of penalty calculation, taxpayers will not be subject to penalty if they had lapses in coverage consisting of three or fewer consecutive calendar months). The Connector’s regulations also provide for a waiver of the tax penalty in cases of hardship. See 956 CMR 6.07-08.

To determine if the penalty should be waived in whole or in part, there must be a determination as to whether affordable insurance that met MCC standards was available to the Appellant through a government-subsidized program, through employment, or through the private market. If affordable insurance was available, it must be determined whether such insurance was not in fact affordable to the Appellant because the Appellant experienced a hardship as defined in 956 CMR 6.08. Each of these issues is addressed in turn.

First, I conclude that the Appellant could not have obtained affordable health insurance meeting MCC requirements through a government-subsidized program because their AGI exceeded 300% of the FPL. Finding of Fact No. 10.

Second, I conclude that the Appellant did not have access to affordable health insurance meeting MCC standards through employment because the Appellant testified that their employer, a dental office, did not offer health insurance. Finding of Fact No. 13.

Third, I conclude that the Appellant theoretically had access to affordable health insurance meeting MCC standards on the private market. According to Table 3 of the Schedule HC, the Appellant could have afforded to spend \$619 per month on health insurance, and according to Table 4 of the Schedule HC, the least expensive health insurance plan available to the Appellant on the private market would have cost \$298 per month and was therefore affordable to them. Findings of Fact Nos. 11 and 12. However, I find that the Appellant did not have effective access to this insurance because, although they initiated their application for health insurance on November 19, 2021, they had difficulties completing it by the open enrollment deadline. Findings of Fact Nos. 14 and 16. It is impossible to tell from the record whether the Appellant did not upload their supplemental documentation to the Health Connector website by the open enrollment final deadline or whether the Health Connector did not process the Appellant’s application in a timely manner. I find, though, that even if the error was made by the Appellant, they made a good faith effort to obtain the required health insurance and were not trying to shirk their legal obligation. I come to this conclusion because there is documentation that the Appellant initiated their health insurance application on November 19, 2021 (Exhibit 2), and the Appellant testified that they are currently enrolled in health insurance through the Health Connector.

Reviewing the totality of the evidence, I find that it is appropriate to waive the Appellant’s twelve-month tax penalty in its entirety. See G.L. c. 111M, § 2 and 956 CMR 6.07(8) and 6.08(3).

PENALTY ASSESSED

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

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

NOTIFICATION OF YOUR RIGHT TO APPEAL TO COURT

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

Hearing Officer

cc: Connector Appeals Unit

Massachusetts Health Connector Appeals Unit

FINAL APPEAL DECISION: PA22-1052

Appeal Decision: The tax penalty is overturned.

Hearing Issue: Appeal of the 2022 Tax Year Penalty

Hearing Date: December 15, 2023

Decision Date: January 27, 2024

AUTHORITY

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

JURISDICTION

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

HEARING RECORD

The Appellant was a married person filing jointly with no dependents claimed in 2022. The Appellant appeared at the hearing, which was held by telephone on December 15, 2023. The procedures to be followed during the hearing were reviewed with the Appellant, who was then sworn in. Exhibits were marked and admitted into evidence with no objection from the Appellant. I left the record open for the Appellant to provide additional evidence, which the Appellant so provided. The hearing record consists of the Appellant's testimony and the following documents that were admitted into evidence:

- Exhibit 1: Appeal Case Information from Schedule HC 2022 (1 page).
- Exhibit 2: The Statement of Grounds for Appeal and supporting documentation submitted by the Appellant (5 pages).
- Exhibit 3: Health Connector Appeals Unit Notice of Hearing on December 15, 2023 (2 pages).
- Exhibit 4: Open Record Request
- Exhibit 5: Appellant's Response to Open Record Request, received by the Health Connector on January 16, 2024

FINDINGS OF FACT

The record shows, and I so find:

1. The Appellant filed their federal income tax return as a married person filing jointly with no dependents claimed. (Exhibit 1).

2. The Appellant turned 38 in August 2022, and the Appellant's spouse turned 33 in November 2022. (Exhibit 1).
3. The Appellant lived in Hampden County in 2022. (Exhibit 1).
4. According to the Appellant's Schedule HC, the Appellant's federal Adjusted Gross Income ("AGI") for 2022 was \$147,108. (Exhibit 1).
5. According to the Appellant's Schedule HC, the Appellant did not have health insurance that met Massachusetts' minimum creditable coverage (MCC) requirements from January through July 2022. The Appellant was assessed a 4-month tax penalty. (Exhibit 1). Also according to the Appellant's Schedule HC, the Appellant's spouse had health insurance that met MCC standards and was not assessed a tax penalty in 2022. (Exhibit 1).
6. The Appellant did not check off a box on their Statement of Grounds for Appeal. The Appellant submitted a note stating, "I was uninsured due to the rising cost of private insurance. I was repeatedly told by job that they would be searching for more affordable insurance, and that never happened. I am now covered by insurance through the MA Health Connector." (Exhibit 2).
7. I take administrative notice of the financial information set forth in Tables 1 through 6 in the Department of Revenue ("DOR") 2022 Massachusetts Schedule HC Health Care Instruction and Worksheets. Tables 3 and 4 incorporate affordability and premium schedules adopted by the Board of Directors for the Commonwealth Health Insurance Connector Authority for 2022. Table 2 sets forth income at 300% of the federal poverty level, and Tables 5 and 6 set forth tax penalties in effect for 2022.
8. The Appellant's AGI of \$147,108 was more than 300% of the Federal Poverty Level, which was \$52,260 for a family of two in 2022. (See Table 2 of Schedule HC-2022 and 956 CMR 12.04).
9. According to Table 3 of Schedule HC for 2022, the Appellant, who filed their federal tax return as a married person filing jointly with no dependents and claimed an adjusted gross income of \$147,108, could have afforded to pay \$980 per month for health insurance. The calculation is as follows: Table 3 states that a married person filing jointly with no dependents claimed whose 2022 AGI was \$69,681 and above could have spent 8% of their earnings on health insurance; 8% of \$147,108 is \$11,768, and one-twelfth of \$11,768 is \$980.
10. According to Table 4 of Schedule HC for 2022, the least expensive health insurance plan available on the private market to the Appellant, an individual age 37 living in Hampden County in January 2022, cost \$637 for per month for a married couple whose older spouse was 37 and \$319 for an individual plan.
11. The Appellant testified that they worked for an employer that provided health insurance until June 2021, at which point they took a job with a new employer that did not provide health insurance.

12. The Appellant testified that because their new employer did not provide health insurance, they went online to find health insurance. The Appellant testified that they entered their name and phone number on a website and were called immediately by an entity that enrolled them in what they believed to be health insurance and was called the Universal Health Fellowship Plan. The Appellant testified that they were enrolled in this plan from August 2021 to July 2022 and that they believed they paid more than \$600 per month for it.
13. The Appellant testified that in the summer of 2022, they looked to see which doctors would be covered by the Universal Health Fellowship Plan, and they learned that they were not in fact enrolled in health insurance, but rather were enrolled in a plan that would give them discounts on medical services. The Appellant described the plan as “a coupon book for seeing a doctor.”
14. The Appellant testified that they canceled their enrollment in the Universal Health Fellowship Plan in July 2022 and enrolled in health insurance through the Health Connector in August 2022, in which they are still enrolled.
15. The Appellant testified that their spouse had health insurance through their spouse’s former employer throughout 2022. The Appellant testified that they were not enrolled in their spouse’s employer-sponsored health insurance because they first had insurance through their former employer, and then they later believed they were covered by the Universal Health Fellowship Plan.
16. I left the record open for the Appellant to provide (1) documentation showing that they were enrolled in the Universal Health Fellowship Plan from January through July 2022 and (2) documentation showing how much the Appellant paid for this plan per month from January through July 2022. (Exhibit 4).
17. In response to my open record request, the Appellant provided a July 15, 2022 email from the Universal Health Fellowship Plan stating that the Appellant was active in the plan from August 24, 2021 to July 23, 2022. In addition, the Appellant provided credit card statements showing that they paid \$623.59 per month for the Universal Health Fellowship Plan from January 2022 to June 2022. (Exhibit 5).

ANALYSIS AND CONCLUSIONS OF LAW

The case is before me on the Appellant’s appeal from the DOR’s assessment of a 4-month tax penalty because the Appellant’s tax forms indicated that they did not have health insurance that met Massachusetts’ minimum creditable coverage (“MCC”) standards for the months of January through July 2022. The issue to be decided is whether the tax penalty should be waived in whole or in part.

I begin by summarizing the legal rules underlying this appeal. The tax penalty was enacted by the Massachusetts Legislature to encourage compliance with G.L. c. 111M, § 2, also called the “individual

mandate.” The mandate requires every adult resident of Massachusetts to obtain health insurance coverage “[s]o long as it is deemed affordable” under the schedule set by the board of directors for the Commonwealth Health Insurance Connector Authority (“Connector”). G.L. c. 111M, § 2(a). Any health insurance policy must also satisfy the Massachusetts MCC standards for a taxpayer to avoid the penalty.

If these requirements are not met, a tax penalty is assessed for each of the months that the individual did not have health insurance as required by the individual mandate. There is, however, a three-month grace period to allow the taxpayer to obtain health insurance coverage or to make the transition between health insurance policies. See G.L. c. 111M, § 2(b) and Administrative Information Bulletin 03-10: Guidance Regarding M.G.L. c. 111M and M.G.L. c. 176Q, as implemented by 956 CMR 6.00 (clarifying that for purposes of penalty calculation, taxpayers will not be subject to penalty if they had lapses in coverage consisting of three or fewer consecutive calendar months). The Connector’s regulations also provide for a waiver of the tax penalty in cases of hardship. See 956 CMR 6.07-08.

To determine if the penalty should be waived in whole or in part, there must be a determination as to whether affordable insurance that met MCC standards was available to the Appellant through a government-subsidized program, through the private market, or through employment. If affordable insurance was available, it must be determined whether such insurance was not in fact affordable to the Appellant because the Appellant experienced a hardship as defined in 956 CMR 6.08. Each of these issues is addressed in turn.

First, I conclude that the Appellant could not have obtained affordable health insurance meeting MCC standards through a government-subsidized program because the Appellant’s income exceeded 300% of the Federal Poverty Level. Finding of Fact No. 8.

Second, I conclude that the Appellant theoretically had access to health insurance meeting MCC standards on the private market. According to Table 3 of the Schedule HC, the Appellant could have afforded to spend \$980 per month for insurance, and according to Table 4 of the Schedule HC, the Appellant could have purchased a plan for a married couple for \$637 per month or an individual plan for \$319 per month. Findings of Fact Nos. 9 and 10. However, I find that as a practical matter, such insurance was not accessible to the Appellant. The Appellant testified that they enrolled in a Universal Health Fellowship Plan that they believed to be health insurance, but that was not in fact health insurance. Findings of Fact Nos. 12 and 13. The Appellant provided documentation showing that they paid \$623.59 per month for the Universal Health Fellowship Plan in the months of January through June 2022. (Exhibit 5). Based on the Appellant’s testimony and the supporting documentation, I find that the Appellant had a good faith belief that they were enrolled in health insurance meeting MCC standards during the months of January through June 2022. Given that the Appellant paid \$623.59 per month for the Universal Health Fellowship Plan, it seems clear that the Appellant was not attempting to shirk the individual mandate, but rather mistakenly believed that they had purchased the requisite health insurance. I further find that this belief effectively blocked the Appellant from exploring the possibility of purchasing alternative health insurance on the private market that met MCC standards. The Appellant had no need to investigate the purchase of such insurance because they believed they already had adequate insurance.

Third, I conclude that the Appellant did not have access to affordable health insurance meeting MCC standards through employment because the Appellant credibly testified that their employer did not offer health insurance. Finding of Fact No. 11. I further find that even if the Appellant could have obtained health insurance through their wife's employer, the Appellant was effectively blocked from doing so by their good faith belief that they had adequate health insurance through the Universal Health Fellowship Plan. Finding of Fact No. 15.

Reviewing the totality of the evidence, I find that it is appropriate to waive the Appellant's 4-month tax penalty in its entirety because the Appellant did not have effective access to affordable health insurance meeting MCC standards through a government-subsidized program, employment, or the private market. See G.L. c. 111M, § 2 and 956 CMR 6.07(8) and 6.08(3).

PENALTY ASSESSED

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

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

NOTIFICATION OF YOUR RIGHT TO APPEAL TO COURT

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

Hearing Officer

cc: Connector Appeals Unit

Massachusetts Health Connector Appeals Unit

FINAL APPEAL DECISION: PA22-1054

Appeal Decision: The tax penalty is overturned.

Hearing Issue: Appeal of the 2022 Tax Year Penalty

Hearing Date: December 15, 2023

Decision Date: December 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 Massachusetts General Laws Chapter 111M, Section 4 and 956 CMR 6.07.

HEARING RECORD

The Appellant was a single person with no dependents in 2022. The Appellant appeared at the hearing, which was held by telephone on December 15, 2023. The procedures to be followed during the hearing were reviewed with the Appellant, who was then sworn in. Exhibits were marked and admitted into evidence with no objection from the Appellant. The hearing record consists of the Appellant's testimony and the following documents that were admitted into evidence:

- Exhibit 1: Appeal Case Information from Schedule HC 2022 (1 page).
- Exhibit 2: The Statement of Grounds for Appeal submitted by the Appellant (4 pages).
- Exhibit 3: Health Connector Appeals Unit Notice of Hearing on December 15, 2023 (2 pages).

FINDINGS OF FACT

The record shows, and I so find:

1. The Appellant filed their federal income tax return as a single person with no dependents claimed. (Exhibit 1).
2. The Appellant turned 49 in September 2022. (Exhibit 1).
3. The Appellant lived in Plymouth County in 2022. (Exhibit 1).

4. According to the Appellant's Schedule HC, the Appellant's federal Adjusted Gross Income ("AGI") for 2022 was \$58,358. (Exhibit 1).
5. According to the Appellant's Schedule HC, the Appellant did not have health insurance that met Massachusetts' minimum creditable coverage (MCC) requirements from August through December in 2022. The Appellant was assessed a two-month tax penalty for 2022. (Exhibit 1).
6. The Appellant checked off the following box on their Statement of Grounds for Appeal: "During 2022, the expense of purchasing health insurance would have caused a serious deprivation of food, shelter, clothing or other necessities." (Exhibit 2).
7. I take administrative notice of the financial information set forth in Tables 1 through 6 in the Department of Revenue ("DOR") 2022 Massachusetts Schedule HC Health Care Instruction and Worksheets. Tables 3 and 4 incorporate affordability and premium schedules adopted by the Board of Directors for the Commonwealth Health Insurance Connector Authority for 2022. Table 2 sets forth income at 300% of the federal poverty level, and Tables 5 and 6 set forth tax penalties in effect for 2022.
8. The Appellant's AGI of \$58,358 was more than 300% of the Federal Poverty Level, which was \$38,640 for a single person in 2022. (See Table 2 of Schedule HC-2022 and 956 CMR 12.04).
9. According to Table 3 of Schedule HC for 2022, the Appellant, who filed their federal tax return as a single person with no dependents and claimed an adjusted gross income of \$58,358, could have afforded to pay \$389 per month for health insurance. The calculation is as follows: Table 3 states that a single person with no dependents whose 2022 AGI was \$51,521 or more could have spent 8% of their earnings on health insurance; 8% of \$58,358 is \$4,668, and one-twelfth of \$4,668 is \$389.
10. According to Table 4 of Schedule HC for 2022, the least expensive health insurance plan available on the private market to the Appellant, a single person age 48 living in Plymouth County in August 2022, cost \$364 per month.
11. The Appellant testified that they were laid off from their job in August 2022 and could not afford to pay for health insurance for the rest of the year.
12. The Appellant testified that they had several short-term jobs following their job loss in August 2022 but that they did not work at any of the jobs long enough to be eligible for employer-sponsored health insurance.
13. The Appellant testified that they earned most of their income in 2022 from the job they had from January to August 2022.

14. The Appellant testified that they estimated they had the following monthly expenses in 2022: \$100 for cellphone; \$108 for car insurance (based on a \$1300 annual payment); \$500 for a truck payment; \$500 for food and household supplies; and \$100 for clothing.
15. The Appellant testified that they are currently unemployed and do not have health insurance.

ANALYSIS AND CONCLUSIONS OF LAW

The case is before me on the Appellant's appeal from the DOR's assessment of a two-month tax penalty because the Appellant's tax forms indicated that they did not have health insurance that met Massachusetts' minimum creditable coverage ("MCC") standards for the months of August through December 2022. The issue to be decided is whether the tax penalty should be waived in whole or in part.

I begin by summarizing the legal rules underlying this appeal. The tax penalty was enacted by the Massachusetts Legislature to encourage compliance with G.L. c. 111M, § 2, also called the "individual mandate." The mandate requires every adult resident of Massachusetts to obtain health insurance coverage "[s]o long as it is deemed affordable" under the schedule set by the board of directors for the Commonwealth Health Insurance Connector Authority ("Connector"). G.L. c. 111M, § 2(a). Any health insurance policy must also satisfy the Massachusetts MCC standards for a taxpayer to avoid the penalty.

If these requirements are not met, a tax penalty is assessed for each of the months that the individual did not have health insurance as required by the individual mandate. There is, however, a three-month grace period to allow the taxpayer to obtain health insurance coverage or to make the transition between health insurance policies. See G.L. c. 111M, § 2(b) and Administrative Information Bulletin 03-10: Guidance Regarding M.G.L. c. 111M and M.G.L. c. 176Q, as implemented by 956 CMR 6.00 (clarifying that for purposes of penalty calculation, taxpayers will not be subject to penalty if they had lapses in coverage consisting of three or fewer consecutive calendar months). The Connector's regulations also provide for a waiver of the tax penalty in cases of hardship. See 956 CMR 6.07-08.

To determine if the penalty should be waived in whole or in part, there must be a determination as to whether affordable insurance that met MCC standards was available to the Appellant through a government-subsidized program, through employment, or through the private market. If affordable insurance was available, it must be determined whether such insurance was not in fact affordable to the Appellant because the Appellant experienced a hardship as defined in 956 CMR 6.08. Each of these issues is addressed in turn.

First, I conclude that the Appellant could not have obtained affordable health insurance meeting MCC requirements through a government-subsidized program because their AGI exceeded 300% of the FPL. Finding of Fact No. 8.

Second, I conclude that the Appellant did not have access to affordable health insurance meeting MCC standards through employment because the Appellant credibly testified that although they worked for

at several short-term jobs following their August 2022 job loss, they did not stay at any of the jobs long enough to be eligible for employer-sponsored health insurance. Finding of Fact No. 12.

Third, I conclude that the Appellant theoretically had access to affordable health insurance meeting MCC standards on the private market. According to Table 3 of the Schedule HC, the Appellant could have afforded to spend \$389 per month on health insurance, and according to Table 4 of the Schedule HC, the least expensive health insurance plan available to the Appellant on the private market would have cost \$364 per month. Findings of Fact Nos. 9 and 10. However, I find that the Appellant could not actually afford this health insurance because they suffered a hardship. The Appellant credibly testified that they were laid off from their job in August 2022 and earned most of their income in 2022 in the January to August 2022 time period. Findings of Fact Nos. 11 and 13. Since the Appellant's income decreased following their layoff, I find that they could not have afforded to purchase health insurance on the private market in the August to December 2022 time period and that had they done so, they likely would have suffered a serious deprivation of food, shelter, clothing, or other necessities. I note that the difference between what the Appellant theoretically could have afforded to pay for health insurance (\$389 per month) and the least expensive plan available to them on the private market (\$364 per month) was only \$25, so even a minor decrease in the Appellant's income would have rendered such health insurance unaffordable.

Reviewing the totality of the evidence, I find that it is appropriate to waive the Appellant's two-month tax penalty in its entirety. See G.L. c. 111M, § 2 and 956 CMR 6.07(8) and 6.08(1)(e).

PENALTY ASSESSED

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

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

NOTIFICATION OF YOUR RIGHT TO APPEAL TO COURT

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

Hearing Officer

cc: Connector Appeals Unit

Massachusetts Health Connector Appeals Unit

FINAL APPEAL DECISION: PA22-1058

Appeal Decision: Appeal Approved.

Hearing Issue: Appeal of the 2022 Tax Year Penalty

Hearing Date: December 14, 2023

Decision Date: December 18, 2023

AUTHORITY

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

JURISDICTION

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

HEARING RECORD

The Appellant appeared at the hearing, which was held by telephone, on December 14, 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 November 16, 2023
- Exhibit 2: Appeal Case Information from Schedule HC 2022.
- Exhibit 3: The Statement of Grounds for Appeal signed by the Appellant on April 28, 2023.
- Exhibit 4: The Appellant's letter in support of the appeal, with attachments.
- Exhibit 5: Receipts for uncovered medical expenses dated July 20, 2022 submitted by the Appellant's CPA on November 28, 2023.

FINDINGS OF FACT

The record shows, and I so find:

1. The Appellant, age 62 in July 2022 filed their Federal Income Tax return as a married person with no dependents claimed (Exhibit 2).
2. The Appellant lived in Bristol County, MA in 2022 (Exhibit 2).
3. The Appellant's Federal Adjusted Gross Income for 2022 was \$35,099 (Exhibit 2).
4. The Appellant had health insurance for all of tax year 2022, but the insurance did not meet Massachusetts minimum creditable coverage requirements (MCC) (Exhibits 2, 3 and Appellant Testimony).

5. The Appellant has been assessed a twelve-month tax penalty for 2022. The Appellant filed an appeal of the assessment in April 2023 (Exhibits 2, 3, 4).
6. I take administrative notice of the financial information set forth in Tables 1 through 6 in the DOR 2022 Massachusetts Schedule HC Health Care Instructions and Worksheets. Tables 3 and 4 incorporate affordability and premium schedules adopted by the Board of Directors for the Commonwealth Health Insurance Connector Authority for 2022. Table 2 sets forth income at 300% of the Federal poverty level and Tables 5 and 6 set forth tax penalties in effect for 2022.
7. In accordance with Table 3 of Schedule HC for 2022, the Appellant filing the Federal tax return as a single person with no dependents claimed, with an annual adjusted gross income of \$35,099 could afford to pay \$146 per month for health insurance. In accordance with Table 4, the Appellant age 62, living in Bristol County, could have purchased private insurance for \$435 per month for a plan (Schedule HC for 2022). Private insurance was not affordable for the Appellant in 2022.
8. The Appellant would have been eligible for ConnectorCare coverage in 2022 because the Appellant's income of \$35,099 was less than 300% of the federal poverty level, which was \$38,640 for a household of one in 2022 (See Table 2 of Schedule HC-2022 and 956 CMR 12.04).
9. The Appellant testified that they retired in April 2021 and lost their employer sponsored health insurance. The Appellant said that they purchased a Strata Health Care Premium Plus plan and paid a premium of \$84.95 per month with an additional \$49.97 per month for vision and dental care. The Appellant said that they did not know their insurance did not meet Massachusetts standards. The Appellant also testified that the insurance did not cover all their needs. The Appellant incurred a \$6,603 expense from South Coast Health System and an additional \$659.20 doctor charge for service rendered on July 20, 2022. The Appellant said that they did not know about the ConnectorCare program until the hearing. The Appellant's credible testimony is supported by documentation submitted with the Appellant's appeal and additional information submitted on November 28, 2023 (Exhibits 3, 4, 5 and Appellant Testimony).
10. The Appellant's 2022 monthly living expenses of \$1,372 included: a condo association fee-\$286; heat-\$100; electricity-\$50; telephone/internet/ cable-\$228; food-\$325; car insurance \$83; gasoline and tolls-\$217 and property taxes of at least \$83. In addition, the Appellant paid \$134.92 for their health, dental and vision coverage and had uncovered medical expenses totaling \$7,262.20 in tax year 2022 (Exhibit 5 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.

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

The Appellant had health insurance for all of tax year 2022. The Appellant learned when filing their income tax return that the insurance they purchased when they retired in April 2021 did not meet Massachusetts MCC standards. The Appellant has consequently been assessed a twelve-month tax penalty. The Appellant has appealed the assessment.

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

In accordance with Table 3 of Schedule HC for 2022, the Appellant filing the Federal tax return as a single person with no dependents claimed with an adjusted gross income of \$35,099 could afford to pay \$146 per month for health insurance. According to Table 4, the Appellant, age 62, living in Bristol County, could have purchased a private insurance plan for \$435 month. See Schedule HC for 2022. Private insurance was not affordable for the Appellant in tax year 2022.

The Appellant would have been eligible for ConnectorCare coverage based upon the household’s income that was less 300% of the federal poverty level which was \$38,640 for their household of one. See Table 2 of Schedule HC 2022 and 956 CMR 12.04 for eligibility criteria. Since affordable insurance was available to the Appellant in 2022, it must be determined whether the Appellant experienced a financial hardship pursuant to 956 CMR 6.08 (1).

The Appellant testified credibly that they purchased health insurance on the private market when they retired and were not familiar with the Health Connector or the fact that they could qualify for a program like ConnectorCare. The Appellant said that they purchased what they thought was affordable adequate health insurance and did not learn until filing their taxes that it did not meet MCC requirements.

The Appellant paid \$134.92 monthly for the health coverage that did not meet MCC requirements. The Appellant also had additional out of pocket medical expenses totaling \$7,262. Given the Appellant’s substantial living and medical expenses, and the fact that in accordance with Table 3 the Appellant was deemed able to pay \$146 for health insurance, purchasing additional health insurance would have caused the Appellant to experience a significant financial hardship. The Appellant’s twelve-month penalty is waived. See 956 CMR 6.08(1)(e).

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

PENALTY ASSESSED

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

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

NOTIFICATION OF YOUR RIGHT TO APPEAL TO COURT

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

Cc: Connector Appeals Unit

Massachusetts Health Connector Appeals Unit

FINAL APPEAL DECISION: PA22-1060

Appeal Decision: Appeal Approved.

Hearing Issue: Appeal of the 2022 Tax Year Penalty

Hearing Date: December 14, 2023

Decision Date: December 18, 2023

AUTHORITY

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

JURISDICTION

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

HEARING RECORD

The Appellant appeared at the hearing, which was held by telephone, on December 14, 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 November 16, 2023.
- Exhibit 2: Appeal Case Information from Schedule HC 2022.
- Exhibit 3: The Statement of Grounds for Appeal which was unsigned.
- Exhibit 4: The Appellants' letter in support of the appeal dated April 29, 2023.
- Exhibit 5: Final Appeal Decision PA16-348 dated January 22, 2018.

FINDINGS OF FACT

The record shows, and I so find:

1. The Appellant, age 44 in March, 2022 filed their Federal Income Tax return as a single person with no dependent claimed (Exhibit 2).
2. The Appellant lived in Plymouth County, MA in 2022 (Exhibit 2).
3. The Appellant's Federal Adjusted Gross Income for 2022 was \$49,937 (Exhibit 2).
4. The Appellant did not have health insurance for any months in tax year 2022. The Appellant was assessed a twelve-month tax penalty (Exhibit 2).
5. The Appellant filed an appeal of the assessment in April 2023 (Exhibits 3, 4).

6. I take administrative notice of the financial information set forth in Tables 1 through 6 in the DOR 2022 Massachusetts Schedule HC Health Care Instructions and Worksheets. Tables 3 and 4 incorporate affordability and premium schedules adopted by the Board of Directors for the Commonwealth Health Insurance Connector Authority for 2022. Table 2 sets forth income at 300% of the Federal poverty level and Tables 5 and 6 set forth tax penalties in effect for 2022.
7. In accordance with Table 3 of Schedule HC for 2022, the Appellant, filing the Federal tax return as a single person with no dependent claimed, with an annual adjusted gross income of \$49,937 could afford to pay \$316 per month for health insurance. In accordance with Table 4, the Appellant, age 44, living in Plymouth County, could have purchased private insurance for \$318 per month (Schedule HC for 2022). Private insurance was not affordable for the Appellant in 2022.
8. The Appellant testified that they did not have access to affordable employer sponsored health insurance in 2022 or they would have enrolled. The Appellant was not eligible for ConnectorCare coverage in 2022 because the Appellant's income of \$49,937 was greater than 300% of the federal poverty level, which was \$38,640 for a household of one in 2022. (See Table 2 of Schedule HC-2022 and 956 CMR 12.04) (Appellant Testimony).
9. In tax year 2022 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-2022 (Exhibits 2, 3 and Appellant Testimony).
10. The Appellant testified credibly that they could not afford health insurance in tax year 2022 because the options they looked at were too expensive (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.

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 2022, the Appellant filing the Federal tax return as a single person with no dependent claimed with an adjusted gross income of \$49,937 could afford to pay \$316 per month for health insurance. According to Table 4, the Appellant, age 44, living in Plymouth County, could have purchased a private insurance plan for \$318 month. See Schedule HC for 2022. Private insurance was not affordable for the Appellant in tax year 2022.

The Appellant’s employer did not offer employer sponsored health insurance in tax year 2022. The Appellant would not have been eligible for ConnectorCare coverage in 2022 because the Appellant’s income of \$49,937 was greater than 300% of the federal poverty level, which was \$38,640 for a tax household of one in 2022.

The Appellant had no affordable health insurance available to them in tax year 2022 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 2022.

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

PENALTY ASSESSED

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

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

NOTIFICATION OF YOUR RIGHT TO APPEAL TO COURT

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

cc: Health Connector Appeals Unit

Massachusetts Health Connector Appeals Unit

FINAL APPEAL DECISION: PA22-1086

Appeal Decision: The tax penalty is overturned.

Hearing Issue: Appeal of the 2022 Tax Year Penalty

Hearing Date: December 19, 2023

Decision Date: December 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 Massachusetts General Laws Chapter 111M, Section 4 and 956 CMR 6.07.

HEARING RECORD

The Appellant was a single person with no dependents in 2022. The Appellant appeared at the hearing, which was held by telephone on December 19, 2023. The procedures to be followed during the hearing were reviewed with the Appellant, who was then sworn in. Exhibits were marked and admitted into evidence with no objection from the Appellant. The hearing record consists of the Appellant's testimony and the following documents that were admitted into evidence:

Exhibit 1: Appeal Case Information from Schedule HC 2022 (1 page).

Exhibit 2: The Statement of Grounds for Appeal and supporting documentation submitted by the Appellant (9 pages).

Exhibit 3: Health Connector Appeals Unit Notice of Hearing on December 19, 2023 (2 pages).

FINDINGS OF FACT

The record shows, and I so find:

1. The Appellant filed their federal income tax return as a single person with no dependents claimed. (Exhibit 1).
2. The Appellant turned 34 in March 2022. (Exhibit 1).
3. The Appellant lived in Middlesex County in 2022. (Exhibit 1).

4. According to the Appellant's Schedule HC, the Appellant's federal Adjusted Gross Income ("AGI") for 2022 was \$58,775. (Exhibit 1).
5. According to the Appellant's Schedule HC, the Appellant did not have health insurance that met Massachusetts' minimum creditable coverage (MCC) requirements from January through June in 2022. The Appellant was assessed a three-month tax penalty for 2022. (Exhibit 1).
6. The Appellant checked off the following box on their Statement of Grounds for Appeal: "During 2022, the expense of purchasing health insurance would have caused a serious deprivation of food, shelter, clothing or other necessities." (Exhibit 2).
7. The Appellant submitted a letter stating that they were unemployed from November 2021 until June 2022 and that they spoke with the Health Connector and were informed that they were ineligible for financial assistance. The letter further stated that the Appellant's rent was \$1850 per month, not including utilities, and that they were unable to afford health insurance without financial assistance.
8. The Appellant also submitted: (1) a November 17, 2021 letter from the Health Connector stating that it had reviewed the Appellant's application and that they could enroll in a Health Connector plan but would not receive financial assistance; (2) a copy of the Appellant's lease showing a monthly rent obligation of \$1850 from August 15, 2020 to August 15, 2021; and (3) two documents showing the delivery and price of heating oil to the Appellant's apartment (the years of these documents are unclear).
9. I take administrative notice of the financial information set forth in Tables 1 through 6 in the Department of Revenue ("DOR") 2022 Massachusetts Schedule HC Health Care Instruction and Worksheets. Tables 3 and 4 incorporate affordability and premium schedules adopted by the Board of Directors for the Commonwealth Health Insurance Connector Authority for 2022. Table 2 sets forth income at 300% of the federal poverty level, and Tables 5 and 6 set forth tax penalties in effect for 2022.
10. The Appellant's AGI of \$58,775 was more than 300% of the Federal Poverty Level, which was \$38,640 for a single person in 2022. (See Table 2 of Schedule HC-2022 and 956 CMR 12.04).
11. According to Table 3 of Schedule HC for 2022, the Appellant, who filed their federal tax return as a single person with no dependents and claimed an adjusted gross income of \$58,775, could have afforded to pay \$391 per month for health insurance. The calculation is as follows: Table 3 states that a single person with no dependents whose 2022 AGI was \$51,521 or more could have spent 8% of their earnings on health insurance; 8% of \$58,775 is \$4,702, and one-twelfth of \$4,702 is \$391.
12. According to Table 4 of Schedule HC for 2022, the least expensive health insurance plan available on the private market to the Appellant, a single person age 33 living in Middlesex County in January 2022, cost \$290 per month.

13. The Appellant testified that they lost their job in November 2021 and received unemployment compensation for nine months, beginning in November 2021.
14. The Appellant testified that they received a total of \$10,605 in unemployment compensation for nine months (or \$1,178 per month).
15. The Appellant testified that they were unemployed in the January through June 2022 time period and that their only source of income during this time period was unemployment compensation, which they supplemented with their savings.
16. The Appellant testified that they contacted the Health Connector about obtaining health insurance in November 2021 and received a letter from the Health Connector dated November 17, 2021 notifying them that they did not qualify for financial assistance.
17. The Appellant testified that they could not afford health insurance during the months of January through June 2022.
18. The Appellant testified that they estimated they had the following basic monthly expenses in the period of January through June 2022, when they were unemployed: \$1850 for rent; \$225 for heating oil; \$75 for electric (based on an estimate of \$50-\$100 per month); \$55 for Internet; \$20 for renter's insurance; \$105 for car insurance; \$160 for gas; and \$400 for food.
19. The Appellant testified that they began working at a new job in July 2022 that provided health insurance and that they have health insurance now.

ANALYSIS AND CONCLUSIONS OF LAW

The case is before me on the Appellant's appeal from the DOR's assessment of a three-month tax penalty because the Appellant's tax forms indicated that they did not have health insurance that met Massachusetts' minimum creditable coverage ("MCC") standards for the months of January through June 2022. The issue to be decided is whether the tax penalty should be waived in whole or in part.

I begin by summarizing the legal rules underlying this appeal. The tax penalty was enacted by the Massachusetts Legislature to encourage compliance with G.L. c. 111M, § 2, also called the "individual mandate." The mandate requires every adult resident of Massachusetts to obtain health insurance coverage "[s]o long as it is deemed affordable" under the schedule set by the board of directors for the Commonwealth Health Insurance Connector Authority ("Connector"). G.L. c. 111M, § 2(a). Any health insurance policy must also satisfy the Massachusetts MCC standards for a taxpayer to avoid the penalty.

If these requirements are not met, a tax penalty is assessed for each of the months that the individual did not have health insurance as required by the individual mandate. There is, however, a three-month grace period to allow the taxpayer to obtain health insurance coverage or to make the transition

between health insurance policies. See G.L. c. 111M, § 2(b) and Administrative Information Bulletin 03-10: Guidance Regarding M.G.L. c. 111M and M.G.L. c. 176Q, as implemented by 956 CMR 6.00 (clarifying that for purposes of penalty calculation, taxpayers will not be subject to penalty if they had lapses in coverage consisting of three or fewer consecutive calendar months). The Connector’s regulations also provide for a waiver of the tax penalty in cases of hardship. See 956 CMR 6.07-08.

To determine if the penalty should be waived in whole or in part, there must be a determination as to whether affordable insurance that met MCC standards was available to the Appellant through a government-subsidized program, through employment, or through the private market. If affordable insurance was available, it must be determined whether such insurance was not in fact affordable to the Appellant because the Appellant experienced a hardship as defined in 956 CMR 6.08. Each of these issues is addressed in turn.

First, I conclude that the Appellant could not have obtained affordable health insurance meeting MCC requirements through a government-subsidized program because their AGI exceeded 300% of the FPL. Finding of Fact No. 10.

Second, I conclude that the Appellant did not have access to affordable health insurance meeting MCC standards through employment because the Appellant credibly testified that they were unemployed during the months of January through June 2022. Finding of Fact No. 15.

Third, I conclude that the Appellant theoretically had access to affordable health insurance meeting MCC standards on the private market. According to Table 3 of the Schedule HC, the Appellant could have afforded to spend \$391 per month on health insurance, and according to Table 4 of the Schedule HC, the least expensive health insurance plan available to the Appellant on the private market would have cost \$290 per month. Findings of Fact Nos. 11 and 12. However, I find that the Appellant could not actually afford this health insurance because they suffered a hardship. The Appellant credibly testified that they were unemployed from January to June 2022 and that their only income during this time period was \$1,178 in monthly unemployment compensation, which they supplemented with their savings. Finding of Fact No. 14. I find that the Appellant did not have sufficient income during this period to afford private insurance and that if they had purchased such insurance, they likely would have suffered a serious deprivation of food, clothing, shelter, or other basic necessities.

Reviewing the totality of the evidence, I find that it is appropriate to waive the Appellant’s three-month tax penalty in its entirety. See G.L. c. 111M, § 2 and 956 CMR 6.07(8) and 6.08(1)(e).

PENALTY ASSESSED

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

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

NOTIFICATION OF YOUR RIGHT TO APPEAL TO COURT

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

Hearing Officer

cc: Connector Appeals Unit

Massachusetts Health Connector Appeals Unit

FINAL APPEAL DECISION: PA22-1088

Appeal Decision: The tax penalty is overturned.

Hearing Issue: Appeal of the 2022 Tax Year Penalty

Hearing Date: December 19, 2023

Decision Date: January 15, 2024

AUTHORITY

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

JURISDICTION

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

HEARING RECORD

The Appellant was a single person with no dependents in 2022. The Appellant appeared at the hearing, which was held by telephone on December 19, 2023. The procedures to be followed during the hearing were reviewed with the Appellant, who was then sworn in. Exhibits were marked and admitted into evidence with no objection from the Appellant. The hearing record consists of the Appellant's testimony and the following documents that were admitted into evidence:

- Exhibit 1: Appeal Case Information from Schedule HC 2022 (1 page).
- Exhibit 2: The Statement of Grounds for Appeal and supporting documentation submitted by the Appellant (6 pages).
- Exhibit 3: Health Connector Appeals Unit Notice of Hearing on December 19, 2023 (2 pages).
- Exhibit 4: Open Record Request, dated December 19, 2023
- Exhibit 5: Appellant's response to Open Record Request, including final pay stub for 2022

FINDINGS OF FACT

The record shows, and I so find:

1. The Appellant filed their federal income tax return as a single person with no dependents claimed. (Exhibit 1).
2. The Appellant turned 63 in July 2022. (Exhibit 1).
3. The Appellant lived in Middlesex County in 2022. (Exhibit 1).

4. According to the Appellant's Schedule HC, the Appellant's federal Adjusted Gross Income ("AGI") for 2022 was \$27,649. (Exhibit 1).
5. According to the Appellant's Schedule HC, the Appellant did not have health insurance that met Massachusetts' minimum creditable coverage (MCC) requirements in any month in 2022. The Appellant was assessed a 12-month tax penalty for 2022. (Exhibit 1).
6. The Appellant checked off the following box on their Statement of Grounds for Appeal: "During 2022, you purchased health insurance that didn't meet minimum creditable coverage standards because that is what your employer offered, and you felt that your circumstances prevented you from buying other insurance that met the requirements." (Exhibit 2). The Appellant submitted with their Statement of Grounds for Appeal a Form MA 1099-HC for 2022 issued by an insurer that stated that the Appellant did not have health insurance meeting minimum creditable coverage requirements for any month in 2022.
7. I take administrative notice of the financial information set forth in Tables 1 through 6 in the Department of Revenue ("DOR") 2022 Massachusetts Schedule HC Health Care Instruction and Worksheets. Tables 3 and 4 incorporate affordability and premium schedules adopted by the Board of Directors for the Commonwealth Health Insurance Connector Authority for 2022. Table 2 sets forth income at 300% of the federal poverty level, and Tables 5 and 6 set forth tax penalties in effect for 2022.
8. The Appellant's AGI of \$27,649 was less than 300% of the Federal Poverty Level, which was \$38,640 for a single person in 2022. (See Table 2 of Schedule HC-2022 and 956 CMR 12.04).
9. According to Table 3 of Schedule HC for 2022, the Appellant, who filed their federal tax return as a single person with no dependents and claimed an adjusted gross income of \$27,649, could have afforded to pay \$96 per month for health insurance. The calculation is as follows: Table 3 states that a single person with no dependents whose 2022 AGI was between \$25,761 and \$32,200 could have spent 4.2% of their earnings on health insurance; 4.2% of \$27,649 is \$1,161, and one-twelfth of \$1,161 is \$96.
10. According to Table 4 of Schedule HC for 2022, the least expensive health insurance plan available on the private market to the Appellant, a single person age 62 living in Middlesex County in January 2022, cost \$434 per month.
11. The Appellant testified that they had insurance through their employer in 2022, and that they had believed the insurance met Massachusetts minimum creditable coverage requirements. The Appellant testified that their employer never informed them that the insurance they offered did not meet Massachusetts minimum creditable coverage requirements.
12. The Appellant testified that they believed they paid just under \$100 every week for their employer-sponsored health insurance in 2022.

13. The Appellant testified that for 2024, their employer offered two health insurance plans, one of which complies with Massachusetts minimum creditable coverage requirements, and that they have enrolled in that plan.
14. I left the record open for the Appellant to provide: (1) documentation showing how much the Appellant paid per month for the employer-sponsored health insurance plan in which they were enrolled from January to December 2022; and (2) documentation that would enable the Health Connector to determine whether the health insurance plan in which the Appellant was enrolled met Massachusetts' minimum creditable coverage requirements. I advised the Appellant that if they could not find the documentation requested in paragraph (2), they should nonetheless submit the documentation requested in paragraph (1). (Exhibit 4).
15. In response to my open record request, the Appellant submitted their final pay stub for 2022, which showed that \$86 per week was deducted from their pay for health insurance. (Exhibit 5).

ANALYSIS AND CONCLUSIONS OF LAW

The case is before me on the Appellant's appeal from the DOR's assessment of a twelve-month tax penalty because the Appellant's tax forms indicated that they did not have health insurance that met Massachusetts' minimum creditable coverage ("MCC") standards for any month in 2022. The issue to be decided is whether the tax penalty should be waived in whole or in part.

I begin by summarizing the legal rules underlying this appeal. The tax penalty was enacted by the Massachusetts Legislature to encourage compliance with G.L. c. 111M, § 2, also called the "individual mandate." The mandate requires every adult resident of Massachusetts to obtain health insurance coverage "[s]o long as it is deemed affordable" under the schedule set by the board of directors for the Commonwealth Health Insurance Connector Authority ("Connector"). G.L. c. 111M, § 2(a). Any health insurance policy must also satisfy the Massachusetts MCC standards for a taxpayer to avoid the penalty.

If these requirements are not met, a tax penalty is assessed for each of the months that the individual did not have health insurance as required by the individual mandate. There is, however, a three-month grace period to allow the taxpayer to obtain health insurance coverage or to make the transition between health insurance policies. See G.L. c. 111M, § 2(b) and Administrative Information Bulletin 03-10: Guidance Regarding M.G.L. c. 111M and M.G.L. c. 176Q, as implemented by 956 CMR 6.00 (clarifying that for purposes of penalty calculation, taxpayers will not be subject to penalty if they had lapses in coverage consisting of three or fewer consecutive calendar months). The Connector's regulations also provide for a waiver of the tax penalty in cases of hardship. See 956 CMR 6.07-08.

To determine if the penalty should be waived in whole or in part, there must be a determination as to whether affordable insurance that met MCC standards was available to the Appellant through a government-subsidized program, through employment, or through the private market. If affordable insurance was available, it must be determined whether such insurance was not in fact affordable to the

Appellant because the Appellant experienced a hardship as defined in 956 CMR 6.08. Each of these issues is addressed in turn.

First, I conclude that the Appellant theoretically could have obtained affordable health insurance meeting MCC requirements through a government-subsidized program because their AGI was less than 300% of the FPL. Finding of Fact No. 8. However, I find that the Appellant effectively did not have access to this government-subsidized insurance because they had a good faith belief that they were enrolled in MCC-compliant health insurance through their employer, for which they paid \$86 per week. Findings of Fact Nos. 11 and 15. I conclude that the Appellant's genuine belief that they were already enrolled in MCC-compliant health insurance effectively blocked them from exploring the option of government-subsidized insurance.

Second, I conclude that the Appellant did not have access to affordable health insurance meeting MCC standards through employment because the Appellant submitted a MA Form 1099-HC from 2022 showing that their employer-sponsored health insurance was not MCC compliant. Finding of Fact No. 6 and Exhibit 2.

Third, I conclude that the Appellant did not have access to affordable health insurance meeting MCC standards on the private market. According to Table 3 of the Schedule HC, the Appellant could have afforded to spend \$96 per month on health insurance, and according to Table 4 of the Schedule HC, the least expensive health insurance plan available to the Appellant on the private market would have cost \$435 per month and therefore was not affordable to the Appellant. Findings of Fact Nos. 9 and 10.

Reviewing the totality of the evidence, I find that it is appropriate to waive the Appellant's twelve-month tax penalty in its entirety because the Appellant did not have access to affordable health insurance meeting MCC standards through a government-subsidized program, employment, or the private market. See G.L. c. 111M, § 2 and 956 CMR 6.07(8) and 6.08(3).

PENALTY ASSESSED

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

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

NOTIFICATION OF YOUR RIGHT TO APPEAL TO COURT

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

Hearing Officer

cc: Connector Appeals Unit

Massachusetts Health Connector Appeals Unit

FINAL APPEAL DECISION: PA22-1090

Appeal Decision: The tax penalty is upheld.

Hearing Issue: Appeal of the 2022 Tax Year Penalty

Hearing Date: December 19, 2023

Decision Date: December 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 Massachusetts General Laws Chapter 111M, Section 4 and 956 CMR 6.07.

HEARING RECORD

The Appellants were married person filing jointly with two dependents in 2022. Appellant #1 appeared at the hearing, which was held by telephone on December 19, 2023. The procedures to be followed during the hearing were reviewed with Appellant #1, who was then sworn in. Exhibits were marked and admitted into evidence with no objection from Appellant #1. The hearing record consists of Appellant #1's testimony and the following documents that were admitted into evidence:

Exhibit 1: Appeal Case Information from Schedule HC 2022 (1 page).

Exhibit 2: The Statement of Grounds for Appeal submitted by the Appellants (4 pages).

Exhibit 3: Health Connector Appeals Unit Notice of Hearing on December 19, 2023 (2 pages).

FINDINGS OF FACT

The record shows, and I so find:

1. The Appellants filed their federal income tax return as married persons filing jointly with two dependents claimed. (Exhibit 1).
2. Appellant #1 turned 33 in April 2022, and Appellant #2 turned 33 in February 2022. (Exhibit 1).
3. The Appellants lived in Worcester County in 2022. (Exhibit 1).

4. According to the Appellants' Schedule HC, the Appellants' federal Adjusted Gross Income ("AGI") for 2022 was \$99,747. (Exhibit 1).
5. According to the Appellants' Schedule HC, Appellant #1 had insurance meeting Massachusetts' minimum creditable coverage (MCC) requirements in 2022 and was not assessed a penalty, and Appellant #2 did not have insurance meeting MCC requirements during any month in 2022 and was assessed a 12-month penalty. (Exhibit 1).
6. The Appellants checked off the following box on their Statement of Grounds for Appeal: "During 2022, you received a shut-off notice, were shut off, or were refused delivery of essential utilities (gas, electric, heating oil, water, primary telephone)." (Exhibit 2). The Appellants did not include a copy of the shut-off notice.
7. I take administrative notice of the financial information set forth in Tables 1 through 6 in the Department of Revenue ("DOR") 2022 Massachusetts Schedule HC Health Care Instruction and Worksheets. Tables 3 and 4 incorporate affordability and premium schedules adopted by the Board of Directors for the Commonwealth Health Insurance Connector Authority for 2022. Table 2 sets forth income at 300% of the federal poverty level, and Tables 5 and 6 set forth tax penalties in effect for 2022.
8. The Appellants' AGI of \$99,747 was more than 300% of the Federal Poverty Level, which was \$79,500 for a family of four in 2022. (See Table 2 of Schedule HC-2022 and 956 CMR 12.04).
9. According to Table 3 of Schedule HC for 2022, the Appellants, who filed their federal tax return as married persons filing jointly with two dependents and claimed an adjusted gross income of \$99,747, could have afforded to pay \$664 per month for health insurance. The calculation is as follows: Table 3 states that a family whose 2022 AGI was \$87,841 or more could have spent 8% of their earnings on health insurance; 8% of \$99,747 is \$7,979, and one-twelfth of \$7,979 is \$664.
10. According to Table 4 of Schedule HC for 2022, the least expensive health insurance family plan available on the private market to the Appellants, a family whose eldest member was 32 and living in Worcester County in January 2022, cost \$741 per month. The least expensive individual plan available to Appellant #2, who was 32 and living in Worcester County in January 2022, was \$290 per month.
11. Appellant #1 testified that she lost her job during the COVID-19 pandemic and was able to enroll in MassHealth with her two children when she became pregnant with her second child, who was born in 2020.
12. Appellant #1 testified that Appellant #2 was not eligible for MassHealth because he had a job but that he signed up for what the Appellants believed to be health insurance.
13. Appellant #1 testified that at the end of 2021, the Appellants received a communication stating that if nothing changed, they would be automatically enrolled in the same insurance in 2022.

14. Appellant #1 testified that the Appellants paid \$55-75 per month for what they believed to be health insurance for Appellant #2 in 2022. Appellant #1 testified that the Appellants did pay anything for Appellant #1's and their children's enrollment in MassHealth.
15. Appellant #1 testified that the Appellants did not realize that Appellant #2 was not enrolled in health insurance until the end of 2022, when they went to do their taxes and realized they did not have the right paperwork for him.
16. Appellant #1 testified that the Appellants contacted the Health Connector about Appellant #2's health insurance situation and learned that he had been paying for vision and dental insurance, not health insurance.
17. Appellant #1 testified that the Appellants' communications with the Health Connector were by phone.
18. Appellant #1 testified that the Appellants have not previously received a tax penalty.
19. Appellant #1 testified that Appellant #2's employer offered health insurance but that the Appellants did not enroll in it because they believed they already had health insurance. Appellant #1 testified that she did not know how much it would have cost the Appellants to enroll in health insurance through Appellant #2's employer.
20. Appellant #1 testified that the Appellants fell behind on their oil bill in 2022 because they moved to a new town, and it was more expensive than where they previously lived.
21. Appellant #1 testified that she estimated the Appellants had the following basic monthly expenses in 2022: \$1800 for mortgage; \$200 for oil (based on an estimate of paying \$400-\$600 every two to three months); \$125 for electricity; \$100 for cable/Internet; \$550 for Appellant #1's car; \$250 for Appellant #2's car; \$230 for car insurance; \$400 for gas; \$180 for phone; \$600 for food; \$100 for household supplies and toiletries; and \$200 for clothing, diapers, and baby wipes.
22. Appellant #1 testified that the Appellants now have health insurance through Appellant #1's job.

ANALYSIS AND CONCLUSIONS OF LAW

The case is before me on the Appellants' appeal from the DOR's assessment of a 12-month tax penalty on Appellant #2 because the Appellants' tax forms indicated that Appellant #2 did not have health insurance that met Massachusetts' minimum creditable coverage ("MCC") standards for any month in 2022. The issue to be decided is whether the tax penalty should be waived in whole or in part.

I begin by summarizing the legal rules underlying this appeal. The tax penalty was enacted by the Massachusetts Legislature to encourage compliance with G.L. c. 111M, § 2, also called the "individual

mandate.” The mandate requires every adult resident of Massachusetts to obtain health insurance coverage “[s]o long as it is deemed affordable” under the schedule set by the board of directors for the Commonwealth Health Insurance Connector Authority (“Connector”). G.L. c. 111M, § 2(a). Any health insurance policy must also satisfy the Massachusetts MCC standards for a taxpayer to avoid the penalty.

If these requirements are not met, a tax penalty is assessed for each of the months that the individual did not have health insurance as required by the individual mandate. There is, however, a three-month grace period to allow the taxpayer to obtain health insurance coverage or to make the transition between health insurance policies. See G.L. c. 111M, § 2(b) and Administrative Information Bulletin 03-10: Guidance Regarding M.G.L. c. 111M and M.G.L. c. 176Q, as implemented by 956 CMR 6.00 (clarifying that for purposes of penalty calculation, taxpayers will not be subject to penalty if they had lapses in coverage consisting of three or fewer consecutive calendar months). The Connector’s regulations also provide for a waiver of the tax penalty in cases of hardship. See 956 CMR 6.07-08.

To determine if the penalty should be waived in whole or in part, there must be a determination as to whether affordable insurance that met MCC standards was available to Appellant #2 through a government-subsidized program, through the private market, or through employment. If affordable insurance was available, it must be determined whether such insurance was not in fact affordable to the Appellants because the Appellants experienced a hardship as defined in 956 CMR 6.08. Each of these issues is addressed in turn.

First, I conclude that the Appellant #2 could not have obtained affordable health insurance meeting MCC requirements through a government-subsidized program because the Appellants’ AGI exceeded 300% of the FPL. Finding of Fact No. 8.

Second, I conclude that Appellant #2 had access to affordable health insurance meeting MCC requirements through the private market. According to Table 3 of the Schedule HC, the Appellants could have afforded to spend \$664 per month on health insurance. Finding of Fact No. 9. According to Table 4 of the Schedule HC, the least expensive family plan the Appellants could have purchased cost \$741 per month and was therefore not affordable to them. Finding of Fact No. 10. However, Appellant #1 testified that she and the Appellants’ children were enrolled in MassHealth in 2022 for which they paid nothing. Finding of Fact No. 14. Thus, Appellant #2 could have purchased an individual insurance plan for \$290 per month, which would have been affordable to the Appellants, and would have been the Appellants’ only health insurance premium. Findings of Fact Nos. 10 and 14. Appellant #1 testified that the Appellants believed that the \$55-75 per month they were paying to the Health Connector for Appellant #2 was for health insurance, but I do not find Appellant #1’s testimony to be credible, given that the Health Connector communicates to enrollees the type of insurance in which they are enrolling and for which they are being billed. I further find that the Appellants did not submit sufficient evidence to show that they suffered a hardship such that they could not actually have afforded to purchase an individual plan on the private market for Appellant #2.

Third, I conclude that there is insufficient evidence in the record to conclude whether the Appellants could have obtained affordable health insurance meeting MCC requirements through Appellant #2’s employer, given that Appellant #1 testified that she did not know how much such insurance would have

cost. However, given that I have concluded that the Appellants could have afforded to purchase an individual plan meeting MCC requirements on the private market for Appellant #2, my inability to determine whether they also had access to affordable health insurance meeting MCC requirements through Appellant #2's employer is inconsequential.

Reviewing the totality of the evidence, I find that it is appropriate to uphold Appellant #2's 12-month tax penalty in its entirety. See G.L. c. 111M, § 2 and 956 CMR 6.07(8) and 6.08(1)(e).

PENALTY ASSESSED

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

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

NOTIFICATION OF YOUR RIGHT TO APPEAL TO COURT

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

Hearing Officer

cc: Connector Appeals Unit

Massachusetts Health Connector Appeals Unit

FINAL APPEAL DECISION: PA22-1091

Appeal Decision: The tax penalty is overturned.

Hearing Issue: Appeal of the 2022 Tax Year Penalty

Hearing Date: December 19, 2023

Decision Date: January 27, 2024

AUTHORITY

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

JURISDICTION

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

HEARING RECORD

The Appellant was a single person with no dependents in 2022. The Appellant appeared at the hearing, which was held by telephone on December 19, 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 record was left open for the Appellant to provide additional evidence, which the Appellant so provided. The hearing record consists of the Appellant's testimony and the following documents that were admitted into evidence:

- Exhibit 1: Appeal Case Information from Schedule HC 2022 (1 page).
- Exhibit 2: The Statement of Grounds for Appeal (4 pages).
- Exhibit 3: Health Connector Appeals Unit Notice of Hearing on December 19, 2023 (2 pages).
- Exhibit 4: Open Record Request
- Exhibit 5: Appellant's Response to Open Record Request (1 page).

FINDINGS OF FACT

The record shows, and I so find:

1. The Appellant filed their federal income tax return as a single person with no dependents claimed. (Exhibit 1).
2. The Appellant turned 34 in April 2022. (Exhibit 1).
3. The Appellant lived in Middlesex County in 2022. (Exhibit 1).

4. According to the Appellant's Schedule HC, the Appellant's federal Adjusted Gross Income ("AGI") for 2022 was \$57,383. (Exhibit 1).
5. According to the Appellant's Schedule HC, the Appellant did not have health insurance that met Massachusetts' minimum creditable coverage (MCC) requirements during any month in 2022. The Appellant was assessed a 12-month tax penalty. (Exhibit 1).
6. The Appellant checked off the following box on their Statement of Grounds for Appeal: "During 2022, you purchased health insurance that didn't meet minimum creditable coverage standards because that is what your employer offered, and you felt that your circumstances prevented you from buying other insurance that met the requirements." (Exhibit 2).
7. I take administrative notice of the financial information set forth in Tables 1 through 6 in the Department of Revenue ("DOR") 2022 Massachusetts Schedule HC Health Care Instruction and Worksheets. Tables 3 and 4 incorporate affordability and premium schedules adopted by the Board of Directors for the Commonwealth Health Insurance Connector Authority for 2022. Table 2 sets forth income at 300% of the federal poverty level, and Tables 5 and 6 set forth tax penalties in effect for 2022.
8. The Appellant's AGI of \$57,383 was more than 300% of the Federal Poverty Level, which was \$51,521 for a single person in 2022. (See Table 2 of Schedule HC-2022 and 956 CMR 12.04).
9. According to Table 3 of Schedule HC for 2022, the Appellant, who filed their federal tax return as a single person with no dependents and claimed an adjusted gross income of \$57,383, could have afforded to pay \$382 per month for health insurance. The calculation is as follows: Table 3 states that a single person with no dependents whose 2022 AGI was \$51,521 and above could have spent 8% of their earnings on health insurance; 8% of \$57,383 is \$4,590, and one-twelfth of \$4,590 is \$382.
10. According to Table 4 of Schedule HC for 2022, the least expensive health insurance plan available on the private market to the Appellant, a single person age 33 living in Middlesex County in January 2022, cost \$290 per month.
11. The Appellant testified that they were largely unemployed in January and February 2022 but that they had health insurance through their employer, a university, from March through December 2022.
12. The Appellant testified that in January and February 2022, their take home pay was between \$1000 and 1200 per month, which they received from unemployment compensation and teaching classes on a part-time basis.
13. The Appellant testified that they estimated they had the following monthly expenses in January and February 2022: \$500 for rent; \$150 for utilities; \$200 for food; and \$160 for gas. The

Appellant also testified that they had a \$1800 car repair bill and spent \$800 on new tires in the January to February 2022 time period.

14. I left the record open for the Appellant to provide evidence that they had health insurance meeting MCC standards in the March to December 2022 time period. (Exhibit 4).
15. In response to my open record request, the Appellant submitted a Form MA 1099-HC showing that they had health insurance meeting MCC standards for the months of March through December 2022.

ANALYSIS AND CONCLUSIONS OF LAW

The case is before me on the Appellant's appeal from the DOR's assessment of a twelve-month tax penalty because the Appellant's tax forms indicated that they did not have health insurance that met Massachusetts' minimum creditable coverage ("MCC") standards during any month in 2022. The issue to be decided is whether the tax penalty should be waived in whole or in part.

I begin by summarizing the legal rules underlying this appeal. The tax penalty was enacted by the Massachusetts Legislature to encourage compliance with G.L. c. 111M, § 2, also called the "individual mandate." The mandate requires every adult resident of Massachusetts to obtain health insurance coverage "[s]o long as it is deemed affordable" under the schedule set by the board of directors for the Commonwealth Health Insurance Connector Authority ("Connector"). G.L. c. 111M, § 2(a). Any health insurance policy must also satisfy the Massachusetts MCC standards for a taxpayer to avoid the penalty.

If these requirements are not met, a tax penalty is assessed for each of the months that the individual did not have health insurance as required by the individual mandate. There is, however, a three-month grace period to allow the taxpayer to obtain health insurance coverage or to make the transition between health insurance policies. See G.L. c. 111M, § 2(b) and Administrative Information Bulletin 03-10: Guidance Regarding M.G.L. c. 111M and M.G.L. c. 176Q, as implemented by 956 CMR 6.00 (clarifying that for purposes of penalty calculation, taxpayers will not be subject to penalty if they had lapses in coverage consisting of three or fewer consecutive calendar months). The Connector's regulations also provide for a waiver of the tax penalty in cases of hardship. See 956 CMR 6.07-08.

To determine if the penalty should be waived in whole or in part, there must be a determination as to whether affordable insurance that met MCC standards was available to the Appellant through a government-subsidized program, through employment, or through the private market. If affordable insurance was available, it must be determined whether such insurance was not in fact affordable to the Appellant because the Appellant experienced a hardship as defined in 956 CMR 6.08. Each of these issues is addressed below.

As an initial matter, I note that in response to my open record request, the Appellant provided a Form MA 1099-HC showing that they had health insurance meeting MCC standards from March through

December 2022. The Appellant’s penalty is therefore waived for those months, as the Appellant had the requisite health insurance.

The next question is whether the Appellant’s penalty for January and February 2022 should be waived. I conclude that it should be.

First, the Appellant testified that they were largely unemployed in January and February 2022, so I find that the Appellant could not have obtained health insurance meeting MCC standards during these months through employment. Finding of Fact No. 11.

Second, because the Appellant’s income exceeded 300% of the FPL, I find that the Appellant was not eligible for government-subsidized health insurance. Finding of Fact No. 8.

Third, I find that the Appellant could not have afforded to purchase health insurance on the private market during the months of January and February 2022. Table 3 of the Schedule HC indicates that the Appellant could have afforded to spend \$382 per month for health insurance, and according to Table 4, the Appellant could have purchased health insurance meeting MCC standards on the private market for \$290 per month. Findings of Fact Nos. 9 and 10. I find, however, that the Appellant could not actually have afforded to pay for health insurance on the private market during the months of January and February 2022 because they credibly testified that they took home between \$1,000 and 1,200 in those months and that their monthly expenses totaled \$1,010. Findings of Fact Nos. 12 and 13. Had the Appellant purchased health insurance on the private market during the months of January and February 2022, they likely would have experienced a serious deprivation of food, shelter, clothing, or other necessities.

Reviewing the totality of the evidence, I find that it is appropriate to waive the Appellant’s twelve-month tax penalty in its entirety because the Appellant suffered a hardship in January and February 2022 and had insurance meeting MCC standards for the remaining months of 2022. See G.L. c. 111M, § 2 and 956 CMR 6.07(8) and 6.08(1)(e) and (3).

PENALTY ASSESSED

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

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

NOTIFICATION OF YOUR RIGHT TO APPEAL TO COURT

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

Hearing Officer

cc: Connector Appeals Unit

Massachusetts Health Connector Appeals Unit

FINAL APPEAL DECISION: PA22-1174

Appeal Decision: The tax penalty is overturned.

Hearing Issue: Appeal of the 2022 Tax Year Penalty

Hearing Date: January 11, 2024

Decision Date: January 15, 2024

AUTHORITY

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

JURISDICTION

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

HEARING RECORD

The Appellant was a single person with no dependents in 2022. The Appellant appeared at the hearing, which was held by telephone on January 11, 2024. The procedures to be followed during the hearing were reviewed with the Appellant, who was then sworn in. Exhibits were marked and admitted into evidence with no objection from the Appellant. The hearing record consists of the Appellant's testimony and the following documents that were admitted into evidence:

Exhibit 1: Appeal Case Information from Schedule HC 2022 (1 page).

Exhibit 2: The Statement of Grounds for Appeal and supporting documentation submitted by the Appellant (6 pages).

Exhibit 3: Health Connector Appeals Unit Notice of Hearing on January 11, 2024 (2 pages).

FINDINGS OF FACT

The record shows, and I so find:

1. The Appellant filed their federal income tax return as a single person with no dependents claimed. (Exhibit 1).
2. The Appellant turned 54 in November 2022. (Exhibit 1).
3. The Appellant lived in Middlesex County in 2022. (Exhibit 1).

4. According to the Appellant's Schedule HC, the Appellant's federal Adjusted Gross Income ("AGI") for 2022 was \$42,649. (Exhibit 1).
5. According to the Appellant's Schedule HC, the Appellant did not have health insurance that met Massachusetts' minimum creditable coverage (MCC) requirements in the months of January through June and in November and December of 2022. The Appellant was assessed a three-month tax penalty. (Exhibit 1).
6. The Appellant checked off the following box on their Statement of Grounds for Appeal: "During 2022, the expense of purchasing health insurance would have caused a serious deprivation of food, shelter, clothing, or other necessities." (Exhibit 2).
7. The Appellant also submitted an addendum to their Statement of Grounds for Appeal in which they stated that they were laid off from their job and offered a COBRA plan that they could not afford. The Appellant further stated that they did not know that there might have been affordable health insurance options for them and that they when they later learned from a friend that they might be eligible for MassHealth, they applied for and were approved for MassHealth. (Exhibit 2).
8. I take administrative notice of the financial information set forth in Tables 1 through 6 in the Department of Revenue ("DOR") 2022 Massachusetts Schedule HC Health Care Instruction and Worksheets. Tables 3 and 4 incorporate affordability and premium schedules adopted by the Board of Directors for the Commonwealth Health Insurance Connector Authority for 2022. Table 2 sets forth income at 300% of the federal poverty level, and Tables 5 and 6 set forth tax penalties in effect for 2022.
9. The Appellant's AGI of \$42,649 was more than 300% of the Federal Poverty Level, which was \$38,640 for a single person in 2022. (See Table 2 of Schedule HC-2022 and 956 CMR 12.04).
10. According to Table 3 of Schedule HC for 2022, the Appellant, who filed their federal tax return as a single person with no dependents and claimed an adjusted gross income of \$42,649, could have afforded to pay \$264 per month for health insurance. The calculation is as follows: Table 3 states that a single person with no dependents whose 2022 AGI was between \$38,641 and \$45,080 could have spent 7.45% of their earnings on health insurance; 7.45% of \$42,649 is \$3,177, and one-twelfth of \$3,177 is \$264.
11. According to Table 4 of Schedule HC for 2022, the least expensive health insurance plan available on the private market to the Appellant, a single person age 53 living in Middlesex County in January 2022, cost \$422 per month.
12. The Appellant testified that they were laid off from a job in 2021 and could not afford to obtain health insurance through COBRA, as they believe it would have cost approximately \$900 per month.

13. The Appellant testified that they were unemployed at the beginning of 2022 but later worked as a sprinkler fitter for part of 2022 and obtained health insurance through that job, after a three-month waiting period. The Appellant testified that they were laid off from that job, at which they were paid \$40 per hour, later in 2022.
14. The Appellant testified that their income in 2022 came from the following sources: approximately \$3,000 from a withdrawal from their 401(k) plan; approximately \$7,000 from unemployment compensation; and approximately \$42,000 from employment.
15. The Appellant testified that they estimated they had the following monthly expenses in 2022: \$846.28 for a home equity loan; \$100 for utilities; \$300 for cable and Internet; \$559.90 for a truck payment; \$200 for car insurance; \$216 for gas (based on an estimate of \$50 per week); \$109 for cellphone; and \$300 for food and household supplies.
16. The Appellant testified that they currently have health insurance through MassHealth.

ANALYSIS AND CONCLUSIONS OF LAW

The case is before me on the Appellant's appeal from the DOR's assessment of a three-month tax penalty because the Appellant's tax forms indicated that they did not have health insurance that met Massachusetts' minimum creditable coverage ("MCC") standards from January through June and in November and December of 2022. The issue to be decided is whether the tax penalty should be waived in whole or in part.

I begin by summarizing the legal rules underlying this appeal. The tax penalty was enacted by the Massachusetts Legislature to encourage compliance with G.L. c. 111M, § 2, also called the "individual mandate." The mandate requires every adult resident of Massachusetts to obtain health insurance coverage "[s]o long as it is deemed affordable" under the schedule set by the board of directors for the Commonwealth Health Insurance Connector Authority ("Connector"). G.L. c. 111M, § 2(a). Any health insurance policy must also satisfy the Massachusetts MCC standards for a taxpayer to avoid the penalty.

If these requirements are not met, a tax penalty is assessed for each of the months that the individual did not have health insurance as required by the individual mandate. There is, however, a three-month grace period to allow the taxpayer to obtain health insurance coverage or to make the transition between health insurance policies. See G.L. c. 111M, § 2(b) and Administrative Information Bulletin 03-10: Guidance Regarding M.G.L. c. 111M and M.G.L. c. 176Q, as implemented by 956 CMR 6.00 (clarifying that for purposes of penalty calculation, taxpayers will not be subject to penalty if they had lapses in coverage consisting of three or fewer consecutive calendar months). The Connector's regulations also provide for a waiver of the tax penalty in cases of hardship. See 956 CMR 6.07-08.

To determine if the penalty should be waived in whole or in part, there must be a determination as to whether affordable insurance that met MCC standards was available to the Appellant through a government-subsidized program, through employment, or through the private market. The focus in this case is on the January through June 2022 time period, as the Appellant's lack of insurance in November

and December 2022 would be excused by the three-month grace period. If affordable insurance was available, it must be determined whether such insurance was not in fact affordable to the Appellant because the Appellant experienced a hardship as defined in 956 CMR 6.08. Each of these issues is addressed in turn.

First, I conclude that the Appellant could not have obtained affordable health insurance meeting MCC standards through a government-subsidized program because the Appellant’s income exceeded 300% of the FPL. Finding of Fact No. 9.

Second, I conclude that the Appellant did not have access to affordable health insurance meeting MCC standards through employment during the months of January through June 2022. The Appellant testified that they were laid off from a job in 2021, were unemployed at the beginning of 2022, and that it would have cost them approximately \$900 per month to obtain insurance through COBRA. Findings of Fact Nos. 12 and 13. According to Table 3 of the Schedule HC, the Appellant could only have afforded to pay \$264 per month for health insurance, so the COBRA insurance would have been unaffordable for the Appellant. Finding of Fact No. 10. The Appellant further credibly testified that there was a three-month waiting period for them to obtain insurance from the employer for whom they worked in 2022. As a result, the Appellant did not have access to affordable insurance meeting MCC standards during this time period. Finding of Fact No. 13.

Third, I conclude that the Appellant did not have access to affordable health insurance meeting MCC standards on the private market. According to Table 3 of the Schedule HC, the Appellant could have afforded to spend \$264 per month on health insurance, and according to Table 4 of the Schedule HC, the least expensive health insurance plan available to the Appellant on the private market would have cost \$422 per month and therefore was not affordable to the Appellant. Findings of Fact Nos. 10 and 11.

Reviewing the totality of the evidence, I find that it is appropriate to waive the Appellant’s three-month tax penalty in its entirety because the Appellant did not have access to affordable health insurance meeting MCC standards through a government-subsidized program, employment, or the private market. See G.L. c. 111M, § 2 and 956 CMR 6.07(8) and 6.08(3).

PENALTY ASSESSED

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

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

NOTIFICATION OF YOUR RIGHT TO APPEAL TO COURT

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

Hearing Officer

cc: Connector Appeals Unit

Massachusetts Health Connector Appeals Unit

FINAL APPEAL DECISION: PA22-1175

Appeal Decision: The tax penalty is overturned.

Hearing Issue: Appeal of the 2022 Tax Year Penalty

Hearing Date: January 11, 2024

Decision Date: January 15, 2024

AUTHORITY

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

JURISDICTION

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

HEARING RECORD

The Appellant was a single person with no dependents in 2022. The Appellant appeared at the hearing, which was held by telephone on January 11, 2024. The procedures to be followed during the hearing were reviewed with the Appellant, who was then sworn in. Exhibits were marked and admitted into evidence with no objection from the Appellant. The hearing record consists of the Appellant's testimony and the following documents that were admitted into evidence:

Exhibit 1: Appeal Case Information from Schedule HC 2022 (1 page).

Exhibit 2: The Statement of Grounds for Appeal (4 pages).

Exhibit 3: Health Connector Appeals Unit Notice of Hearing on January 11, 2024 (2 pages).

FINDINGS OF FACT

The record shows, and I so find:

1. The Appellant filed their federal income tax return as a single person with no dependents claimed. (Exhibit 1).
2. The Appellant turned 34 in November 2022. (Exhibit 1).
3. The Appellant lived in Norfolk County in 2022. (Exhibit 1).
4. According to the Appellant's Schedule HC, the Appellant's federal Adjusted Gross Income ("AGI") for 2022 was \$59,464. (Exhibit 1).

5. According to the Appellant's Schedule HC, the Appellant did not have health insurance that met Massachusetts' minimum creditable coverage (MCC) requirements from January through October 2022. The Appellant was assessed a seven-month tax penalty. (Exhibit 1).
6. The Appellant checked off the following box on their Statement of Grounds for Appeal: "During 2022, the expense of purchasing health insurance would have caused a serious deprivation of food, shelter, clothing, or other necessities." (Exhibit 2).
7. I take administrative notice of the financial information set forth in Tables 1 through 6 in the Department of Revenue ("DOR") 2022 Massachusetts Schedule HC Health Care Instruction and Worksheets. Tables 3 and 4 incorporate affordability and premium schedules adopted by the Board of Directors for the Commonwealth Health Insurance Connector Authority for 2022. Table 2 sets forth income at 300% of the federal poverty level, and Tables 5 and 6 set forth tax penalties in effect for 2022.
8. The Appellant's AGI of \$59,464 was more than 300% of the Federal Poverty Level, which was \$38,640 for a single person in 2022. (See Table 2 of Schedule HC-2022 and 956 CMR 12.04).
9. According to Table 3 of Schedule HC for 2022, the Appellant, who filed their federal tax return as a single person with no dependents and claimed an adjusted gross income of \$59,464, could have afforded to pay \$396 per month for health insurance. The calculation is as follows: Table 3 states that a single person with no dependents whose 2022 AGI was \$51,521 and above could have spent 8% of their earnings on health insurance; 8% of \$59,464 is \$4,757, and one-twelfth of \$4,757 is \$396.
10. According to Table 4 of Schedule HC for 2022, the least expensive health insurance plan available on the private market to the Appellant, a single person age 33 living in Norfolk County in January 2022, cost \$290 per month.
11. The Appellant testified that the job at which they worked from January to October 2022 did not offer health insurance and that they could not afford to buy health insurance. The Appellant testified that they worked at a diesel shop that had four or five employees.
12. The Appellant testified that they earned \$20-21 per hour at the diesel shop and that they consistently worked around 40 hours per week. The Appellant testified that their take-home pay from this job was around \$600 per week.
13. The Appellant testified that they got a new job in October 2022 and enrolled in health insurance through that job. The Appellant testified that they earned \$35 per hour at the new job.
14. The Appellant testified that they estimated they had the following monthly expenses in 2022: \$1575 for rent; \$200 for car insurance and gas; \$100 for a phone; \$700 for food; \$100 for household supplies; and \$100 for clothing. The Appellant testified that they also paid \$800 in

child support for their two children who live with their other parent and are claimed by that parent as dependents for tax purposes. The Appellant further testified that their fiancé and third child live with them and that they spent approximately \$100-200 per month on expenses for their third child.

15. The Appellant testified that they work at the same job they started in October 2022 and continue to have health insurance.

ANALYSIS AND CONCLUSIONS OF LAW

The case is before me on the Appellant's appeal from the DOR's assessment of a seven-month tax penalty because the Appellant's tax forms indicated that they did not have health insurance that met Massachusetts' minimum creditable coverage ("MCC") standards from January through October 2022. The issue to be decided is whether the tax penalty should be waived in whole or in part.

I begin by summarizing the legal rules underlying this appeal. The tax penalty was enacted by the Massachusetts Legislature to encourage compliance with G.L. c. 111M, § 2, also called the "individual mandate." The mandate requires every adult resident of Massachusetts to obtain health insurance coverage "[s]o long as it is deemed affordable" under the schedule set by the board of directors for the Commonwealth Health Insurance Connector Authority ("Connector"). G.L. c. 111M, § 2(a). Any health insurance policy must also satisfy the Massachusetts MCC standards for a taxpayer to avoid the penalty.

If these requirements are not met, a tax penalty is assessed for each of the months that the individual did not have health insurance as required by the individual mandate. There is, however, a three-month grace period to allow the taxpayer to obtain health insurance coverage or to make the transition between health insurance policies. See G.L. c. 111M, § 2(b) and Administrative Information Bulletin 03-10: Guidance Regarding M.G.L. c. 111M and M.G.L. c. 176Q, as implemented by 956 CMR 6.00 (clarifying that for purposes of penalty calculation, taxpayers will not be subject to penalty if they had lapses in coverage consisting of three or fewer consecutive calendar months). The Connector's regulations also provide for a waiver of the tax penalty in cases of hardship. See 956 CMR 6.07-08.

To determine if the penalty should be waived in whole or in part, there must be a determination as to whether affordable insurance that met MCC standards was available to the Appellant through a government-subsidized program, through employment, or through the private market. If affordable insurance was available, it must be determined whether such insurance was not in fact affordable to the Appellant because the Appellant experienced a hardship as defined in 956 CMR 6.08. Each of these issues is addressed in turn.

First, I conclude that the Appellant could not have obtained affordable health insurance meeting MCC standards through a government-subsidized program because the Appellant's income exceeded 300% of the FPL. Finding of Fact No. 8.

Second, I conclude that the Appellant did not have access to affordable health insurance meeting MCC standards through employment during the months of January through October 2022 because the Appellant credibly testified that their employer, a small diesel shop, did not offer health insurance.

Third, I conclude that the Appellant theoretically had access to affordable health insurance meeting MCC standards on the private market. According to Table 3 of the Schedule HC, the Appellant could have afforded to spend \$396 per month on health insurance, and according to Table 4 of the Schedule HC, the least expensive health insurance plan available to the Appellant on the private market would have cost \$290 per month and therefore was affordable to the Appellant. Findings of Fact Nos. 9 and 10. However, I find that such insurance was not actually affordable to the Appellant because the Appellant suffered a hardship. The Appellant testified that they have three children on whom they spend approximately \$1000 per month combined and who are not listed as their dependents on their tax forms. Finding of Fact No. 14. I find that the expenses associated with the Appellants' children, which seem reasonable, would have rendered health insurance on the private market unaffordable to the Appellant and that if the Appellant had purchased such insurance, they likely would have suffered a serious deprivation of food, shelter, clothing, or other necessities.

Reviewing the totality of the evidence, I find that it is appropriate to waive the Appellant's seven-month tax penalty in its entirety because the Appellant suffered a hardship. See G.L. c. 111M, § 2 and 956 CMR 6.07(8) and 6.08(1)(e).

PENALTY ASSESSED

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

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

NOTIFICATION OF YOUR RIGHT TO APPEAL TO COURT

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

Hearing Officer

cc: Connector Appeals Unit

Massachusetts Health Connector Appeals Unit

FINAL APPEAL DECISION: PA22-1178

Appeal Decision: The tax penalty is overturned.

Hearing Issue: Appeal of the 2022 Tax Year Penalty

Hearing Date: January 11, 2024

Decision Date: January 15, 2024

AUTHORITY

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

JURISDICTION

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

HEARING RECORD

The Appellant was a married person filing separately with no dependents claimed in 2022. The Appellant appeared at the hearing, which was held by telephone on January 11, 2024. The procedures to be followed during the hearing were reviewed with the Appellant, who was then sworn in. Exhibits were marked and admitted into evidence with no objection from the Appellant. The hearing record consists of the Appellant's testimony and the following documents that were admitted into evidence:

Exhibit 1: Appeal Case Information from Schedule HC 2022 (1 page).

Exhibit 2: The Statement of Grounds for Appeal and supporting documentation submitted by the Appellant (9 pages).

Exhibit 3: Health Connector Appeals Unit Notice of Hearing on January 11, 2024 (2 pages).

FINDINGS OF FACT

The record shows, and I so find:

1. The Appellant filed their federal income tax return as a married person filing separately with no dependents claimed. (Exhibit 1).
2. The Appellant turned 30 in July 2022. (Exhibit 1).
3. The Appellant lived in Bristol County in 2022. (Exhibit 1).

4. According to the Appellant's Schedule HC, the Appellant's federal Adjusted Gross Income ("AGI") for 2022 was \$37,031. (Exhibit 1).
5. According to the Appellant's Schedule HC, the Appellant did not have health insurance that met Massachusetts' minimum creditable coverage (MCC) requirements for any month in 2022. The Appellant was assessed a 12-month tax penalty. (Exhibit 1).
6. The Appellant checked off the following box on their Statement of Grounds for Appeal: "During 2022, you were homeless; more than 30 days in arrears in rent or mortgage payments; or received an eviction or foreclosure notice." (Exhibit 2).
7. The Appellant also submitted a note stating that they were homeless from September 23, 2021 to January 13, 2022 and then lived in a friend's garage until July 2022, when they moved into the apartment in which they currently reside. (Exhibit 2).
8. I take administrative notice of the financial information set forth in Tables 1 through 6 in the Department of Revenue ("DOR") 2022 Massachusetts Schedule HC Health Care Instruction and Worksheets. Tables 3 and 4 incorporate affordability and premium schedules adopted by the Board of Directors for the Commonwealth Health Insurance Connector Authority for 2022. Table 2 sets forth income at 300% of the federal poverty level, and Tables 5 and 6 set forth tax penalties in effect for 2022.
9. The Appellant's AGI of \$37,031 was more than 300% of the Federal Poverty Level, which was \$38,640 for one person in 2022. (See Table 2 of Schedule HC-2022 and 956 CMR 12.04).
10. According to Table 3 of Schedule HC for 2022, the Appellant, who filed their federal tax return as a married person filing separately with no dependents and claimed an adjusted gross income of \$37,031, could have afforded to pay \$154 per month for health insurance. The calculation is as follows: Table 3 states that a married person filing separately with no dependents claimed whose 2022 AGI was between \$32,201 and \$38,640 could have spent 5% of their earnings on health insurance; 5% of \$37,031 is \$1,851, and one-twelfth of \$1,851 is \$154.
11. According to Table 4 of Schedule HC for 2022, the least expensive health insurance plan available on the private market to the Appellant, an individual age 29 living in Bristol County in January 2022, cost \$277 per month.
12. The Appellant testified that their spouse, from whom they are about to be divorced, claimed their child as a dependent on their tax returns. The Appellant testified that their child stays with the Appellant on the weekends.
13. The Appellant testified that their employer, which had five or six employees in 2022, did not offer health insurance.

14. The Appellant testified that from January 13, 2022 to July 2022, they lived in a room in a friend's garage that had a sink and bathroom and was the size of a medium-sized living room. The Appellant testified that they moved into an apartment, where they still reside, in July 2022.
15. The Appellant testified that they estimated they had the following basic monthly expenses in 2022: \$750 for rent from January 13, 2022 to July 2022 and \$1840 for rent thereafter; \$200 for utilities from July 2022 to December 2022; \$100 for wifi; \$131 for a cellphone; \$635 for a car payment; \$130 for car insurance; \$100-150 for gas; \$541 for food (based on \$125 per week); \$40 for toiletries and household supplies; and \$100-200 for clothing (the Appellant stated that they work as a painter and that their work clothes get quickly ruined). In addition, the Appellant testified that they paid their spouse \$100 per week in child support and spent a minimum of an additional \$75 per month on their child in 2022.

ANALYSIS AND CONCLUSIONS OF LAW

The case is before me on the Appellant's appeal from the DOR's assessment of a 12-month tax penalty because the Appellant's tax forms indicated that they did not have health insurance that met Massachusetts' minimum creditable coverage ("MCC") standards for any month in 2022. The issue to be decided is whether the tax penalty should be waived in whole or in part.

I begin by summarizing the legal rules underlying this appeal. The tax penalty was enacted by the Massachusetts Legislature to encourage compliance with G.L. c. 111M, § 2, also called the "individual mandate." The mandate requires every adult resident of Massachusetts to obtain health insurance coverage "[s]o long as it is deemed affordable" under the schedule set by the board of directors for the Commonwealth Health Insurance Connector Authority ("Connector"). G.L. c. 111M, § 2(a). Any health insurance policy must also satisfy the Massachusetts MCC standards for a taxpayer to avoid the penalty.

If these requirements are not met, a tax penalty is assessed for each of the months that the individual did not have health insurance as required by the individual mandate. There is, however, a three-month grace period to allow the taxpayer to obtain health insurance coverage or to make the transition between health insurance policies. See G.L. c. 111M, § 2(b) and Administrative Information Bulletin 03-10: Guidance Regarding M.G.L. c. 111M and M.G.L. c. 176Q, as implemented by 956 CMR 6.00 (clarifying that for purposes of penalty calculation, taxpayers will not be subject to penalty if they had lapses in coverage consisting of three or fewer consecutive calendar months). The Connector's regulations also provide for a waiver of the tax penalty in cases of hardship. See 956 CMR 6.07-08.

To determine if the penalty should be waived in whole or in part, there must be a determination as to whether affordable insurance that met MCC standards was available to the Appellant through a government-subsidized program, through employment, or through the private market. If affordable insurance was available, it must be determined whether such insurance was not in fact affordable to the Appellant because the Appellant experienced a hardship as defined in 956 CMR 6.08. Each of these issues is addressed in turn.

First, I conclude that the Appellant could not have obtained affordable health insurance meeting MCC standards through a government-subsidized program because the Appellant filed their taxes as a married person filing separately. Finding of Fact No. 1 and 26 U.S.C. §36B(c)(1)(C).

Second, I conclude that the Appellant did not have access to affordable health insurance meeting MCC standards through employment during because the Appellant credibly testified that their employer, which had five or six employees in 2022, did not offer health insurance. Finding of Fact No. 13.

Third, I conclude that the Appellant did not have access to affordable health insurance meeting MCC standards on the private market. According to Table 3 of the Schedule HC, the Appellant could have afforded to spend \$154 per month on health insurance, and according to Table 4 of the Schedule HC, the least expensive health insurance plan available to the Appellant on the private market would have cost \$277 per month and therefore was not affordable to the Appellant. Findings of Fact Nos. 10 and 11.

Reviewing the totality of the evidence, I find that it is appropriate to waive the Appellant's 12-month tax penalty in its entirety because the Appellant did not have access to affordable health insurance meeting MCC standards through a government-subsidized program, employment, or the private market. See G.L. c. 111M, § 2 and 956 CMR 6.07(8) and 6.08(1)(e).

PENALTY ASSESSED

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

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

NOTIFICATION OF YOUR RIGHT TO APPEAL TO COURT

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

Hearing Officer

cc: Connector Appeals Unit

Massachusetts Health Connector Appeals Unit

FINAL APPEAL DECISION: PA22-1208

Appeal Decision: Appeal Approved.

Hearing Issue: Appeal of the 2022 Tax Year Penalty

Hearing Date: January 19, 2024

Decision Date: January 23, 2024

AUTHORITY

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

JURISDICTION

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

HEARING RECORD

The Appellant appeared at the hearing, which was held by telephone, on January 19, 2024¹. 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 5, 2023.
- Exhibit 2: Appeal Case Information from Schedule HC 2022.
- Exhibit 3: Statement of Grounds for Appeal dated May 11, 2023.
- Exhibit 4: Appellant's letter in support of the appeal.

FINDINGS OF FACT

The record shows, and I so find:

1. The Appellant, age 29 in October, 2022 filed their 2022 Federal Income Tax return as a single person with no dependents claimed (Exhibit 2).
2. The Appellant lived in Berkshire County, MA in 2022 (Exhibit 2).
3. The Appellant's Federal Adjusted Gross Income for 2022 was \$52,716 (Exhibit 2).
4. The Appellant did not have health insurance for any months of tax year 2022 and consequently has been assessed a twelve-month penalty (Exhibit 2).
5. The Appellant filed an appeal of the assessment in May, 2023 (Exhibits 3, 4).

¹ This appeal was heard with case number PA21-2326. Since two separate tax years were appealed, two separate decisions will be issued.

6. I take administrative notice of the financial information set forth in Tables 1 through 6 in the DOR 2022 Massachusetts Schedule HC Health Care Instructions and Worksheets. Tables 3 and 4 incorporate affordability and premium schedules adopted by the Board of Directors for the Commonwealth Health Insurance Connector Authority for 2022. Table 2 sets forth income at 300% of the Federal poverty level and Tables 5 and 6 set forth tax penalties in effect for 2022.
7. In accordance with Table 3 of Schedule HC for 2022, the Appellant filing the Federal tax return as a single person with no dependents claimed, with an annual adjusted gross income of \$52,716 could afford to pay \$351 per month for health insurance. In accordance with Table 4, the Appellant, age 29, living in Berkshire County, could have purchased private insurance for \$295 per month for a plan (Schedule HC for 2022). Private insurance was affordable for the Appellant in tax year 2022.
8. The Appellant was not financially eligible for ConnectorCare coverage in 2022 because the Appellant's income of \$48,620 was greater than 300% of the federal poverty level, which was \$38,640 for a household of one in 2022 (See Table 2 of Schedule HC-2022 and 956 CMR 12.04) (Exhibit 2).
9. The Appellant testified that were employed as a bartender in tax year 2022 and was paid \$10 per hour plus tips. The Appellant said that because of the pandemic their income was very uncertain and some months they earned as little as \$400 per week. The Appellant said that due to their high living expenses and uncertain income they could not afford a monthly health insurance premium (Appellant Testimony).
10. The Appellant's monthly living expenses of \$2,754 Included: rent-\$880; electricity-\$120; heat-\$200; internet-\$80; water-\$20; car insurance \$79; car loan-\$200; gasoline-\$100; clothing-\$125; cleaning supplies and covid tests- \$100; food- \$600 and pet food/care \$150. The Appellant had also noted car maintenance of \$1,200 per year. The Appellant said that in the winter months their gas heating bills were high at the same time as their income was lower and they missed one car payment in order to pay the other bills. I found the Appellant to be credible (Exhibit 4 and Appellant Testimony).
11. The Appellant testified that in tax year 2023 the Appellant was given a salaried position and with certain income they enrolled in a health insurance plan (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 2022 tax return as a single person with no dependents claimed. The Appellant did not have health insurance for any months in tax year 2022 and has been assessed a twelve-month penalty. The Appellant appealed the penalty in May 2023.

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 2022, the Appellant filing the Federal tax return as a single person with no dependents claimed with an adjusted gross income of \$52,716 could afford to pay \$351 per month for health insurance. According to Table 4, the Appellant, age 29, living in Berkshire County, could have purchased a private insurance plan for \$295 month. See Schedule HC for 2022. Private insurance was affordable for the Appellant in tax year 2022.

The Appellant would not have been eligible for ConnectorCare coverage based upon the household's income that was greater than 300% of the federal poverty level which was \$38,640 for their household of one. See Table 2 of Schedule HC 2022 and 956 CMR 12.04 for eligibility criteria. Since affordable insurance was available to the Appellant in 2022, it must be determined whether the Appellant experienced a financial hardship pursuant to 956 CMR 6.08 (1).

The Appellant testified that the adjusted gross income figure does not accurately reflect their financial circumstances for all months of tax year 2022. The Appellant explained that they were employed as a bartender earning \$10 per hour plus tips. The Appellant said that due to the pandemic business was not always good and during the winter months the Appellant made only about \$400 per week. The Appellant said that the cost of gas heat was high at the same time, and they missed a car payment to be able to pay their utilities. The Appellant said that due to the high cost of their living expenses and the uncertainty of their tip income, the Appellant could not afford a health insurance premium payment. The Appellant testified to significant monthly expenses of approximately \$2,754 and indicated that it was difficult to meet these expenses with uncertain fluctuating income.

Under these circumstances the Appellant has demonstrated that purchasing health insurance would have caused the Appellant significant financial hardship in tax year 2022. The Appellant's twelve-month penalty is waived in full. 956 CMR 6.08.

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

PENALTY ASSESSED

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

If the number of months assessed is zero (0) because your penalty has been overturned, the Connector has notified the Department of Revenue that you should NOT be assessed a penalty for Tax Year 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

Massachusetts Health Connector Appeals Unit

FINAL APPEAL DECISION: PA22-1210

Appeal Decision: Appeal Approved.

Hearing Issue: Appeal of the 2022 Tax Year Penalty

Hearing Date: January 19, 2024

Decision Date: January 23, 2024

AUTHORITY

This hearing was conducted pursuant to the Massachusetts General Laws, Chapter 111M, Chapter 176Q, Chapter 30A and 801 CMR 1.02 and the rules and regulations promulgated thereunder.

JURISDICTION

Any person aggrieved by the assessment or potential assessment of the individual mandate penalty may file an appeal, pursuant to the provisions of Mass. General Laws Chapter 111M, Section 4 and 956 CMR 6.07.

HEARING RECORD

The Appellant appeared at the hearing, which was held by telephone, on January 19, 2024. The procedures to be followed during the hearing were reviewed with the Appellant who was then sworn in. Exhibits were marked and admitted into evidence with no objection from the Appellant. The hearing record consists of the Appellant's testimony and the following documents which were admitted into evidence:

- Exhibit 1: Health Connector Appeals Unit Notice of Hearing dated December 5, 2023
- Exhibit 2: Appeal Case Information from Schedule HC 2022.
- Exhibit 3: The Statement of Grounds for Appeal signed by the Appellant on May 1, 2023.
- Exhibit 4: The Appellant's letter in support of the appeal, with attachments.

FINDINGS OF FACT

The record shows, and I so find:

1. The Appellant, age 29 in April 2022 filed their Federal Income Tax return as a single person with no dependents claimed (Exhibit 2).
2. The Appellant lived in Middlesex County, MA in 2022 (Exhibit 2).
3. The Appellant's Federal Adjusted Gross Income for 2022 was \$69,567 (Exhibit 2).
4. The Appellant had health insurance for all of tax year 2022, but the insurance did not meet Massachusetts minimum creditable coverage requirements (MCC) (Exhibits 2, 3, 4 and Appellant Testimony).
5. The Appellant has been assessed a twelve-month tax penalty for 2022. The Appellant filed an appeal of the assessment in May 2023 (Exhibits 2, 3, 4).

6. I take administrative notice of the financial information set forth in Tables 1 through 6 in the DOR 2022 Massachusetts Schedule HC Health Care Instructions and Worksheets. Tables 3 and 4 incorporate affordability and premium schedules adopted by the Board of Directors for the Commonwealth Health Insurance Connector Authority for 2022. Table 2 sets forth income at 300% of the Federal poverty level and Tables 5 and 6 set forth tax penalties in effect for 2022.
7. In accordance with Table 3 of Schedule HC for 2022, the Appellant filing the Federal tax return as a single person with no dependents claimed, with an annual adjusted gross income of \$69,567 could afford to pay \$464 per month for health insurance. In accordance with Table 4, the Appellant age 29, living in Middlesex County, could have purchased private insurance for \$277 per month for a plan (Schedule HC for 2022). Private insurance was affordable for the Appellant in 2022.
8. The Appellant would not have been eligible for ConnectorCare coverage in 2022 because the Appellant's income of \$69,567 was greater than 300% of the federal poverty level, which was \$38,640 for a household of one in 2022 (See Table 2 of Schedule HC-2022 and 956 CMR 12.04).
9. The Appellant testified that they were employed by a Massachusetts employer in tax year 2022 and their employer offered health insurance. The Appellant explained that they paid \$86.00 per week for the more expensive Buy-Up plan offered, believing that this would offer the most comprehensive coverage. The Appellant said that they did not know until they filed their taxes in early 2023 that the plan offered by their employe did not meet Massachusetts MCC coverage. The Appellant said that the insurance met their health care needs. The Appellant's credible testimony is supported by documentation submitted with the Appellant's appeal request including a Summary of Benefits (Exhibit 4 and Appellant Testimony).
10. The Appellant's 2022 monthly living expenses of \$2,900 included: rent, including heat and electricity-\$1,550; telephone-\$150; car lease-\$373; car insurance \$90; gasoline-\$87 and food-\$650. In addition, the Appellant testified that they have credit card payments totaling \$300 monthly as well as their monthly health insurance premiums of \$372 (Appellant Testimony).

ANALYSIS AND CONCLUSIONS OF LAW

The tax penalty was enacted by the Massachusetts Legislature to encourage compliance with G.L c. 111M, § 2, also called the "individual mandate". The mandate requires every adult resident of Massachusetts to obtain insurance coverage "[s]o long as it is deemed affordable" under the schedule set by the board of directors for the Commonwealth Health Insurance Connector Authority. Residents who do not obtain insurance are subject to a tax penalty for each of the months that the individual did not have health insurance as required by the individual mandate. There is a three-month grace period to allow the taxpayer to obtain health insurance coverage or to make the transition between health insurance policies See G.L. C. 111M, sec. 2(b) and for Tax Year 2010, Administrative Bulletin 03-10: Guidance Regarding M.G.L. c. 111M and M.G.L. c.176Q as implemented by 956 CMR 6.00, which interprets the 63-day gap in coverage to be three months. The Connector's regulations provide for a waiver of the tax penalty in the case of financial hardship. See 956 CMR 6.08.

Any health insurance policy must also satisfy the Massachusetts "minimum creditable coverage standards" (MCC) to avoid the tax penalty. Mass. Gen. Laws c. 111M, sec. 2(b). In addition to financial hardship, the Connector may also consider the extent to which insurance obtained deviated from or substantially met minimum creditable coverage standards when determining if a penalty should be waived. See 956 CMR 6.08(2)(d).

The Appellant had health insurance for all of tax year 2022. The Appellant learned when filing their income tax return that the employer sponsored health insurance they purchased did not meet Massachusetts MCC standards. The Appellant has consequently been assessed a twelve-month tax penalty. The Appellant has appealed the assessment.

To determine if the penalty should be waived in whole or in part, there must be an evaluation of whether affordable insurance which met minimum creditable coverage standards was available to the Appellant through employment, through private insurance, or through a government sponsored program. If affordable insurance was available, it must be determined if such insurance was not affordable to the Appellant because the Appellant experienced a financial hardship as defined in 956 CMR 6.08.

In accordance with Table 3 of Schedule HC for 2022, the Appellant filing the Federal tax return as a single person with no dependents claimed with an adjusted gross income of \$69,567 could afford to pay \$464 per month for health insurance. According to Table 4, the Appellant, age 29, living in Middlesex County, could have purchased a private insurance plan for \$277 month. See Schedule HC for 2022. Private insurance was affordable for the Appellant in tax year 2022.

The Appellant would not have been eligible for ConnectorCare coverage based upon the household's income that was greater than 300% of the federal poverty level which was \$38,640 for their household of one. See Table 2 of Schedule HC 2022 and 956 CMR 12.04 for eligibility criteria. Since affordable insurance was available to the Appellant in 2022, it must be determined whether the Appellant experienced a financial hardship pursuant to 956 CMR 6.08 (1).

The Appellant testified credibly that they were employed by a Massachusetts company and enrolled in the health insurance policy provided by their employer. The Appellant explained that the employer offered two options and the Appellant paid \$372 monthly for the "Buy-Up" plan that provided more comprehensive coverage. The Appellant said that did not learn until filing their taxes that it did not meet MCC requirements. The Appellant said that the insurance met their needs for tax year 2022. The health insurance purchased by the Appellant did offer comprehensive benefits, but the \$7,000 annual deductible and coverage limits placed on some services did not meet MCC requirements.

The Appellant paid \$372 monthly for the health coverage that did not meet MCC requirements. Given the Appellant's substantial living expenses, purchasing additional health insurance would have caused the Appellant to experience a significant financial hardship. The Appellant's twelve-month penalty is waived. See 956 CMR 6.08(1)(e).

The Appellant should note that the waiver of their penalty is based upon the facts that I have determined to be true in 2022. The Appellant should not assume that a similar determination will be made for subsequent tax years should they again be assessed a penalty for failure to have health insurance.

PENALTY ASSESSED

Number of Months Appealed: ____12____ Number of Months Assessed: __0____

If the number of months assessed is zero (0) because your penalty has been overturned, the Connector has notified the Department of Revenue that you should NOT be assessed a penalty for Tax Year 2022.

NOTIFICATION OF YOUR RIGHT TO APPEAL TO COURT

If you disagree with this decision, you have the right to appeal to Court in accordance with Chapter 30A of the Massachusetts General Laws. To appeal, you must file a complaint with the Superior Court for the county where you reside, or Suffolk County Superior Court within thirty (30) days of your receipt of this decision.

Cc: Connector Appeals Unit

Massachusetts Health Connector Appeals Unit

FINAL APPEAL DECISION: PA22-1213

Appeal Decision: Appeal Denied.

Hearing Issue: Appeal of the 2022 Tax Year Penalty

Hearing Date: January 19, 2024

Decision Date: January 23, 2024

AUTHORITY

This hearing was conducted pursuant to the Massachusetts General Laws, Chapter 111M, Chapter 176Q, Chapter 30A and 801 CMR 1.02 and the rules and regulations promulgated thereunder.

JURISDICTION

Any person aggrieved by the assessment or potential assessment of the individual mandate penalty may file an appeal, pursuant to the provisions of Mass. General Laws Chapter 111M, Section 4 and 956 CMR 6.07.

HEARING RECORD

The Appellant (Primary Taxpayer) and their Spouse appeared at the hearing, which was held by telephone, on January 19, 2024. The Appellant did not participate in the Hearing. The procedures to be followed during the hearing were reviewed with the Appellants and the Spouse was then sworn in. Exhibits were marked and admitted into evidence with no objection from the Appellants. The hearing record consists of the Spouse's testimony and the following documents which were admitted into evidence:

- Exhibit 1: Health Connector Appeals Unit Notice of Hearing dated December 5, 2023.
- Exhibit 2: Appeal Case Information from Schedule HC 2022.
- Exhibit 3: Statement of Grounds for Appeal, with attachments dated May 9, 2023.

FINDINGS OF FACT

The record shows, and I so find:

1. The Appellant, age 34 in January 2022 and their Spouse age 29 in September 2022 filed their 2022 Federal Income Tax return as a married couple with no dependents claimed (Exhibit 2).
2. The Appellants lived in Worcester County, MA in 2022 (Exhibit 2).
3. The Appellants' Federal Adjusted Gross Income for 2022 was \$99,525 (Exhibit 2).
4. The Appellant Spouse had health insurance in tax year 2022 and has not been assessed a penalty. The Appellant (Primary Taxpayer) did not have health insurance for any months in tax year 2022 (Exhibit 2 and Spouse Testimony).
5. The Appellant has been assessed a twelve-month tax penalty for 2022. The Appellants filed an appeal of the assessment in May 2023 (Exhibits 2, 3).

6. I take administrative notice of the financial information set forth in Tables 1 through 6 in the DOR 2022 Massachusetts Schedule HC Health Care Instructions and Worksheets. Tables 3 and 4 incorporate affordability and premium schedules adopted by the Board of Directors for the Commonwealth Health Insurance Connector Authority for 2022. Table 2 sets forth income at 300% of the Federal poverty level and Tables 5 and 6 set forth tax penalties in effect for 2022.
7. In accordance with Table 3 of Schedule HC for 2022, the Appellants filing the Federal tax return as a married couple with no dependents claimed, with an annual adjusted gross income of \$99,525 could afford to pay \$664 per month for health insurance. In accordance with Table 4, the Appellants with one person age 34, living in Worcester County, could have purchased private insurance for \$580 per month for a plan (Schedule HC for 2022). Private insurance was affordable for the Appellants in 2022.
8. The Appellant would not have been eligible for ConnectorCare coverage in 2022 because the Appellants' income of \$99,525 was greater than 300% of the federal poverty level, which was \$52,260 for a household of two in 2022 (See Table 2 of Schedule HC-2022 and 956 CMR 12.04).
9. The Appellant Spouse testified that they had MassHealth insurance coverage for themselves in tax year 2022. The Spouse explained that in tax year 2022 they were busy dealing with the paperwork needed to obtain the Appellant's green card. The Spouse testified that the Appellant was legally present in Massachusetts in tax year 2022. The Spouse said that they had some significant legal bills. When asked about living expenses, the Spouse testified that they lived in a family-owned apartment and did not fall behind in rent or utility payments. The Spouse said that the issue of health insurance for the Appellant slipped their minds (Spouse Testimony).
10. The Appellants did not offer any evidence or testimony of financial hardship as the reason for failing to have health insurance in tax year 2022 (Exhibit 3 and Spouse Testimony).
11. The Appellant submitted notices from MassHealth dated December 16, 2022 and March 28, 2023 denying the Appellant's applications (Exhibit 4).

ANALYSIS AND CONCLUSIONS OF LAW

The tax penalty was enacted by the Massachusetts Legislature to encourage compliance with G.L.c. 111M, § 2, also called the "individual mandate". The mandate requires every adult resident of Massachusetts to obtain insurance coverage "[s]o long as it is deemed affordable" under the schedule set by the board of directors for the Commonwealth Health Insurance Connector Authority. Residents who do not obtain insurance are subject to a tax penalty for each of the months that the individual did not have health insurance as required by the individual mandate. There is a three-month grace period to allow the taxpayer to obtain health insurance coverage or to make the transition between health insurance policies See G.L. C. 111M, sec. 2(b) and for Tax Year 2010, Administrative Bulletin 03-10: Guidance Regarding M.G.L. c. 111M and M.G.L. c.176Q as implemented by 956 CMR 6.00, which interprets the 63-day gap in coverage to be three months. The Connector's regulations provide for a waiver of the tax penalty in the case of financial hardship. See 956 CMR 6.08.

The Appellant and their Spouse filed their 2022 income tax return as a married couple with no dependents. The Appellant Spouse had health insurance coverage through MassHealth for all of tax year 2022 and is not subject to a tax penalty. The Appellant (Primary Taxpayer) did not have health insurance for any months of tax year 2022 and consequently has been assessed a twelve-month penalty. The Appellants filed an appeal in May 2022 and listed "other" as the basis for the appeal on the Statement of Grounds for Appeal.

To determine if the penalty should be waived in whole or in part, there must be an evaluation of whether affordable insurance which met minimum creditable coverage standards was available to the Appellant through employment, through private insurance, or through a government sponsored program. If affordable insurance was available, it must be determined if such insurance was not affordable to the Appellant because the Appellants experienced a financial hardship as defined in 956 CMR 6.08.

In accordance with Table 3 of Schedule HC for 2022 the Appellants filing the Federal tax return as a married couple with no dependents claimed with an adjusted gross income of \$99,525 could afford to pay \$664 per month for health insurance. According to Table 4, the Appellants with one person age 34, living in Worcester County, could have purchased a private insurance plan for \$580 month. See Schedule HC for 2022. Private insurance was affordable for the Appellants in tax year 2022.

The Appellants would not have been eligible for ConnectorCare coverage based upon the Appellants' income of \$99,525 that was greater than 300% of the federal poverty level which was \$52,260 for their household of two. See Table 2 of Schedule HC 2022 and 956 CMR 12.04 for eligibility criteria. Since affordable insurance was available to the Appellant in 2022, it must be determined whether the Appellants experienced a financial hardship pursuant to 956 CMR 6.08 (1).

The Appellants did not allege financial hardship on their Statement of Grounds for Appeal. At the Hearing the Appellant Spouse testified that they lived in a family-owned dwelling and did not get behind in rent or utility payments in tax year 2022. The Spouse explained that they did incur some legal bills, were busy with the paperwork needed to obtain the Appellant's green card and the issue of health insurance slipped their minds. This is not valid grounds for appeal of the tax penalty. 956 CMR 6.08. The Appellant's twelve-month penalty is upheld. See 956 CMR 6.08.

PENALTY ASSESSED

Number of Months Appealed: 12 Number of Months Assessed: 12

The Connector has notified the Department of Revenue that, pursuant to its decision, you should be assessed a penalty for Tax Year 2022 for the amount equal to one half of the lowest cost health insurance plan available to you for each month you have been assessed the penalty, as listed above, plus applicable interest back to the due date of the return without regard to extension.

NOTIFICATION OF YOUR RIGHT TO APPEAL TO COURT

If you disagree with this decision, you have the right to appeal to Court in accordance with Chapter 30A of the Massachusetts General Laws. To appeal, you must file a complaint with the Superior Court for the county where you reside, or Suffolk County Superior Court within thirty (30) days of your receipt of this decision.

Cc: Connector Appeals Unit

Massachusetts Health Connector Appeals Unit

FINAL APPEAL DECISION: PA22-1217

Appeal Decision: The tax penalty is overturned.

Hearing Issue: Appeal of the 2022 Tax Year Penalty

Hearing Date: January 16, 2024

Decision Date: January 31, 2024

AUTHORITY

This hearing was conducted pursuant to the Massachusetts General Laws, Chapter 111M, Chapter 176Q, Chapter 30A and 801 CMR 1.02 and the rules and regulations promulgated thereunder.

JURISDICTION

Any person aggrieved by the assessment or potential assessment of the individual mandate penalty may file an appeal, pursuant to the provisions of Massachusetts General Laws Chapter 111M, Section 4 and 956 CMR 6.07.

HEARING RECORD

The Appellant was a single person with no dependents in 2022. The Appellant appeared at the hearing, which was held by telephone on January 16, 2024. The procedures to be followed during the hearing were reviewed with the Appellant, who was then sworn in. Exhibits were marked and admitted into evidence with no objection from the Appellant. The record was left open for the Appellant to provide additional evidence, which the Appellant so provided. The hearing record consists of the Appellant's testimony and the following documents that were admitted into evidence:

- Exhibit 1: Appeal Case Information from Schedule HC 2022 (1 page).
- Exhibit 2: The Statement of Grounds for Appeal and supporting documentation (10 pages).
- Exhibit 3: Health Connector Appeals Unit Notice of Hearing on January 16, 2024 (2 pages).
- Exhibit 4: Final Appeal Decision PA 19-830 (3 pages).
- Exhibit 5: Final Appeal Decision PA 18-706 (6 pages).

FINDINGS OF FACT

The record shows, and I so find:

1. The Appellant filed their federal income tax return as a single person with no dependents claimed. (Exhibit 1).
2. The Appellant turned 32 in March 2022. (Exhibit 1).
3. The Appellant lived in Essex County in 2022. (Exhibit 1).

4. According to the Appellant's Schedule HC, the Appellant's federal Adjusted Gross Income ("AGI") for 2022 was \$54,605. (Exhibit 1).
5. According to the Appellant's Schedule HC, the Appellant did not have health insurance that met Massachusetts' minimum creditable coverage (MCC) requirements during any month in 2022. The Appellant was assessed a 12-month tax penalty. (Exhibit 1).
6. The Appellant checked off the following box on their Statement of Grounds for Appeal: "During 2022, the expense of purchasing health insurance would have caused a serious deprivation of food, shelter, clothing, or other necessities." (Exhibit 2).
7. The Appellant wrote by hand on their Statement of Grounds for Appeal that they had the following expenses: \$1650 per month for rent; \$175 per week for child support; \$208 per month for car insurance; \$80 per month for Internet; \$100 per week for food and necessities, and "?" for summer camp. (Exhibit 2). The Appellant also attached a May 1, 2023 document showing that since April 28, 2017, they have owed \$32,283.74 to Discover Bank. (Exhibit 2).
8. I take administrative notice of the financial information set forth in Tables 1 through 6 in the Department of Revenue ("DOR") 2022 Massachusetts Schedule HC Health Care Instruction and Worksheets. Tables 3 and 4 incorporate affordability and premium schedules adopted by the Board of Directors for the Commonwealth Health Insurance Connector Authority for 2022. Table 2 sets forth income at 300% of the federal poverty level, and Tables 5 and 6 set forth tax penalties in effect for 2022.
9. The Appellant's AGI of \$54,605 was more than 300% of the Federal Poverty Level, which was \$51,521 for a single person in 2022. (See Table 2 of Schedule HC-2022 and 956 CMR 12.04).
10. According to Table 3 of Schedule HC for 2022, the Appellant, who filed their federal tax return as a single person with no dependents and claimed an adjusted gross income of \$54,605, could have afforded to pay \$364 per month for health insurance. The calculation is as follows: Table 3 states that a single person with no dependents whose 2022 AGI was \$51,521 and above could have spent 8% of their earnings on health insurance; 8% of \$54,605 is \$4,368, and one-twelfth of \$4,368 is \$364.
11. According to Table 4 of Schedule HC for 2022, the least expensive health insurance plan available on the private market to the Appellant, a single person age 31 living in Essex County in January 2022, cost \$290 per month.
12. The Appellant's tax penalty for 2019 was waived on the grounds that the cost of purchasing health insurance that met minimum creditable coverage standards would have caused the Appellant to experience a significant financial hardship. (Exhibit 4).

13. The Appellant's tax penalty for 2018 was waived on the grounds that the expense of purchasing health insurance that met minimum creditable coverage standards would have caused the Appellant to experience a serious deprivation of food, shelter, clothing, or other necessities. (Exhibit 5).
14. The Appellant testified they were employed throughout 2022 and that their employer, which has four to five employees, did not offer health insurance.
15. The Appellant testified that they work on an hourly basis and that their hours fluctuate between 28 to 40 hours per week.
16. The Appellant testified that a number of factors made health insurance unaffordable to them in 2022, including their child support obligations, increased rent, a new car payment, and car insurance. The Appellant testified that they struggled to pay their bills in 2022.
17. The Appellant testified that they estimated they had the following monthly expenses in 2022: \$1650 for rent; \$160-180 for utilities; \$80 for cable/Internet; \$200 for car payment for a couple of months at the end of the year; \$130 for gas (based on \$30 per week); \$120 for cellphone; \$433 for food (based on \$100 per week); \$200 for household supplies and toiletries; and \$758 in court-ordered child support (based on \$175 per week). These monthly expenses total \$3,751, using the high end of each of the expenses for which the Appellant provided a range. In addition, the Appellant testified that they pay for other child-related expenses, including winter clothing and expenses related to their child's field trips, soccer, and Girl Scout membership. The Appellant also testified that they paid approximately \$450 per month toward credit card debt.

ANALYSIS AND CONCLUSIONS OF LAW

The case is before me on the Appellant's appeal from the DOR's assessment of a twelve-month tax penalty because the Appellant's tax forms indicated that they did not have health insurance that met Massachusetts' minimum creditable coverage ("MCC") standards during any month in 2022. The issue to be decided is whether the tax penalty should be waived in whole or in part.

I begin by summarizing the legal rules underlying this appeal. The tax penalty was enacted by the Massachusetts Legislature to encourage compliance with G.L. c. 111M, § 2, also called the "individual mandate." The mandate requires every adult resident of Massachusetts to obtain health insurance coverage "[s]o long as it is deemed affordable" under the schedule set by the board of directors for the Commonwealth Health Insurance Connector Authority ("Connector"). G.L. c. 111M, § 2(a). Any health insurance policy must also satisfy the Massachusetts MCC standards for a taxpayer to avoid the penalty.

If these requirements are not met, a tax penalty is assessed for each of the months that the individual did not have health insurance as required by the individual mandate. There is, however, a three-month grace period to allow the taxpayer to obtain health insurance coverage or to make the transition between health insurance policies. See G.L. c. 111M, § 2(b) and Administrative Information Bulletin 03-10: Guidance Regarding M.G.L. c. 111M and M.G.L. c. 176Q, as implemented by 956 CMR 6.00 (clarifying

that for purposes of penalty calculation, taxpayers will not be subject to penalty if they had lapses in coverage consisting of three or fewer consecutive calendar months). The Connector’s regulations also provide for a waiver of the tax penalty in cases of hardship. See 956 CMR 6.07-08.

To determine if the penalty should be waived in whole or in part, there must be a determination as to whether affordable insurance that met MCC standards was available to the Appellant through a government-subsidized program, through employment, or through the private market. If affordable insurance was available, it must be determined whether such insurance was not in fact affordable to the Appellant because the Appellant experienced a hardship as defined in 956 CMR 6.08. Each of these issues is addressed below.

First, I conclude that the Appellant did not have access to affordable health insurance meeting MCC standards through a government-subsidized program because the Appellant’s income exceeded 300% of the FPL. Finding of Fact No. 9.

Second, I conclude that the Appellant did not have access to affordable health insurance meeting MCC standards through employment because the Appellant credibly testified that their employer did not offer health insurance. Finding of Fact No. 14.

Third, I find that the Appellant could not have afforded to purchase health insurance on the private market. Table 3 of the Schedule HC indicates that the Appellant could have afforded to spend \$364 per month for health insurance, and according to Table 4, the Appellant could have purchased health insurance meeting MCC standards on the private market for \$290 per month. Findings of Fact Nos. 10 and 11. I find, however, that the Appellant could not actually have afforded to pay for health insurance on the private market. The Appellant testified that their basic monthly expenses, including court-ordered child support, totaled \$3,751 per month. I find that after these and other child-related expenses were deducted from the Appellant’s after-tax income, they would not have had sufficient funds to pay for health insurance on the private market, and that if they had purchased such insurance, they likely would have experienced a serious deprivation of food, shelter, clothing, or other necessities.

Reviewing the totality of the evidence, I find that it is appropriate to waive the Appellant’s twelve-month tax penalty in its entirety. See G.L. c. 111M, § 2 and 956 CMR 6.07(8) and 6.08(1)(e).

PENALTY ASSESSED

Number of Months Appealed: 12 Number of Months Assessed: 0

If the number of months assessed is zero (0) because your penalty has been overturned, the Connector has notified the Department of Revenue that you should NOT be assessed a penalty for Tax Year 2022.

NOTIFICATION OF YOUR RIGHT TO APPEAL TO COURT

If you disagree with this decision, you have the right to appeal to Court in accordance with Chapter 30A of the Massachusetts General Laws. To appeal, you must file a complaint with the Superior Court for the

county where you reside, or Suffolk County Superior Court within thirty (30) days of your receipt of this decision.

Hearing Officer

cc: Connector Appeals Unit

Massachusetts Health Connector Appeals Unit

FINAL APPEAL DECISION: PA22-1277

Appeal Decision: Appeal Approved.

Hearing Issue: Appeal of the 2022 Tax Year Penalty

Hearing Date: January 22, 2024

Decision Date: January 24, 2024

AUTHORITY

This hearing was conducted pursuant to the Massachusetts General Laws, Chapter 111M, Chapter 176Q, Chapter 30A and 801 CMR 1.02 and the rules and regulations promulgated thereunder.

JURISDICTION

Any person aggrieved by the assessment or potential assessment of the individual mandate penalty may file an appeal, pursuant to the provisions of Mass. General Laws Chapter 111M, Section 4 and 956 CMR 6.07.

HEARING RECORD

The Appellant appeared at the hearing, which was held telephonically on January 22, 2024. The procedures to be followed during the hearing were reviewed with the Appellant who was then sworn in. Exhibits were marked and admitted into evidence with no objection from the Appellant. The hearing record consists of the Appellant's testimony and the following documents which were admitted into evidence:

- Exhibit 1: Health Connector Appeals Unit Notice of Hearing dated December 14, 2023.
- Exhibit 2: Appeal Case Information from Schedule HC -2022.
- Exhibit 3: An undated Statement of Grounds for Appeal submitted by the appellant, with an attachment.

FINDINGS OF FACT

The record shows, and I so find:

1. The Appellant, age 24 in April 2022, filed their 2022 Federal Income Tax return as a single person with no dependents claimed (Exhibit 2).
2. The Appellant was a resident of Middlesex County in 2022 (Exhibit 2).
3. According to the information on the Appellant's Schedule HC 2022, the Appellant did not have health insurance that met minimum essential coverage for any months of tax year 2022 (Exhibit 2).
4. The Appellant has been assessed a twelve-month tax penalty. The Appellant filed an appeal of the assessment (Exhibits 2, 3).
5. The Appellant's Federal Adjusted Gross Income for 2022 was \$32,031 (Exhibit 2).

6. The Appellant explained that they were covered under a parent’s employer sponsored health insurance in tax year 2022 and made a mistake not reporting it when they filed their taxes (Exhibit 3 and Appellant Testimony).
7. The Appellant submitted a copy of Form 1095-B with their appeal request verifying that the Appellant had health BlueCross/Blue Shield insurance through a parent for all months in tax year 2022 (Exhibit 3).

ANALYSIS AND CONCLUSIONS OF LAW

The tax penalty was enacted by the Massachusetts Legislature to encourage compliance with G.L c. 111M, § 2, also called the “individual mandate”. The mandate requires every adult resident of Massachusetts to obtain insurance coverage “[s]o long as it is deemed affordable” under the schedule set by the board of directors for the Commonwealth Health Insurance Connector Authority. Residents who do not obtain insurance are subject to a tax penalty for each of the months that the individual did not have health insurance as required by the individual mandate. There is a three-month grace period to allow the taxpayer to obtain health insurance coverage or to make the transition between health insurance policies See G.L. C. 111M, sec. 2(b) and for Tax Year 2010, Administrative Bulletin 03-10: Guidance Regarding M.G.L. c. 111M and M.G.L. c.176Q as implemented by 956 CMR 6.00, which interprets the 63-day gap in coverage to be three months. The Connector’s regulations provide for a waiver of the tax penalty in the case of financial hardship. See 956 CMR 6.08.

The Appellant filed their 2022 income tax return as a single person with no dependents. According to the information in the Appellant’s Schedule HC 2022, the Appellant did not have health insurance in tax year 2022 and consequently was assessed a twelve-month penalty. The Appellant filed an appeal of the penalty.

The Appellant testified that they had health insurance coverage under a plan provided by their parent’s employer. The Appellant’s credible testimony was supported by documentation including the 1095-B 2022 verifying the Appellant’s BlueCross/Blue Shield coverage for all of tax year 2022. The Appellant should not be subject to a tax penalty for tax year 2022.

The Appellant should note that the waiver of their penalty is based upon the facts that I have determined to be true in 2022. The Appellant should not assume that a similar determination will be made for subsequent tax years should they again be assessed a penalty for failure to have health insurance.

PENALTY ASSESSED

Appellant: Number of Months Appealed: 12 Number of Months Assessed: 0

If the number of months assessed is zero (0) because your penalty has been overturned, the Connector has notified the Department of Revenue that you should NOT be assessed a penalty for Tax Year 2022

NOTIFICATION OF YOUR RIGHT TO APPEAL TO COURT

If you disagree with this decision, you have the right to appeal to Court in accordance with Chapter 30A of the Massachusetts General Laws. To appeal, you must file a complaint with the Superior Court for the county where you reside, or Suffolk County Superior Court within thirty (30) days of your receipt of this decision.

Cc: Connector Appeals Unit

Massachusetts Health Connector Appeals Unit

FINAL APPEAL DECISION: PA22-1280

Appeal Decision: Appeal Denied.

Hearing Issue: Appeal of the 2022 Tax Year Penalty

Hearing Date: January 22, 2024

Decision Date: January 24, 2024

AUTHORITY

This hearing was conducted pursuant to the Massachusetts General Laws, Chapter 111M, Chapter 176Q, Chapter 30A and 801 CMR 1.02 and the rules and regulations promulgated thereunder.

JURISDICTION

Any person aggrieved by the assessment or potential assessment of the individual mandate penalty may file an appeal, pursuant to the provisions of Mass. General Laws Chapter 111M, Section 4 and 956 CMR 6.07.

HEARING RECORD

The Appellant (Primary Taxpayer) appeared at the hearing, which was held by telephone, on January 22, 2024. The Appellant Spouse did not attend the Hearing. 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 14, 2023.
- Exhibit 2: Appeal Case Information from Schedule HC 2022.
- Exhibit 3: Statement of Grounds for Appeal dated May 7, 2023.
- Exhibit 4: Appellant letter in support of the appeal.

FINDINGS OF FACT

The record shows, and I so find:

1. The Appellant, age 58 in January 2022 and their Spouse age 55 in November 2022 filed their 2022 Federal Income Tax return as a married couple with no dependents claimed (Exhibit 2).
2. The Appellants lived in Norfolk County, MA in 2022 (Exhibit 2).
3. The Appellants' Federal Adjusted Gross Income for 2022 was \$150,645 (Exhibit 2).
4. The Appellant and their Spouse did not have health insurance for any months in tax year 2022 (Exhibit 2 and Appellant Testimony).
5. The Appellant and their Spouse have each been assessed a twelve-month tax penalty for 2022. The Appellants filed an appeal of the assessment in May 2023 (Exhibits 2, 3, 4).

6. I take administrative notice of the financial information set forth in Tables 1 through 6 in the DOR 2022 Massachusetts Schedule HC Health Care Instructions and Worksheets. Tables 3 and 4 incorporate affordability and premium schedules adopted by the Board of Directors for the Commonwealth Health Insurance Connector Authority for 2022. Table 2 sets forth income at 300% of the Federal poverty level and Tables 5 and 6 set forth tax penalties in effect for 2022.
7. In accordance with Table 3 of Schedule HC for 2022, the Appellants filing the Federal tax return as a married couple with no dependents claimed, with an annual adjusted gross income of \$150,645 could afford to pay \$1,004 per month for health insurance. In accordance with Table 4, the Appellants with one person age 58, living in Norfolk County, could have purchased private insurance for \$869 per month for a plan (Schedule HC for 2022). Private insurance was affordable for the Appellants in 2022.
8. The Appellants would not have been eligible for ConnectorCare coverage in 2022 because the Appellants' income of \$150,645 was greater than 300% of the federal poverty level, which was \$52,260 for a household of two in 2022 (See Table 2 of Schedule HC-2022 and 956 CMR 12.04).
9. The Appellant's checked "other" as the basis for their appeal on the Statement of Grounds for Appeal signed on May 7, 2023 (Exhibit 3).
10. The Appellant stated on their letter that they are from another country and believe in natural medicine and maintaining a healthy lifestyle. The Appellant noted that due to Covid they did not feel comfortable visiting a health care provider in 2022 and did not feel that they should have to pay for health insurance they were not going to use during the pandemic. The Appellant also noted that they were not aware that there was a tax penalty for failing to have health insurance (Exhibit 4).
11. At the Hearing the Appellant testified that they own a restaurant and were uncertain of their income. The Appellant said that they and their Spouse received free vaccines at CVS and did not see doctors in tax year 2022 (Appellant Testimony).
12. When asked, the Appellant said that they got behind on some business bills but were able to pay them off. The Appellant did not offer any other evidence or testimony to verify that they were behind in mortgage/rent or utility payment or incurred a significant increase in expenses due to a family, natural or human caused event resulting in an increase in expenses (Exhibit 4 and Appellant Testimony).

ANALYSIS AND CONCLUSIONS OF LAW

The tax penalty was enacted by the Massachusetts Legislature to encourage compliance with G.L. c. 111M, § 2, also called the "individual mandate". The mandate requires every adult resident of Massachusetts to obtain insurance coverage "[s]o long as it is deemed affordable" under the schedule set by the board of directors for the Commonwealth Health Insurance Connector Authority. Residents who do not obtain insurance are subject to a tax penalty for each of the months that the individual did not have health insurance as required by the individual mandate. There is a three-month grace period to allow the taxpayer to obtain health insurance coverage or to make the transition between health insurance policies See G.L. C. 111M, sec. 2(b) and for Tax Year 2010, Administrative Bulletin 03-10: Guidance Regarding M.G.L. c. 111M and M.G.L. c.176Q as implemented by 956 CMR 6.00, which interprets the 63-day gap in coverage to be three months. The Connector's regulations provide for a waiver of the tax penalty in the case of financial hardship. See 956 CMR 6.08.

The Appellant and their Spouse filed their 2022 income tax return as a married couple with no dependents. The Appellant and their Spouse did not have health insurance for any months of tax year 2022 and consequently each have been assessed a twelve-month penalty. The Appellants filed an appeal in May 2023 and listed “other” as the basis for the appeal on the Statement of Grounds for Appeal.

To determine if the penalty should be waived in whole or in part, there must be an evaluation of whether affordable insurance which met minimum creditable coverage standards was available to the Appellants through employment, through private insurance, or through a government sponsored program. If affordable insurance was available, it must be determined if such insurance was not affordable to the Appellants because the Appellants experienced a financial hardship as defined in 956 CMR 6.08.

In accordance with Table 3 of Schedule HC for 2022 the Appellants filing the Federal tax return as a married couple with no dependents claimed with an adjusted gross income of \$150,645 could afford to pay \$1,004 per month for health insurance. According to Table 4, the Appellants with one person age 58, living in Norfolk County, could have purchased a private insurance plan for \$869 month. See Schedule HC for 2022. Private insurance was affordable for the Appellants in tax year 2022.

The Appellants would not have been eligible for ConnectorCare coverage based upon the Appellants’ income of \$150,645 that was greater than 300% of the federal poverty level which was \$52,260 for their household of two. See Table 2 of Schedule HC 2022 and 956 CMR 12.04 for eligibility criteria. Since affordable insurance was available to the Appellant in 2022, it must be determined whether the Appellants experienced a financial hardship pursuant to 956 CMR 6.08 (1).

The Appellants did not allege financial hardship on their Statement of Grounds for Appeal. The Appellant wrote that they believe in natural medicine, did not wish to see a medical provider during Covid and did not feel that they should have to pay for health insurance they would not use during the pandemic. The Appellant also said that they did not know about the tax penalty for failing to have health insurance. These are not valid grounds for appeal of the tax penalty. Given the Appellants’ income of \$150,645, and the fact that affordable insurance was available to the Appellants on the private market, the Appellants have failed to demonstrate that purchasing health insurance would have caused the Appellants to experience a significant financial hardship. 956 CMR 6.08. The Appellant’s twelve-month penalty is upheld. See 956 CMR 6.08.

PENALTY ASSESSED

Appellant: Number of Months Appealed: 12 Number of Months Assessed: 12

Appellant Spouse: Number of Months Appealed: 12 Number of Months Assessed: 12

The Connector has notified the Department of Revenue that, pursuant to its decision, you should be assessed a penalty for Tax Year 2022 for the amount equal to one half of the lowest cost health insurance plan available to you for each month you have been assessed the penalty, as listed above, plus applicable interest back to the due date of the return without regard to extension.

NOTIFICATION OF YOUR RIGHT TO APPEAL TO COURT

If you disagree with this decision, you have the right to appeal to Court in accordance with Chapter 30A of the Massachusetts General Laws. To appeal, you must file a complaint with the Superior Court for the county where you reside, or Suffolk County Superior Court within thirty (30) days of your receipt of this decision.

Cc: Connector Appeals Unit

Massachusetts Health Connector Appeals Unit

FINAL APPEAL DECISION: PA22-1282

Appeal Decision: Appeal Approved.

Hearing Issue: Appeal of the 2022 Tax Year Penalty

Hearing Date: January 22, 2024

Decision Date: January 24, 2024

AUTHORITY

This hearing was conducted pursuant to the Massachusetts General Laws, Chapter 111M, Chapter 176Q, Chapter 30A and 801 CMR 1.02 and the rules and regulations promulgated thereunder.

JURISDICTION

Any person aggrieved by the assessment or potential assessment of the individual mandate penalty may file an appeal, pursuant to the provisions of Mass. General Laws Chapter 111M, Section 4 and 956 CMR 6.07.

HEARING RECORD

The Appellant appeared at the hearing, which was held by telephone, on January 22, 2024. The procedures to be followed during the hearing were reviewed with the Appellant who was then sworn in. Exhibits were marked and admitted into evidence with no objection from the Appellant. The hearing record consists of the Appellant's testimony and the following documents which were admitted into evidence:

- Exhibit 1: Health Connector Appeals Unit Notice of Hearing dated December 14, 2023.
- Exhibit 2: Appeal Case Information from Schedule HC 2022.
- Exhibit 3: The Statement of Grounds for Appeal dated May 17, 2023
- Exhibit 4: The Appellants' letter in support of the appeal.

FINDINGS OF FACT

The record shows, and I so find:

1. The Appellant, age 25 in November, 2022 filed their Federal Income Tax return as a single person with no dependents claimed (Exhibit 2).
2. The Appellant lived in Bristol County, MA in 2022 (Exhibit 2).
3. The Appellant's Federal Adjusted Gross Income for 2022 was \$40,993 (Exhibit 2).
4. The Appellant did not have health insurance for any months in tax year 2022. The Appellant was assessed a twelve-month tax penalty (Exhibit 2).
5. The Appellant filed an appeal of the assessment in May 2023 (Exhibits 3, 4).
6. I take administrative notice of the financial information set forth in Tables 1 through 6 in the DOR 2022 Massachusetts Schedule HC Health Care Instructions and Worksheets. Tables 3 and 4

incorporate affordability and premium schedules adopted by the Board of Directors for the Commonwealth Health Insurance Connector Authority for 2022. Table 2 sets forth income at 300% of the Federal poverty level and Tables 5 and 6 set forth tax penalties in effect for 2022.

7. In accordance with Table 3 of Schedule HC for 2022, the Appellant, filing the Federal tax return as a single person with no dependent claimed, with an annual adjusted gross income of \$40,993 could afford to pay \$254 per month for health insurance. In accordance with Table 4, the Appellant, age 25, living in Bristol County, could have purchased private insurance for \$277 per month (Schedule HC for 2022). Private insurance was not affordable for the Appellant in 2022.
8. The Appellant was not eligible for ConnectorCare coverage in 2022 because the Appellant's income of \$40,993 was greater than 300% of the federal poverty level, which was \$38,640 for a household of one in 2022 (See Table 2 of Schedule HC-2022 and 956 CMR 12.04) (Appellant Testimony).
9. The Appellant testified that they received health insurance through the Health Connector in tax year 2021 as a member of their parent's household. The Appellant explained that at the end of the year they went to Health Connector's office in a local hospital and were advised that they and their parent should be in separate households. The Appellant indicated that they were told they were all set. The Appellant said that a few months later they went to the doctor and found out that they did not have health insurance. The Appellant said that they could not enroll in their employer's health insurance because they missed open enrollment for tax year 2022. The Appellant did not know if their employer's plan would have been affordable even if they could have enrolled. I found the Appellant to be credible (Exhibit 4 and Appellant Testimony).
10. In tax year 2022 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-2022 (Exhibits 2, 3, 4 and Appellant Testimony).

ANALYSIS AND CONCLUSIONS OF LAW

The tax penalty was enacted by the Massachusetts Legislature to encourage compliance with G.L.c. 111M, § 2, also called the "individual mandate". The mandate requires every adult resident of Massachusetts to obtain insurance coverage "[s]o long as it is deemed affordable" under the schedule set by the board of directors for the Commonwealth Health Insurance Connector Authority. Residents who do not obtain insurance are subject to a tax penalty for each of the months that the individual did not have health insurance as required by the individual mandate. There is a three-month grace period to allow the taxpayer to obtain health insurance coverage or to make the transition between health insurance policies See G.L. C. 111M, sec. 2(b) and for Tax Year 2010, Administrative Bulletin 03-10: Guidance Regarding M.G.L. c. 111M and M.G.L. c.176Q as implemented by 956 CMR 6.00, which interprets the 63-day gap in coverage to be three months. The Connector's regulations provide for a waiver of the tax penalty in the case of financial hardship. See 956 CMR 6.08.

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 2022, the Appellant filing the Federal tax return as a single person with no dependent claimed with an adjusted gross income of \$40,993 could afford to pay \$254 per month for

health insurance. According to Table 4, the Appellant, age 25, living in Bristol County, could have purchased a private insurance plan for \$277 month. See Schedule HC for 2022. Private insurance was not affordable for the Appellant in tax year 2022.

The Appellant testified credibly that they had health insurance under their parent’s ConnectorCare account in tax year 2021. The Appellant explained that they and their parent went to a local Health Connector outlet in their community at the end of tax year 2021 to renew their health insurance for tax year 2022. The Appellant said that they were advised that the Appellant should have their own account. The Appellant believed that they had enrolled for tax year 2022 and found out several months later when they went to the doctor that they did not have health insurance.

The Appellant would not have been eligible for ConnectorCare coverage in 2022 because the Appellant’s income of \$40,993 was greater than 300% of the federal poverty level, which was \$38,640 for a tax household of one in 2022. By the time the Appellant learned that they were no longer eligible for ConnectorCare, they had missed open enrollment for employer sponsored health insurance for tax year 2022.

The Appellant had no affordable health insurance available to them in tax year 2022 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 2022.

The Appellant should note that the waiver of their penalty is based upon the facts that I have determined to be true in 2022. The Appellant should not assume that a similar determination will be made for subsequent tax years should they again be assessed a penalty for the Spouse’s failure to have health insurance.

PENALTY ASSESSED

Number of Months Appealed: 12 Number of Months Assessed: 0

If the number of months assessed is zero (0) because your penalty has been overturned, the Connector has notified the Department of Revenue that you should NOT be assessed a penalty for Tax Year 2022.

NOTIFICATION OF YOUR RIGHT TO APPEAL TO COURT

If you disagree with this decision, you have the right to appeal to Court in accordance with Chapter 30A of the Massachusetts General Laws. To appeal, you must file a complaint with the Superior Court for the county where you reside, or Suffolk County Superior Court within thirty (30) days of your receipt of this decision.

cc: Health Connector Appeals Unit

Massachusetts Health Connector Appeals Unit

FINAL APPEAL DECISION: PA22913

Appeal Decision: Penalty Overturned in Full
Hearing Issue: Appeal of the 2022 Tax Year Penalty
Hearing Date: November 27, 2023
Decision Date: January 5, 2024

AUTHORITY

This hearing was conducted pursuant to the Massachusetts General Laws, Chapter 111M, Chapter 176Q, Chapter 30A and 801 CMR 1.02 and the rules and regulations promulgated thereunder.

JURISDICTION

Any person aggrieved by the assessment or potential assessment of the individual mandate penalty may file an appeal, pursuant to the provisions of Mass. General Laws Chapter 111M, Section 4 and 956 CMR 6.07.

HEARING RECORD

Appellant appeared at the hearing, which was held by telephone on November 27, 2023. Appellant also appeared for Appellant Spouse. The procedures to be followed during the hearing were reviewed with Appellant. Appellant was sworn in. Exhibits were marked and admitted in evidence with no objection from Appellant. Appellant testified. The hearing record consists of the Testimony of Appellant, and the following documents which were admitted in evidence:

- Exhibit 1: Schedule HC for Healthcare from DOR
- Exhibit 2: Notice of Appeal and supporting documents dated March 23, 2023
- Exhibit 3: Correspondence from Health Connector dated October 17, 2023

The record shows, and I so find:

1. Appellant was 39 years old and Appellant Spouse was 31 years old in 2022. Appellants filed a Massachusetts 2022 tax return as married filing jointly with 1 dependent claimed (Exhibit 1).
2. Appellants resided in Middlesex County, MA in 2022 (Exhibit 1).
3. Appellants had an adjusted gross income of \$79,923 for 2022 (Testimony of Appellant and Exhibit 1).
4. Appellants' daughter, born 01/23/2023 was very ill and was admitted to the Medical Surgical Intensive Care Unit on March 27, 2023 and has remained in the hospital for treatment for cancer (Exhibit 2 and Testimony of Appellant).
5. During 2022 Appellants struggled to pay for the basic expenses of living (Testimony of Appellant).
6. During 2022, Appellant did not have affordable health insurance through Appellant's employer (Testimony of Appellant).
7. Appellant Spouse was covered by health insurance in 2022 (Exhibit 1 and Testimony of Appellant).
8. During 2022, Appellants fell behind on utilities and car insurance and struggled to pay other bills (Testimony of Appellant).
9. I take administrative notice of the financial information set forth in Tables 1 through 6 in the DOR 2022 Massachusetts Schedule HC Health Care Instructions and Worksheets. Tables 3 and 4 incorporate affordability and premium schedules adopted by the Board of Directors for the Commonwealth Health Insurance Connector

Authority for 2022. Table 2 sets forth income at 300% of the Federal poverty level and Tables 5 and 6 set forth tax penalties in effect for 2022.

10. According to Table 3 of Schedule HC for 2022 a married couple filing jointly with one dependent, with an adjusted gross income of \$79,923 could afford to pay \$506 per month for private insurance. According to Table 4, Appellants, who were 39 and 31 years old with one dependent and lived in Middlesex County could have purchased private insurance for a cost of \$756 per month.

11. Private insurance was not considered affordable for Appellants in 2022 (Schedule HC for 2022).

12. Appellants, earning more than \$65,880 would not have been income eligible for government subsidized health insurance (Schedule HC for 2022).

13. Appellant has been assessed a penalty for twelve months for 2022 (Exhibit 1).

14. Appellant Spouse has not been assessed a penalty for 2022 (Exhibit 1).

15. Appellants filed an appeal on March 23, 2023 (Exhibit 2).

16. Appellant began coverage under employer sponsored health insurance in 2023 and was covered at the time of the hearing (Testimony of Appellant).

ANALYSIS AND CONCLUSIONS OF LAW

G.L.c. 111M, § 2, also called the “individual mandate,” requires every adult resident of Massachusetts to obtain health insurance that meets minimum creditable coverage standards “[s]o long as it is deemed affordable” under the schedule set by the board of directors for the Commonwealth Health Insurance Connector Authority. Residents who do not obtain insurance or who do not obtain insurance that meets the minimum creditable coverage standard are subject to a tax penalty for “each of the months” that the individual did not have health insurance as required by the individual mandate. There is a three-month grace period to allow the taxpayer to obtain health insurance coverage or to make the transition between health insurance policies. See G. L. c. 111M, sec. 2(b) and for Tax Year 2022, Administrative Bulletin 03-10: Guidance Regarding M.G.L. c. 111M and M.G.L. c. 176Q, as implemented by 956 CMR 6.00, which interprets the 63-day gap in coverage to be three months. The Connector’s regulations provide for a waiver of the tax penalty in the case of financial hardship. See 956 CMR 6.08.

Appellant has been assessed a tax penalty for twelve months. Appellant Spouse has not been assessed a penalty. To determine if the penalty should be waived in whole or in part, we must consider whether affordable insurance was available to Appellant, before we consider whether Appellant suffered a financial hardship. See 956 CMR 6.

Private health insurance was not considered affordable for Appellants in 2022. Appellant was not income eligible for subsidized health insurance in 2022. See Schedule HC for 2022, Exhibits 1, 2 and Testimony of Appellant, which I find to be credible.

I find the penalty assessed against Appellants for 2022 should be waived in its entirety.

PENALTY ASSESSED

Number of Months Appealed: 12/0

Number of Months Assessed: 0/0

The Connector has notified the Department of Revenue that, pursuant to its decision, you should be assessed a penalty for Tax Year 2022 for the amount equal to one half of the lowest cost health insurance plan available to you for each month you have been assessed the penalty, as listed above, plus applicable interest back to the due date of the return without regard to extension.

OR

If the number of months assessed is zero (0) because your penalty has been overturned, the Connector has notified the Department of Revenue that you should NOT be assessed a penalty for Tax Year 2022.

NOTIFICATION OF YOUR RIGHT TO APPEAL TO COURT

If you disagree with this decision, you have the right to appeal to Court in accordance with Chapter 30A of the Massachusetts General Laws. To appeal, you must file a complaint with the Superior Court for the county where you reside, or Suffolk County Superior Court within thirty (30) days of your receipt of this decision.

Massachusetts Health Connector Appeals Unit

FINAL APPEAL DECISION: PA21-1957

Appeal Decision: The tax penalty is overturned.

Hearing Issue: Appeal of the 2021 Tax Year Penalty

Hearing Date: December 6, 2023

Decision Date: December 9, 2023

AUTHORITY

This hearing was conducted pursuant to the Massachusetts General Laws, Chapter 111M, Chapter 176Q, Chapter 30A and 801 CMR 1.02 and the rules and regulations promulgated thereunder.

JURISDICTION

Any person aggrieved by the assessment or potential assessment of the individual mandate penalty may file an appeal, pursuant to the provisions of Massachusetts General Laws Chapter 111M, Section 4 and 956 CMR 6.07.

HEARING RECORD

The Appellant was a single person with no dependents in 2021. The Appellant appeared at the hearing, which was held by telephone on December 6, 2023, and was combined with a hearing on Appellant's appeal of a 2022 tax penalty (PA 22-1008). The procedures to be followed during the hearing were reviewed with the Appellant, who was then sworn in. Exhibits were marked and admitted into evidence with no objection from the Appellant. The hearing record consists of the Appellant's testimony and the following documents that were admitted into evidence:

Exhibit 1: Appeal Case Information from Schedule HC 2021 (1 page).

Exhibit 2: The Statement of Grounds for Appeal submitted by the Appellant (5 pages).

Exhibit 3: Health Connector Appeals Unit Notice of Hearing on December 6, 2023 (2 pages).

FINDINGS OF FACT

The record shows, and I so find:

1. The Appellant filed their federal income tax return as a single person with no dependents claimed. (Exhibit 1).
2. The Appellant turned 50 in April 2021. (Exhibit 1).
3. The Appellant lived in Suffolk County in 2021. (Exhibit 1).

4. According to the Appellant's Schedule HC, the Appellant's federal Adjusted Gross Income ("AGI") for 2021 was \$30,520. (Exhibit 1).
5. According to the Appellant's Schedule HC, the Appellant did not have health insurance that met Massachusetts' minimum creditable coverage (MCC) requirements for any month in 2021. The Appellant was assessed a 12-month tax penalty for 2021. (Exhibit 1).
6. The Appellant checked off the following box on their Statement of Grounds for Appeal: "During 2021, the expenses of purchasing health insurance would have caused a serious deprivation of food, shelter, clothing or other necessities." (Exhibit 2).
7. I take administrative notice of the financial information set forth in Tables 1 through 6 in the Department of Revenue ("DOR") 2021 Massachusetts Schedule HC Health Care Instruction and Worksheets. Tables 3 and 4 incorporate affordability and premium schedules adopted by the Board of Directors for the Commonwealth Health Insurance Connector Authority for 2021. Table 2 sets forth income at 300% of the federal poverty level, and Tables 5 and 6 set forth tax penalties in effect for 2021.
8. The Appellant's AGI of \$30,520 was less than 300% of the Federal Poverty Level, which was \$38,280 for a single person in 2021. (See Table 2 of Schedule HC-2021 and 956 CMR 12.04).
9. According to Table 3 of Schedule HC for 2021, the Appellant, who filed their federal tax return as a single person with no dependents and claimed an adjusted gross income of \$30,520, could have afforded to pay \$106 per month for health insurance. The calculation is as follows: Table 3 states that a single person with no dependents whose 2021 AGI was between \$25,521 and \$31,900 could have spent 4.2% of their earnings on health insurance; 4.2% of \$30,520 is \$1,281, and one-twelfth of \$1,281 is \$106.
10. According to Table 4 of Schedule HC for 2021, the least expensive health insurance plan available on the private market to the Appellant, a single person age 49 living in Suffolk County in January 2021, cost \$336 per month.
11. The Appellant testified that they were terminated from a job in November 2020 and that they had a series of short-term jobs in 2021, including working for a distribution company, a coffee shop, a car dealership, and a temp agency.
12. The Appellant testified that they did not work at the distribution company and coffee shop long enough to be eligible for health insurance.
13. The Appellant testified that they did not enroll in health insurance at the car dealership because they could not afford to do so because they were only making \$15 per hour, and their hours fluctuated, ranging from 30 to 45 hours per week. The Appellant testified that they could not remember how much health insurance would have cost at the car dealership, but that it might have cost around \$180 per week.

14. The Appellant testified that the temp agency offered health insurance, but that they could not afford it. The Appellant testified that they did not remember how much health insurance would have cost at the temp agency.
15. The Appellant testified that they tried to apply for insurance on-line through the state, but that they had problems with the application and gave up.
16. The Appellant testified that they estimated they had the following monthly expenses in 2021: \$1200 for rent and utilities; \$54 for Internet; \$392 for a car loan; \$238 for car insurance; \$14 for renters' insurance; \$120 for gas; \$53 for cellphone; \$346 for food (based on \$60-\$100 per week); and \$50 for household supplies and toiletries. These expenses total \$2,467 per month or \$29,604 per year.

ANALYSIS AND CONCLUSIONS OF LAW

The case is before me on the Appellant's appeal from the DOR's assessment of a twelve-month tax penalty because the Appellant's tax forms indicated that they did not have health insurance that met Massachusetts' minimum creditable coverage ("MCC") standards for any month in 2021. The issue to be decided is whether the tax penalty should be waived in whole or in part.

I begin by summarizing the legal rules underlying this appeal. The tax penalty was enacted by the Massachusetts Legislature to encourage compliance with G.L. c. 111M, § 2, also called the "individual mandate." The mandate requires every adult resident of Massachusetts to obtain health insurance coverage "[s]o long as it is deemed affordable" under the schedule set by the board of directors for the Commonwealth Health Insurance Connector Authority ("Connector"). G.L. c. 111M, § 2(a). Any health insurance policy must also satisfy the Massachusetts MCC standards for a taxpayer to avoid the penalty.

If these requirements are not met, a tax penalty is assessed for each of the months that the individual did not have health insurance as required by the individual mandate. There is, however, a three-month grace period to allow the taxpayer to obtain health insurance coverage or to make the transition between health insurance policies. See G.L. c. 111M, § 2(b) and Administrative Information Bulletin 03-10: Guidance Regarding M.G.L. c. 111M and M.G.L. c. 176Q, as implemented by 956 CMR 6.00 (clarifying that for purposes of penalty calculation, taxpayers will not be subject to penalty if they had lapses in coverage consisting of three or fewer consecutive calendar months). The Connector's regulations also provide for a waiver of the tax penalty in cases of hardship. See 956 CMR 6.07-08.

To determine if the penalty should be waived in whole or in part, there must be a determination as to whether affordable insurance that met MCC standards was available to the Appellant through the private market, through employment, or through a government-subsidized program. If affordable insurance was available, it must be determined whether such insurance was not in fact affordable to the Appellant because the Appellant experienced a hardship as defined in 956 CMR 6.08. Each of these issues is addressed in turn.

First, I conclude that the Appellant could not have obtained affordable health insurance meeting MCC requirements through the private market. According to Table 3 of the Schedule HC, the Appellant could have afforded to pay \$106 per month for insurance, but according to Table 4 of the Schedule HC, the least expensive plan available to the Appellant cost \$336 per month and therefore was not affordable for them. Findings of Fact Nos. 9 and 10.

Second, I conclude that the Appellant did not have access to affordable health insurance through employment. The Appellant credibly testified that they were not eligible to enroll in health insurance at the distribution center and coffee shop because they had not worked for those employers long enough. Finding of Fact No. 12. The Appellant testified that they could not afford to enroll in health insurance at the car dealership or the temp agency, but the Appellant testified that they could not remember how much insurance through those employers would have cost. Findings of Fact Nos. 13 and 14. I find that although there is no definitive information about the cost of such insurance in the record, the Appellant could not have afforded such insurance because they suffered a hardship. The Appellant credibly testified as to the amount of their basic monthly expenses, which totaled \$29,604 for the year. Finding of Fact No. 16. The Appellant's AGI was \$30,520, which leaves little to no room for additional expenses. I therefore conclude that had the Appellant enrolled in employer-sponsored health insurance, they likely would have experienced a serious deprivation of food, shelter, clothing, or other necessities. 956 CMR 6.08(1)(e).

Third, I find that the Appellant theoretically had access to affordable health insurance meeting MCC requirements through a government-subsidized program because the Appellant's AGI was less than 300% of the federal poverty level. Finding of Fact No. 8. However, I find that the Appellant did not have actual access to this insurance because, for the reasons stated above, the Appellant could not afford any additional expenses, including government-subsidized insurance. I conclude that had the Appellant enrolled in such insurance, they likely would have experienced a serious deprivation of food, shelter, clothing, or other necessities. 956 CMR 6.08(1)(e).

Reviewing the totality of the evidence, I find that it is appropriate to waive the Appellant's twelve-month tax penalty in its entirety. See G.L. c. 111M, § 2 and 956 CMR 6.07(8) and 6.08(1)(e).

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