

Massachusetts Health Connector Appeals Unit

FINAL APPEAL DECISION: PA171

Appeal Decision Appeal Approved

Hearing Issue: Appeal of the 2017 Tax Year Penalty

Hearing Date: July 10, 2018

Decision Date: July 19, 2018

AUTHORITY

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

JURISDICTION

Any person aggrieved by the assessment or potential assessment of the individual 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 July 10, 2018.

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 (6-11-18) (4 pages);
- Exhibit 2: Information from Schedule HC TY 2017 (1 page); and
- Exhibit 3: Statement of Grounds for Appeal (5-9-18) (1 page).

FINDINGS OF FACT

The record shows, and I so find:

1. Appellant, age 60 during 2017, was from Bristol County.
2. Appellant did not have health insurance during 2017.
3. Appellant had previously had health insurance through an employer but was laid off and hired back without health insurance.
4. Appellant obtained health insurance through Mass Health in December 2017, and still has it.
5. Appellant could not afford health insurance based upon the tables in Schedule HC.
6. Appellant's expenses for food, shelter, clothing and transportation used a substantial portion of his income.

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 submitted a statement of grounds for this appeal, claiming that the individual mandate penalty did not apply because paying for health insurance would have caused a serious deprivation of food, shelter, clothing and other necessities. Appellant could not afford health insurance based on the tables in Schedule HC. Appellant’s expenses for food, shelter, clothing and transportation used a substantial portion of his income. Paying for health insurance would have caused a serious deprivation of food, shelter, clothing and other necessities. Appellant now has health insurance through Mass Health.

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 2017.

NOTIFICATION OF YOUR RIGHT TO APPEAL TO COURT

If you disagree with this decision, you have the right to appeal to Court in accordance with Chapter 30A of the Massachusetts General Laws. To appeal, you must file a complaint with 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: PA17-12

Appeal Decision: Appeal Approved -- 2017 tax penalty overturned.

Hearing Issue: Appeal of the 2017 Tax Year Penalty

Hearing Date: July 10, 2018

Decision Date: July 20, 2018

AUTHORITY

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

JURISDICTION

Any person aggrieved by the assessment or potential assessment of the individual 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 – 2016;
3. Appellant's Letter in Support of Appeal (1 page, dated 5/8/18);
4. Appellant's Termination Letter from Employer (1 page, dated 3/1/18); and
5. Health Connector's Notice of Hearing (4 pages, dated 6/12/18);

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 2017. The basis for the penalty was that the Appellant was insured for the months of January – March, was not insured April – September (6 months), and was insured again October – December in 2017. Exhibits 1 and 2. (The penalty calculation is 12 months minus 6 months insured = 6 months uninsured minus 3-month administrative grace period = 3 penalty months.)
2. The Appellant filed a Massachusetts personal income tax return for 2017 as a single person with no dependents. The Appellant's federal adjusted gross income (AGI) for 2017 was \$20,170.

Exhibit 1. The Appellant's AGI reflected two 3-month periods when he was employed and six-month period when he was not employed and had no income. Testimony.

3. The Appellant was 27 years old at the beginning of 2017 and resided in [name of city or town omitted] in Middlesex County, Massachusetts. Exhibit 1.
4. For the months of January through February 2017 the Appellant was employed and had health insurance coverage through his employer's Blue Cross Blue Shield policy. Testimony and Exhibits 1, 3 and 4.
5. The Appellant was laid off on March 1, 2017, resulting in the immediate loss of his health insurance coverage. He received a two week severance payment from this job where his annual salary had been \$48,000. Exhibit 4. See also Exhibit 3 and Testimony.
6. The Appellant moved back into his parents' home and used his savings to cover expenses during the period of his layoff. His expenses included a \$25,000 balance for student loans, for which he continued to pay \$200 - \$400 per month in 2017 based on his ability to make payment. Testimony and Exhibit 3.
7. The Appellant was employed again in September 2017 and enrolled in the health plan offered by his employer for the months of October – December 2017. Testimony and Exhibit 1.
8. The Appellant's 2017 AGI (\$20,170) was less than 300% of the federal poverty level (\$35,640 for a one person household). DOR Table 2.
9. Based on DOR Table 3 the Appellant could afford to pay \$49 per month for health insurance coverage in 2017. (The calculation is 2.90% multiplied by \$20,170 AGI = \$584.93 per year divided by 12 months = \$48.74 per month.)
10. Based on DOR Table 4 (Region 2) the Appellant could obtain individual health insurance coverage at his age and location for \$150 per month in 2017.
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 2017 Massachusetts income tax return.
12. I take administrative notice of the financial information set forth in Tables 1 through 6 of the DOR 2017 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 2017. 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 2017. (The DOR instructions are published online at <http://www.mass.gov/dor/2016ScheduleHCInstructions> 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 2017.)

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 tax penalty because the Appellant did not have health insurance coverage for part of 2017. 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 – 2016 that the Appellant signed and filed in this case. See Exhibit 2.

The evidence in this case shows that the Appellant was insured during the two periods in 2017 when he was employed. The Appellant was employed and insured through his job during the months of January – February when he lost his health insurance coverage because he was laid off from his job. He obtained a new job in September and was enrolled in health insurance coverage for the months of October – December 2017. See, e.g., Exhibit 1.

The penalty assessed by DOR is based on the six-month period when the Appellant was uninsured while he was between jobs. See, e.g., Exhibit 1. During this period the Appellant had no income and moved back into his parents' home to cover living expenses that he was paying out of his savings. His expenses included a \$25,000 student loan balance for which he continued to make

payments. The objective standards set forth in DOR Tables 3 and 4, above, reinforce the conclusion that the Appellant was not able to afford health insurance coverage during his period of unemployment.

After considering all the circumstances, I conclude that it is appropriate to waive the entire penalty assessed against the Appellant for 2017. See, e.g., 956 Code Mass. Regs. 6.08 (3)

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 2016 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 2017.

NOTIFICATION OF YOUR RIGHT TO APPEAL TO COURT

If you disagree with this decision, you have the right to appeal to Court in accordance with Chapter 30A of the Massachusetts General Laws. To appeal, you must file a complaint with 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: PA17-16

Appeal Decision: Appeal Denied

Hearing Issue: Appeal of the 2017 Tax Year Penalty

Hearing Date: July 12, 2018

Decision Date: July 30, 2018

AUTHORITY

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

JURISDICTION

Any person aggrieved by the assessment or potential assessment of the individual 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 July 12, 2018. The Appellant offered testimony under oath or affirmation. At the end of the hearing, the record was closed.

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

- Exhibit 1: Appeal Case Information from 2017 Schedule HC
- Exhibit 2: 5/9/18 Appeal (7 pages)
- Exhibit 3: 6/12/18 Hearing Notice (4 pages)

FINDINGS OF FACT

The record shows, and I so find:

1. The Appellant appealed from the assessment of a three-month penalty on his 2017 state income tax return. (Exhibit 1)
2. The Appellant's filing status in 2016 was Single with no dependents. The Appellant's federal AGI in 2017 was \$50,794. The Appellant resided in Essex County in 2017. The Appellant turned twenty-eight years old in 2017. (Exhibit 1)
3. On May 9, 2018, the Appellant appealed his three-month penalty, checking off on the appeal form that the expense of purchasing health insurance in 2017 would have caused a serious deprivation of food, shelter, clothing or other necessities. (Exhibit 2)
4. The Appellant worked for the same employer throughout 2017. The Appellant's employer offered health insurance to employees at a weekly premium cost of \$80 for individual coverage. This premium was equal to \$346 monthly. . (Appellant's testimony)
5. At the start of 2017, the Appellant was in debt a total of \$24,000, as follows: \$10,000 in student loans; \$8,000 in credit card debt; and, \$6,000 for his car loan. (Appellant's testimony)

6. According to Table 2 of the Schedule HC 2017, the Appellant was not eligible for government-subsidized insurance in 2017, since his AGI for 2017 exceeded \$35,640 for a family one.
7. According to Table 3, Affordability, of the Schedule HC 2017, the Appellant could have afforded to pay up to 8.16% of his income in 2017 for health insurance coverage. Based on his AGI and Single with no dependents tax filing status, the Appellant could have afforded to pay a monthly premium of up to \$345 for health insurance coverage in 2017.
8. According to Table 4, Premiums, of the Schedule HC 2017, the Appellant could have purchased health insurance in the private market in 2017 at a monthly premium cost of \$150, based on his age and county residence in 2017.
9. The Appellant had health insurance through the Health Connector during the first six months of 2017, at a monthly cost of \$223. (Appellant's testimony)
10. In June 2017, the Appellant decided to cancel his health insurance coverage, because he considered the individual mandate ridiculous and he preferred to use the money he saved to pay off some of his debt and to pay the tax penalty. (Appellant's testimony)
11. The Appellant succeeded in paying off his car loan after June 2017. (Appellant's testimony)
12. To date, the Appellant continues to go without health insurance coverage. (Appellant's testimony)

ANALYSIS AND CONCLUSIONS OF LAW

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

In this case, the Appellant had health insurance coverage through his employer during the first six months of 2017, when the Appellant canceled the coverage. According to M.G.L. c. 111M, s. 2, residents are permitted a 63-day gap between periods of coverage without facing a penalty. For Tax Year 2017, 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. Thus, the appellant had a three-month grace period through September 2017 to obtain new insurance coverage.

The Appellant offered no evidence to support the conclusion that he could not have afforded health insurance coverage after June 2017. To the contrary, while the Appellant could not have afforded the \$346/monthly coverage offered by his employer in 2017, the Appellant was able to obtain through the Health Connector for the first six months of 2017 for \$223/monthly that was well below the \$345/monthly that he could have afforded to pay, based on his income. Moreover, if he had checked the private market for coverage, the Appellant would have found health insurance coverage available to him for \$150/monthly, based on his age and county of residence. Instead, the Appellant decided to cancel the health coverage he had at the end of June 2017, do without health insurance coverage for the indefinite future, use his savings for other purposes, and pay any tax penalty that resulted from not maintaining health insurance coverage.

As affordable health insurance coverage was available to the Appellant in 2017 and he did not maintain any coverage during the last six months of 2017, I conclude that the Appellant failed to meet the requirements of the individual mandate in 2017, under MGL Chapter 11M, Section 2.

Accordingly, the Appellant's three-month penalty for 2017 shall not be waived or reduced.

PENALTY ASSESSED

Number of Months Appealed: ___3___ 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 2017 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 2017.

NOTIFICATION OF YOUR RIGHT TO APPEAL TO COURT

If you disagree with this decision, you have the right to appeal to Court in accordance with Chapter 30A of the Massachusetts General Laws. To appeal, you must file a complaint with 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: PA17-17

Appeal Decision: Appeal Granted

Hearing Issue: Appeal of the 2017 Tax Year Penalty

Hearing Date: July 12, 2018

Decision Date: July 30, 2018

AUTHORITY

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

JURISDICTION

Any person aggrieved by the assessment or potential assessment of the individual 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 July 12, 2018. The Appellant offered testimony under oath or affirmation. At the end of the hearing, the record was left open until August 13, 2018, for the Appellant to submit additional evidence. On July 19 and July 23, 2018, the Appellant submitted additional evidence, and the record was closed on July 23, 2018.

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

- Exhibit 1: Appeal Case Information from 2017 Schedule HC
- Exhibit 2: 5/9/18 Appeal (6 pages)
- Exhibit 3: 6/12/18 Hearing Notice (4 pages)
- Exhibit 4: 2017 Form 1095-B
- Exhibit 5: 2017 Form MA 1099-HC

FINDINGS OF FACT

The record shows, and I so find:

1. The Appellant appealed from the assessment of an eight-month penalty on her 2017 state income tax return. (Exhibit 1)
2. The Appellant's filing status in 2017 was Single with no dependents. The Appellant's federal AGI in 2015 was \$28,226. The Appellant resided in Suffolk County in 2017. The Appellant turned twenty-four years old in 2017. (Exhibit 1)
3. On May 9, 2018, the Appellant appealed her eight-month penalty, stating that she had health insurance coverage during all of 2017 through her mother's coverage. (Exhibit 2)
4. The Appellant had full-year minimum creditable coverage in 2017 through her mother's health insurance coverage, as a dependent. (Exhibit 5; Exhibit 4)

ANALYSIS AND CONCLUSIONS OF LAW

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

In this case, because the Appellant was under twenty-six years old throughout 2017, she continued to qualify for health insurance coverage through a parent’s policy. The Appellant established through credible documentary evidence that she had health insurance coverage throughout 2017, through her mother’s insurance coverage.

Accordingly, the Appellant’s eight-month penalty for 2017 shall be waived entirely.

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 2017 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 2017.

NOTIFICATION OF YOUR RIGHT TO APPEAL TO COURT

If you disagree with this decision, you have the right to appeal to Court in accordance with Chapter 30A of the Massachusetts General Laws. To appeal, you must file a complaint with 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: PA17-18

Appeal Decision: Appeal Granted

Hearing Issue: Appeal of the 2017 Tax Year Penalty

Hearing Date: July 12, 2018

Decision Date: July 31, 2018

AUTHORITY

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

JURISDICTION

Any person aggrieved by the assessment or potential assessment of the individual 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 July 12, 2018. The Appellant offered testimony under oath or affirmation. At the end of the hearing, the record was closed.

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

- Exhibit 1: Appeal Case Information from 2017 Schedule HC
- Exhibit 2: 5/9/18 Appeal with German insurance policy and benefit sheet in English (12 pages)
- Exhibit 3: 6/12/18 Hearing Notice (4 pages)

FINDINGS OF FACT

The record shows, and I so find:

1. The Appellant appealed from the assessment of a three-month penalty on his 2017 state income tax return. (Exhibit 1)
2. The Appellant's filing status in 2017 was Married Filing Separate with one dependent. The Appellant's federal AGI in 2017 was \$52,174. The Appellant resided in Suffolk County in 2017. The Appellant turned thirty-five years old in 2017. (Exhibit 1)
3. On May 9, 2018, the Appellant appealed his three-month penalty, stating that he had health insurance coverage that met MCC standards during all of 2017, through a foreign insurance carrier. (Exhibit 2)
4. The Appellant is a German national. He was present in Massachusetts in 2017 doing a research fellowship and holding a J-1 visa. He will return to Germany later this year. (Appellant's testimony; Exhibit 2)
5. From May 15, 2016, through May 15, 2018, the Appellant was covered by health insurance through a German carrier. The coverage is designed for Germans travelling abroad to study, like the Appellant. The coverage is very generous and exceeds MCC standards. (Appellant's testimony; Exhibit 2)

6. The Appellant's daughter was born on July 19, 2017. The Appellant purchased additional health insurance for his daughter and himself for July 2017 through December 2017. (Appellant's testimony)

ANALYSIS AND CONCLUSIONS OF LAW

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

In this case, in addition to the health insurance coverage that the Appellant purchased in anticipation of his daughter's birth in July 2017, the Appellant had other health insurance coverage that met MCC standards through a foreign carrier for two years, including all of 2017. Therefore, I conclude that the Appellant met the requirements of M.G.L c. 111M, § 2, during all twelve months of 2017.

Accordingly, the Appellant's three-month penalty for 2017 shall be waived entirely.

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 2017 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 2017.

NOTIFICATION OF YOUR RIGHT TO APPEAL TO COURT

If you disagree with this decision, you have the right to appeal to Court in accordance with Chapter 30A of the Massachusetts General Laws. To appeal, you must file a complaint with 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: PA17-19

Appeal Decision: Appeal Denied

Hearing Issue: Appeal of the 2017 Tax Year Penalty

Hearing Date: July 12, 2018

Decision Date: July 31, 2018

AUTHORITY

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

JURISDICTION

Any person aggrieved by the assessment or potential assessment of the individual 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 July 12, 2018. The Appellant offered testimony under oath or affirmation. At the end of the hearing, the record was closed.

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

- Exhibit 1: Appeal Case Information from 2017 Schedule HC
- Exhibit 2: 5/4/18 Appeal (13 pages)
- Exhibit 3: 6/12/18 Hearing Notice (4 pages)

FINDINGS OF FACT

The record shows, and I so find:

1. The Appellant appealed from the assessment of a two-month penalty on his 2017 state income tax return. (Exhibit 1)
2. The Appellant's filing status in 2016 was Single with no dependents. The Appellant's federal AGI in 2017 was \$47,057. The Appellant resided in Norfolk County in 2017. The Appellant turned twenty-five years old in 2017. (Exhibit 1)
3. On May 4, 2018, the Appellant appealed his two-month penalty, checking off on the appeal form that the expense of purchasing health insurance in 2017 would have caused a serious deprivation of food, shelter, clothing or other necessities. (Exhibit 2)
4. The Appellant had health insurance coverage through his employer in 2017, until the end of July, when he lost his job. The Appellant was unemployed for the remainder of 2017. (Appellant's testimony)
5. According to Table 2 of the Schedule HC 2017, the Appellant was not eligible for government-subsidized insurance in 2017, since his AGI for 2017 exceeded \$35,640 for a family one.

6. According to Table 3, Affordability, of the Schedule HC 2017, the Appellant could have afforded to pay up to 7.6% of his income in 2017 for health insurance coverage. Based on his 2017 AGI and Single with no dependents tax filing status, the Appellant could have afforded to pay a monthly premium of up to \$298 for health insurance coverage in 2017.
7. According to Table 4, Premiums, of the Schedule HC 2017, the Appellant could have purchased health insurance in the private market in 2017 at a monthly premium cost of \$150, based on his age and county residence in 2017.
8. In July 2017, after learning that he was losing his job, the Appellant called MassHealth and learned that he could get health insurance coverage for \$100 monthly. The Appellant could have afforded to pay \$100 monthly for insurance. He chose instead to pay \$120 monthly for his fiancée's car insurance. (Appellant's testimony)
9. The Appellant is still unemployed. He has had health insurance coverage since January 28, 2018, at no cost to him. (Appellant's testimony)

ANALYSIS AND CONCLUSIONS OF LAW

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

In this case, the Appellant had health insurance coverage through his employer during the first seven months of 2017, until he lost his job in July. According to M.G.L. c. 111M, s. 2, residents are permitted a 63-day gap between periods of coverage without facing a penalty. For Tax Year 2017, 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. Thus, the appellant had a three-month grace period through October 2017 to obtain new insurance coverage.

The Appellant offered no evidence to support the conclusion that he could not have afforded health insurance coverage for the last two months of 2017. To the contrary, the Appellant acknowledged that he could have afforded to pay \$100 monthly for the insurance coverage offered to him, but chose instead to use pay his fiancée's monthly car insurance payment.

As affordable health insurance coverage was available to the Appellant in 2017 and he did not maintain any coverage during the last two months of 2017, I conclude that the Appellant failed to meet the requirements of the individual mandate in 2017, under MGL Chapter 11M, Section 2.

Accordingly, the Appellant's two-month penalty for 2017 shall not be waived or reduced.

PENALTY ASSESSED

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

The Connector has notified the Department of Revenue that, pursuant to its decision, you should be assessed a penalty for Tax Year 2017 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 2017.

NOTIFICATION OF YOUR RIGHT TO APPEAL TO COURT

If you disagree with this decision, you have the right to appeal to Court in accordance with Chapter 30A of the Massachusetts General Laws. To appeal, you must file a complaint with 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: PA17-20

Appeal Decision Appeal Approved

Hearing Issue: Appeal of the 2017 Tax Year Penalty

Hearing Date: July 17, 2018

Decision Date: July 21, 2018

AUTHORITY

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

JURISDICTION

Any person aggrieved by the assessment or potential assessment of the individual 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 July 17, 2018.

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

- Exhibit 1: Notice of Hearing dated June 27, 2018
- Exhibit 2: Appeal Case Information from form Schedule HC
- Exhibit 3: Statement of Grounds for Appeal dated May 7, 2018
- Exhibit 4: Written statement of appeal

FINDINGS OF FACT

The record shows, and I so find:

1. The appellant is fifty years old and is single. She lives in Suffolk County, Massachusetts.

2. Appellant works in customer services.
3. Appellant was in the process of getting divorced in 2017. Her husband lost his job and he was the person carrying the health insurance. The divorce was contentious and took far longer than was expected. Once the divorce was finalized the Appellant applied for health insurance.
4. Appellant has health insurance in 2018.
5. The Appellant's monthly expenses totaled \$2,664.00, consisting of Mortgage \$1,347.00, HOA \$250.00, light, \$100.00, cable \$241.00, oil \$150.00, all for two months, rent \$500.00, cell phone \$50.00, car payment \$200.00 car insurance \$130.00, car gas \$120.00, food \$400.00, toiletries \$100.00, clothes \$200.00, entertainment \$200.00, .
6. The appellant did submit a Statement of Grounds for Appeal-2017 under the grounds for Appeal, "Other. During 2017 other circumstances such as: applying the Affordability Tables in Schedule HC to you is inequitable (for example, because of family size).
7. I take administrative notice of the information set forth in tables 1 through 6 in the Department of Revenue Schedule HC Health Care Instructions and Worksheets (Schedule HC Instructions). Tables 3 & 4 incorporate the affordability schedules adopted by the board of directors of the Commonwealth Health Insurance Connector Authority for 2017. 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 2017.
8. Based on the appellant's federal adjusted gross income and the above referenced tables, I find the appellant would not have been eligible for subsidized health insurance, since Appellant's income of \$67,935.00 was more than \$35,640.00. The monthly premium for health insurance available on the private market in Suffolk County for a 49 year old single person with zero dependents was \$313.00. The tables reflect that Appellant could afford \$461.95. This is less than what the appellant is deemed to afford. (Tables 2, 3 & 4 of the Schedule HC Instructions)

ANALYSIS AND CONCLUSIONS OF LAW

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

The appellant did submit a Statement of Grounds for Appeal-2017 under the grounds for Appeal, "Other. During 2017 other circumstances such as: applying the Affordability Tables in Schedule HC to you is inequitable (for example, because of family size).

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 2017, 150 percent of the FPL was \$17,820.00 for a single person with zero dependents. *Id.* In addition, a lapse in coverage of 63 days or less is not subject to the section 2(b) penalty. See Administrative Bulletin 03-10 (Dec. 7, 2010), available at <https://www.mahealthconnector.org/portal/binary/com.epicentric.contentmanagement.servlet.ContentDeliveryServlet/Health%2520Care%2520Reform/Regulations/documents/Administrative%20Information%20Bulletin%2003-10.pdf>; see also 830 Mass. Code Regs. 111M.2.1(5)(c) (2008). Thus, no penalty is imposed for lapses in coverage consisting of three or fewer consecutive calendar months. *Id.*

Since Appellant's 2017 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 2017. 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 2017 Schedule HC Instructions and Worksheets, *supra*.

Appellant reported a federal AGI of \$67,935.00 in 2017, and Appellant's filing status was single with no dependents. EX 2. According to the Affordability Schedule established by the Connector's board and included in the Instructions and Worksheets of the 2017 Massachusetts Schedule HC, Appellant could afford to pay \$461.95 monthly for health insurance. See 2017 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 \$313.00 monthly for coverage with zero dependents *Id.* at Table 4.

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

Appellant is deemed to afford \$461.95 for health insurance coverage because of her income. Private insurance in the market place was \$313.00 per month. However, she was in the process of divorcing her husband, who had lost the health insurance coverage for both of them and the husband delayed the divorce causing her hardship. On these facts, I find that Appellant has shown that she was precluded from purchasing affordable health insurance during 2017. 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 2017 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 2017 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 2016.

NOTIFICATION OF YOUR RIGHT TO APPEAL TO COURT

If you disagree with this decision, you have the right to appeal to Court in accordance with Chapter 30A of the Massachusetts General Laws. To appeal, you must file a complaint with 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: PA17-21

Appeal Decision Appeal Approved

Hearing Issue: Appeal of the 2017 Tax Year Penalty

Hearing Date: July 17, 2018

Decision Date: July 21, 2018

AUTHORITY

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

JURISDICTION

Any person aggrieved by the assessment or potential assessment of the individual 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 July 17, 2018.

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

- Exhibit 1: Notice of Hearing dated June 27, 2018
- Exhibit 2: Appeal Case Information from form Schedule HC
- Exhibit 3: Statement of Grounds for Appeal dated May 8, 2018
- Exhibit 4: Written statement of appeal

FINDINGS OF FACT

The record shows, and I so find:

1. The appellant is twenty three years old and is single. He lives in Worcester County, Massachusetts.

2. Appellant works in construction.
3. Appellant was unemployed for three months in 2017. In addition, he had to change apartments because there was mold in his old apartment. He is an apprentice and will be for one and a half more years, limiting his income opportunities.
4. Appellant now has health insurance in 2018.
5. The Appellant's monthly expenses totaled \$2,350.00, consisting of rent \$750, heat & light \$250.00, internet & cable \$65.00 cell phone \$100.00, car payment \$290.00 car insurance \$175.00, car gas \$240.00, food \$300.00, toiletries \$40.00, clothes \$60.00, entertainment \$60.00, .
6. The appellant did submit a Statement of Grounds for Appeal-2017, under the grounds for Appeal, " During 2017, the expense of purchasing health insurance would have caused a serious deprivation of food, shelter, clothing or other necessities".
7. I take administrative notice of the information set forth in tables 1 through 6 in the Department of Revenue Schedule HC Health Care Instructions and Worksheets (Schedule HC Instructions). Tables 3 & 4 incorporate the affordability schedules adopted by the board of directors of the Commonwealth Health Insurance Connector Authority for 2017. 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 2017.
8. Based on the appellant's federal adjusted gross income and the above referenced tables, I find the appellant may have been eligible for subsidized health insurance, since Appellant's income of \$30,539.00 was less than \$35,640.00. The monthly premium for health insurance available on the private market in Worcester County for a 22 year old single person with zero dependents was \$150.00. The tables reflect that Appellant could afford \$127.24. This is more than what the appellant is deemed to afford. (Tables 2, 3 & 4 of the Schedule HC Instructions)

ANALYSIS AND CONCLUSIONS OF LAW

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

The appellant did submit a Statement of Grounds for Appeal-2017, under the grounds for appeal, “ During 2017, 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 2017, 150 percent of the FPL was \$17,820.00 for a single person with zero dependents. *Id.* In addition, a lapse in coverage of 63 days or less is not subject to the section 2(b) penalty. See Administrative Bulletin 03-10 (Dec. 7, 2010), available at <https://www.mahealthconnector.org/portal/binary/com.epicentric.contentmanagement.servlet.ContentDeliveryServlet/Health%2520Care%2520Reform/Regulations/documents/Administrative%20Information%20Bulletin%2003-10.pdf>; see also 830 Mass. Code Regs. 111M.2.1(5)(c) (2008). Thus, no penalty is imposed for lapses in coverage consisting of three or fewer consecutive calendar months. *Id.*

Since Appellant’s 2017 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 2017. 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 2017 Schedule HC Instructions and Worksheets, *supra*.

Appellant reported a federal AGI of \$30,539.00 in 2017, and Appellant’s filing status was single with no dependents. EX 2. According to the Affordability Schedule established by the Connector’s board and included in the Instructions and Worksheets of the 2017 Massachusetts Schedule HC, Appellant could afford to pay \$127.24 monthly for health insurance. See 2017 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 \$150.00 monthly for coverage with zero dependents *Id.* at Table 4.

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

Appellant is deemed to afford \$127.24 for health insurance coverage because of his income. Private insurance in the market place was \$150.00 per month. On these facts, I find that Appellant has shown that he was precluded from purchasing affordable health insurance during 2017. 956 Mass. Code Regs. 6.08(3) (2008). Accordingly, I conclude that he is exempt from a tax penalty for her non-compliance with the individual mandate.

Accordingly, Appellant's appeal is **ALLOWED**, and the 2017 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 2017 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 2016.

NOTIFICATION OF YOUR RIGHT TO APPEAL TO COURT

If you disagree with this decision, you have the right to appeal to Court in accordance with Chapter 30A of the Massachusetts General Laws. To appeal, you must file a complaint with 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: PA17-22

Appeal Decision Appeal Approved

Hearing Issue: Appeal of the 2017 Tax Year Penalty

Hearing Date: July 17, 2018

Decision Date: July 22, 2018

AUTHORITY

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

JURISDICTION

Any person aggrieved by the assessment or potential assessment of the individual 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 July 17, 2018.

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

- Exhibit 1: Notice of Hearing dated June 27, 2018
- Exhibit 2: Appeal Case Information from form Schedule HC
- Exhibit 3: Statement of Grounds for Appeal dated May 15, 2018
- 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 Worcester County, Massachusetts.

2. Appellant works in retail food.
3. Appellant moved in 2017 and though she had given notice of her move. Appellant never received a notice of cancellation from the Health Connector due to her move. When Appellant went to reapply to the Health Connector for 2018, she found out her policy had been cancelled. Appellant immediately reapplied to the Health Connector and was reinstated as of January 2018.
4. Appellant has health insurance in 2018.
5. The Appellant's monthly expenses totaled \$1,308.00, consisting of rent \$550, heat & light \$150.00, internet & cable \$50.00 cell phone \$50.00, car insurance \$78.00, car gas \$100.00, food \$150.00, toiletries \$80.00, clothes \$100.00 .
6. The appellant did submit a Statement of Grounds for Appeal-2017, under the grounds for Appeal, "Other. During 2017 other circumstances, such as: applying the Affordability Tables in Schedule HC to you is inequitable (for example, because of family size). However, Appellant should also have appealed under " During 2017, the expense of purchasing health insurance would have caused a serious deprivation of food, shelter, clothing or other necessities". I will hear her appeal under both grounds.
7. I take administrative notice of the information set forth in tables 1 through 6 in the Department of Revenue Schedule HC Health Care Instructions and Worksheets (Schedule HC Instructions). Tables 3 & 4 incorporate the affordability schedules adopted by the board of directors of the Commonwealth Health Insurance Connector Authority for 2017. 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 2017.
8. Based on the appellant's federal adjusted gross income and the above referenced tables, I find the appellant may have been eligible for subsidized health insurance, since Appellant's income of \$26,247.00 was less than \$35,640.00. The monthly premium for health insurance available on the private market in Worcester County for a 27 year old single person with zero dependents was \$150.00. The tables reflect that Appellant could afford \$91.86. This is more than what the appellant is deemed to afford. (Tables 2, 3 & 4 of the Schedule HC Instructions)

ANALYSIS AND CONCLUSIONS OF LAW

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

The appellant did submit a Statement of Grounds for Appeal-2017, under the grounds for Appeal, “Other. During 2017 other circumstances, such as: applying the Affordability Tables in Schedule HC to you is inequitable (for example, because of family size). However, Appellant should also have appealed under “ During 2017, the expense of purchasing health insurance would have caused a serious deprivation of food, shelter, clothing or other necessities”. I will hear her appeal under both 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 2017, 150 percent of the FPL was \$17,820.00 for a single person with zero dependents. *Id.* In addition, a lapse in coverage of 63 days or less is not subject to the section 2(b) penalty. See Administrative Bulletin 03-10 (Dec. 7, 2010), available at <https://www.mahealthconnector.org/portal/binary/com.epicentric.contentmanagement.servlet.ContentDeliveryServlet/Health%2520Care%2520Reform/Regulations/documents/Administrative%20Information%20Bulletin%2003-10.pdf>; see also 830 Mass. Code Regs. 111M.2.1(5)(c) (2008). Thus, no penalty is imposed for lapses in coverage consisting of three or fewer consecutive calendar months. *Id.*

Since Appellant’s 2017 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 her in 2017. 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 2017 Schedule HC Instructions and Worksheets, *supra*.

Appellant reported a federal AGI of \$26,247.00 in 2017, and Appellant’s filing status was single with no dependents. EX 2. According to the Affordability Schedule established by the Connector’s board and included in the Instructions and Worksheets of the 2017 Massachusetts Schedule HC, Appellant could afford to pay \$91.86 monthly for health insurance. See 2017 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 \$150.00 monthly for coverage with zero dependents *Id.* at Table 4.

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

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

Appellant is deemed to afford \$91.86 for health insurance coverage because of her income. Private insurance in the market place was \$150.00 per month. On these facts, I find that Appellant has shown that she was precluded from purchasing affordable health insurance during 2017. 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 2017 penalty assessed is **OVERTURNED**.

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 2017 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 2016.

NOTIFICATION OF YOUR RIGHT TO APPEAL TO COURT

If you disagree with this decision, you have the right to appeal to Court in accordance with Chapter 30A of the Massachusetts General Laws. To appeal, you must file a complaint with 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: PA17-23

Appeal Decision Appeal Approved

Hearing Issue: Appeal of the 2017 Tax Year Penalty

Hearing Date: July 17, 2018

Decision Date: July 22, 2018

AUTHORITY

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

JURISDICTION

Any person aggrieved by the assessment or potential assessment of the individual 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 July 17, 2018.

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

- Exhibit 1: Notice of Hearing dated June 27, 2018
- Exhibit 2: Appeal Case Information from form Schedule HC
- Exhibit 3: Statement of Grounds for Appeal dated May 4, 2018
- 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 Norfolk County, Massachusetts.

2. Appellant works in retail sales.
3. Appellant was unemployed for several months in 2017. In addition, he had to live in different places with friends because he had no money for rent. In his current job, he works between twenty and forty hours a week.
4. Appellant does not have health insurance in 2018.
5. The Appellant's monthly expenses totaled \$450 per month for rent and food .
6. The appellant did submit a Statement of Grounds for Appeal-2017, under the grounds for Appeal, " During 2017, the expense of purchasing health insurance would have caused a serious deprivation of food, shelter, clothing or other necessities". In addition Appellant submitted under the ground of " During 2017, you were homeless; more than 30 days in arrears in rent or mortgage payments; or received an eviction or foreclosure notice"
7. I take administrative notice of the information set forth in tables 1 through 6 in the Department of Revenue Schedule HC Health Care Instructions and Worksheets (Schedule HC Instructions). Tables 3 & 4 incorporate the affordability schedules adopted by the board of directors of the Commonwealth Health Insurance Connector Authority for 2017. 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 2017.
8. Based on the appellant's federal adjusted gross income and the above referenced tables, I find the appellant may have been eligible for subsidized health insurance, since Appellant's income of \$18,160.00 was less than \$35,640.00. The monthly premium for health insurance available on the private market in Norfolk County for a 21 year old single person with zero dependents was \$150.00. The tables reflect that Appellant could afford \$43.88. This is more than what the appellant is deemed to afford. (Tables 2, 3 & 4 of the Schedule HC Instructions)

ANALYSIS AND CONCLUSIONS OF LAW

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

The appellant did submit a Statement of Grounds for Appeal-2017, under the grounds for appeal, “ During 2017, the expense of purchasing health insurance would have caused a serious deprivation of food, shelter, clothing or other necessities”. In addition Appellant submitted under the ground of “ During 2017, you were homeless; more than 30 days in arrears in rent or mortgage payments; or received an eviction or foreclosure notice”

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 2017, 150 percent of the FPL was \$17,820.00 for a single person with zero dependents. *Id.* In addition, a lapse in coverage of 63 days or less is not subject to the section 2(b) penalty. See Administrative Bulletin 03-10 (Dec. 7, 2010), available at <https://www.mahealthconnector.org/portal/binary/com.epicentric.contentmanagement.servlet.ContentDeliveryServlet/Health%2520Care%2520Reform/Regulations/documents/Administrative%20Information%20Bulletin%2003-10.pdf>; see also 830 Mass. Code Regs. 111M.2.1(5)(c) (2008). Thus, no penalty is imposed for lapses in coverage consisting of three or fewer consecutive calendar months. *Id.*

Since Appellant’s 2017 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 her in 2017. 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 2017 Schedule HC Instructions and Worksheets, *supra*.

Appellant reported a federal AGI of \$18,160.00 in 2017, and Appellant’s filing status was single with no dependents. EX 2. According to the Affordability Schedule established by the Connector’s board and included in the Instructions and Worksheets of the 2017 Massachusetts Schedule HC, Appellant could afford to pay \$43.88 monthly for health insurance. See 2017 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 \$150.00 monthly for coverage with zero dependents *Id.* at Table 4.

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

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

Appellant is deemed to afford \$43.88 for health insurance coverage because of his income. Private insurance in the market place was \$150.00 per month. On these facts, I find that Appellant has shown that he was precluded from purchasing affordable health insurance during 2017. 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 2017 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 2017 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 2016.

NOTIFICATION OF YOUR RIGHT TO APPEAL TO COURT

If you disagree with this decision, you have the right to appeal to Court in accordance with Chapter 30A of the Massachusetts General Laws. To appeal, you must file a complaint with 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: PA17-24

Appeal Decision Appeal Approved

Hearing Issue: Appeal of the 2017 Tax Year Penalty

Hearing Date: July 17, 2018

Decision Date: July 22, 2018

AUTHORITY

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

JURISDICTION

Any person aggrieved by the assessment or potential assessment of the individual 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 July 17, 2018.

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

Exhibit 1: Notice of Hearing dated June 27, 2018

Exhibit 2: Appeal Case Information from form Schedule HC

Exhibit 3: Statement of Grounds for Appeal dated May 3, 2018

FINDINGS OF FACT

The record shows, and I so find:

1. The appellant is twenty two years old and is single. She lives in Rhode Island.
2. Appellant works in the retail food business in Massachusetts.

3. Appellant has never lived in Massachusetts. Appellant had health insurance in the State of Rhode Island for the year 2017. Appellant stated that she did her tax return for the first time in 2017 and might have made an error in the preparation of the tax return, such that she was viewed as a resident of Massachusetts.
4. Appellant has health insurance in the State of Rhode Island for the year 2018.
5. The appellant did submit a Statement of Grounds for Appeal-2017 under the grounds for Appeal, "Other. During 2017 other circumstances such as: applying the Affordability Tables in Schedule HC to you is inequitable (for example, because of family size); or that you didn't reside in Massachusetts during your period of uninsurance" ..

ANALYSIS AND CONCLUSIONS OF LAW

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

The appellant did submit a Statement of Grounds for Appeal-2017 under the grounds for Appeal, "Other. During 2017 other circumstances such as: applying the Affordability Tables in Schedule HC to you is inequitable (for example, because of family size); or that you didn't reside in Massachusetts during your period of uninsurance".

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 2017, 150 percent of the FPL was \$17,820.00 for a single person with zero dependents. *Id.* In addition, a lapse in coverage of 63 days or less is not subject to the section 2(b) penalty. See Administrative Bulletin 03-10 (Dec. 7, 2010), available at <https://www.mahealthconnector.org/portal/binary/com.epicentric.contentmanagement.servlet.ContentDeliveryServlet/Health%2520Care%2520Reform/Regulations/documents/Administrative%20Informatio>

n%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.*

Appellant stated that she has never lived in Massachusetts but does live in Massachusetts

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 2017 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 2017 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 2017.

NOTIFICATION OF YOUR RIGHT TO APPEAL TO COURT

If you disagree with this decision, you have the right to appeal to Court in accordance with Chapter 30A of the Massachusetts General Laws. To appeal, you must file a complaint with 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: PA17-26

Appeal Decision: Appeal Denied.

Hearing Issue: Appeal of the 2017 Tax Year Penalty

Hearing Date: July 18, 2018

Decision Date: July 25, 2018

AUTHORITY

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

JURISDICTION

Any person aggrieved by the assessment or potential assessment of the individual 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 July 18, 2018. 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 June 27, 2018.
- Exhibit 2: Appeal Case Information from Schedule HC 2017.
- Exhibit 3: Statement of Grounds for Appeal signed by the Appellant on May 5, 2018.
- Exhibit 4: Appellant's Note in support of this Appeal dated May 9, 2018.

FINDINGS OF FACT

The record shows, and I so find:

1. The Appellant turned 37 years old in February 2017. The Appellant filed their Federal Income Tax return as an individual with no dependents claimed (Exhibit 2).
2. The Appellant lived in Plymouth County, MA in 2017 (Exhibit 2).
3. The Appellant's Federal Adjusted Gross Income for 2017 was \$66,959 (Exhibit 2 and Appellant Testimony).
4. The Appellant did not have health insurance for any months of tax year 2017 (Exhibit 2 and Appellant Testimony).

5. The Appellant has been assessed a twelve-month tax penalty for 2017. The Appellant filed an appeal of the assessment in May 2018 (Exhibits 2, 3, 4).
6. I take administrative notice of the financial information set forth in Tables 1 through 6 in the DOR 2017 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 2017. Table 2 sets forth income at 300% of the Federal poverty level and Tables 5 and 6 set forth tax penalties in effect for 2017.
7. In accordance with Table 3 of Schedule HC for 2017, the Appellant filing the Federal tax return as an individual, with no dependents claimed, with an annual adjusted gross income of \$66,959 could afford to pay \$455 per month for health insurance. In accordance with Table 4, the Appellant, age 37, living in Plymouth County, could have purchased private insurance for \$302 per month for a plan (Schedule HC for 2016). Private insurance was affordable for the Appellant.
8. The Appellant would not have been eligible for ConnectorCare coverage in 2017 because the Appellant's income was greater than 300% of the federal poverty level, which was \$35,640 in 2017. The Appellant did not have access to employer-sponsored insurance (See Table 2 of Schedule HC-2017 and 956 CMR 12.04) (Appellant Testimony).
9. The Appellant testified that they did not qualify for government assistance and could not afford health insurance. The Appellant said that the tax penalty was \$85 per month and insurance was substantially more expensive. The Appellant remains uninsured as of the date of the Hearing (Exhibit 4 and Appellant Testimony).
10. The Appellant's monthly living expenses of \$2,682 for 2017 included: rent and heat- \$1,000; electricity-\$60; food \$325; telephone-\$30; car payment-\$200; car insurance-\$100; gasoline \$100 and child support-\$867. The Appellant also testified that they must pay state and federal income taxes (Appellant Testimony).
11. The Appellant did not fall behind in their rent or utility payments and did not experience any family emergencies or natural or human caused disasters that resulted in an unexpected increase in living expenses (Appellant Testimony).
12. Given the Appellant's monthly income of \$5,580 and their living expenses of \$2,862, the Appellant has failed to demonstrate that purchasing private insurance for \$302 per month would have caused the Appellant to experience a serious deprivation of food, shelter, clothing or other necessities (Exhibits 2, 4, 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.

The Appellant had no health insurance in tax year 2017. The Appellant has been assessed a twelve-month penalty. The Appellant submitted a statement of grounds for this appeal with a note attached stating that they could not afford insurance. 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 2017, the Appellant filing the Federal tax return as a single person with no dependents claimed, with an adjusted gross income of \$66,959 could afford to pay \$455 per month for health insurance. In accordance with Table 4, the Appellant, age 37, living in Plymouth County, could have purchased private insurance for \$302 per month for a plan (Schedule HC for 2017). Private insurance was affordable for the Appellant in 2017.

The Appellant would not have been eligible for ConnectorCare coverage in 2017 because the Appellant’s income was greater than 300% of the federal poverty level, which was \$35,640 in 2017. The Appellant had no access to affordable insurance through employment (See Table 2 of Schedule HC-2017 and 956 CMR 12.04).

Since affordable insurance was available to the Appellant in 2017, it must be determined whether the Appellant experienced a financial hardship pursuant to 956 CMR 6.08 (1). The Appellant testified that they did not qualify for any government assistance and could not afford to pay for health insurance. The Appellant also pointed out that the tax penalty of \$85 per month is substantially less expensive than the cost of insurance.

The Appellant’s monthly living expenses totaled \$2,862 in 2017. The Appellant did not fall behind in their rent or utility payments and did not experience any natural or human caused event that resulted in the Appellant incurring significant unexpected expenses. Given the Appellant’s income of \$66,959 and the fact that private health insurance was available and affordable for the Appellant in 2017 at a cost of \$302 per month, the Appellant did not demonstrate that the cost of purchasing health insurance for 2017 would have caused the Appellant to experience a serious financial hardship. See 956 CMR 6.08(1)(e). The Appellant’s penalty for all twelve months 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 2017 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: PA17-29

Appeal Decision Appeal Approved.

Hearing Issue: Appeal of the 2017 Tax Year Penalty

Hearing Date: July 18, 2018

Decision Date: July 25, 2018

AUTHORITY

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

JURISDICTION

Any person aggrieved by the assessment or potential assessment of the individual 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 July 18, 2018. 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 June 27, 2018.
- Exhibit 2: Appeal Case Information from Schedule HC 2017.
- Exhibit 3: The Statement of Grounds for Appeal submitted by the Appellant on May 5, 2018.
- Exhibit 4: The Appellant's written statement in support of this appeal with a copy of the Appellant's Tax Form 1095-B 2017 attached.

FINDINGS OF FACT

The record shows, and I so find:

1. The Appellant turned 25 years old in July 2017. The Appellant filed their Federal Income Tax return as Married Filing Separate (Exhibit 2).
2. The Appellant lived in Hampden County, MA in 2017 (Exhibit 2).
3. According to the information on the Appellant's 2017 Schedule HC, the Appellant did not have health insurance for any months of tax year 2017. The Appellant has been assessed a 12-month tax penalty. This information is incorrect (Exhibits 2, 4 and Appellant Testimony).

4. The Appellant's Form 1095-B 2017 verifies that the Appellant had MassHealth coverage for all twelve months of tax year 2017 (Exhibit 4 and Appellant Testimony).
5. The Appellant testified that their spouse completed the paperwork to file their income tax returns for tax year 2017. The Appellant explained that they made a mistake. The Appellant said that they were delayed obtaining the Form 1095-B for tax year 2017 and filed an appeal because they should not be subject to a tax penalty. The Appellant is unsure if an amended tax return was filed. I found the Appellant to be a credible witness and their testimony is supported by the documentary evidence submitted (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.

Based on the information from the Appellant's 2017 Schedule HC, it appeared that the Appellant did not have health insurance during any period of tax year 2017. Consequently, a twelve-month penalty was assessed. The Appellant submitted a statement of grounds for this appeal, claiming that they did have health insurance for all twelve months of 2017. The Appellant submitted a copy of their Form 1095-B verifying that they were in fact insured through MassHealth for all twelve months of tax year 2017. The Appellant's penalty for all twelve months is therefore waived.

The Appellant should note that the waiver of their penalty is based upon the facts that I have determined to be true in 2017. 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 2017.

NOTIFICATION OF YOUR RIGHT TO APPEAL TO COURT

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

Cc: Connector Appeals Unit

ADDENDUM

If the Appellant has not done so, it is suggested that the Appellant file an amended tax return for tax year 2017 and include the documentation necessary to verify their health insurance coverage for the year.

Massachusetts Health Connector Appeals Unit

FINAL APPEAL DECISION: PA17-44

Appeal Decision: Appeal Approved -- 2017 tax penalty overturned.

Hearing Issue: Appeal of the 2017 Tax Year Penalty

Hearing Date: July 25, 2018

Decision Date: September 7, 2018

AUTHORITY

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

JURISDICTION

Any person aggrieved by the assessment or potential assessment of the individual 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 – 2017 (with Appellants' handwritten note);
3. Appellants' Letter in Support of Appeal (1 page, dated 5/8/18);
4. Health Connector's Notice of Hearing (3 pages, dated 7/3/18);
5. Hearing Officer's Open Record Order (1 page, dated 7/25/18);
6. Appellants' E-Mail Transmitting Documents (1 page, dated 8/26/18);
7. Appellants' Handwritten Note on Copy of Exhibit 5; and
8. Appellants' Follow-up Letter Supporting Appeal (1 page, dated 8/15/18).

At the conclusion of the testimony on July 25, I held the hearing record open until August 17, 2018, so that the Appellants could file additional information to support their appeal. I received Exhibits 6, 7 and 8 from the Appellants after the deadline set forth in the Open Record 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 24 month penalty for 2017 (12 months against Husband plus 12 months against Wife). The basis for the penalty was that the Appellants were not insured at any time in 2017. Exhibits 1 and 2. Based on Exhibit 1, the Appellants' hearing testimony, and the Appellants' letter supporting their appeal (Exhibit 3), I find that the penalty assessment is accurate.
2. The stated ground for the Appellants' appeal is that that "insurance total cost was not affordable." Exhibit 2, page 2 (Appellants' handwritten comment). The Appellants' elaborated in the letter supporting their appeal where they stated:
 - a. "We could not understand the actual total cost to us of the insurance, including Premium, plus Copays, including hospital Co-Insurance percentage, Annual Deductibles, Emergency Room Co-Pay, and Annual Out of Pocket expense."
 - b. "However, added all together, it became apparent in any case that we simply could not afford any of the insurance policies offered at our income level (lower middle class income."
 - c. "It was a matter of paying our mortgage, our auto loans, our food, utilities, clothing and other obligations, or going into debt and struggling to keep up with the costs of the health insurance – not just the monthly premium, which was high enough, but add in all the additional costs to us."

Exhibit 3, paragraphs 3, 4 and 5. See also Exhibit 8.

3. The Appellants were not behind in the payment of their ordinary living expenses in 2017, including their home mortgage, and they did not provide any evidence of expenditures, indebtedness, or other financial hardship in support of their appeal. Testimony, Exhibit 3 and Exhibit 8. See also Exhibit 2, at appeal ground number 3 (*"Provide proof to show additional expenses above and beyond that which your income would cover. If you were eligible to receive governmental subsidized insurance, explain why obtaining that would cause serious deprivation."*). (italics in original document)
4. The Appellants filed a Massachusetts personal income tax return for 2017 as a married couple filing jointly with 1 dependent. The Appellants' federal adjusted gross income (AGI) for 2017 was \$77,577. Exhibit 1.
5. The Wife was 52 years old at the beginning of 2017 (the Husband is younger), and they resided in [name of city or town omitted] in Worcester County, Massachusetts. Exhibit 1.
6. The Appellants' AGI was more than 150% of the federal poverty level. On this basis I conclude that the Appellants were not automatically exempt from the assessment of a tax penalty in 2017. DOR Table 1 (\$30,240 for 3 person household).
7. The Appellants' 2017 AGI (\$77,577) was more than 300% of the federal poverty level (\$60,480 for a 3 person household). DOR Table 2. On this basis I infer that it is unlikely that the Appellants

satisfied the financial eligibility requirement for government-assisted health insurance through the Health Connector in 2017.

8. The Appellants care for their granddaughter who is listed as a dependent on their state income tax return (see Exhibit 1). The granddaughter has medical insurance coverage. Testimony and Exhibit 8.
9. The Appellants appealed a tax penalty assessed for 2015. The result of the 2015 appeal is not in the hearing record. Exhibit 1.
10. At the beginning of 2016 the Appellants. The Appellants assert that they encountered difficulties with the Health Connector's website and with a mailed application that was lost when they sought to renew their coverage for 2017. Testimony and Exhibit 3. They also assert that they "could not understand the actual total cost to us of the insurance Exhibit 3. See also Exhibit 2 (handwritten notes), Exhibit 7 (handwritten notes), and Exhibit 8.
11. The Appellants concede that they were not insured in 2017 – the year at question in this appeal. Testimony and Exhibit 7 (handwritten note). See also Exhibits 3 and 8.
12. Based on DOR Table 3 (married filing jointly with one or more dependents), the Appellants could afford to pay \$491 per month for health insurance coverage in 2017. (The calculation is 7.60% multiplied by \$77,577 AGI = \$ 5,895.85 per year divided by 12 months = \$491.32 per month.)
13. Based on DOR Table 4 (Region 2) the Appellants could obtain coverage for a married couple with no dependents at the Wife's age and location for \$726 per month in 2017.
14. The Appellants were both employed in 2017. The Wife was self-employed providing bookwork for several businesses and was not offered employer-sponsored health insurance. Testimony. The Husband was employed part-time as a delivery driver. The Husband may have been eligible for employer-sponsored health insurance, but the Appellants did not provide the terms of the coverage as part of the hearing record. Testimony and Exhibit 3.
15. For the current year (2018) the Wife has reorganized her employment arrangement and expects to enroll in employer-sponsored health insurance in December 2018 after a three month probationary period. The Husband recently applied for a new job that will provide health insurance benefits if his job application is successful. Exhibit 8 and Testimony.
16. 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 son Schedule HC as part of the Appellants' 2017 Massachusetts income tax return.
17. I take administrative notice of the financial information set forth in Tables 1 through 6 of the DOR 2017 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 2017. 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 2017. (The DOR instructions are published online at <http://www.mass.gov/dor/2016ScheduleHCInstructions> 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 2017.)

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 (12 months against Wife and 12 months against Husband) because neither the Husband nor the Wife had health insurance coverage in 2017. 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 – 2017 that the Appellant signed and filed in this case. See Exhibit 2.

In this case, it is undisputed that neither the Husband nor the Wife had health insurance coverage at any time in 2017, although they had previously been insured through the Health Connector.

In substantial part the Appellants assert that, at their income level (\$77,577 federal adjusted gross income), they could no longer afford health insurance coverage through the Health Connector for 2017. Their argument is based on the fact that they might have to pay amounts (such as co-payments for a doctor's office visit or a drug prescription) in addition to the monthly premium that must be paid to the Health Connector for the coverage. I make two observations for the Appellants' consideration. First, the premium payable to the Health Connector varies depending on applicants' income and the insurance plan that they select. Second, the additional costs that the Appellants cite in their letter are incurred only if the person has need to use the insurance coverage. In that event the Appellants would find that additional out-of-pocket expenditure required by the terms of the insurance policy is less than paying for the medical service without medical, hospitalization or prescription drug coverage. See, e.g., Findings of Fact, No. 2.

Affordability is the underlying theme of the appeal. See Exhibits 2, 3 and 8. Lacking other information that might provide relief under the Health Connector's financial hardship regulation (cited earlier), I base my decision on the financial affordability standards adopted by the Health Connector board of directors for 2017. Under DOR Table 3, the Appellants could afford to pay \$491 per month for health insurance coverage for Husband and Wife (their dependent is already insured). Under DOR Table 4, however, the Appellants would have to pay \$726 per month to insure the two of them. See Findings of Fact, Nos. 12 and 13, above. On the limited evidence available in this hearing record it is not possible to say with any certainty if the Appellants would have qualified for a government subsidy for their coverage if they had completed the renewal application for health insurance coverage in 2017.

Under these circumstances I will waive the entire penalty assessed for 2017. See Mass. Gen. Law c. 111M, sec. 2 (a), above. The Appellants should not assume, however, that any penalty that might be assessed for 2018 or 2019 will similarly be waived or reduced. As described earlier, the Appellants have a legal obligation under Massachusetts law to obtain coverage. They should be prepared to document an actual eligibility decision made by the Health Connector that they do (or do not) qualify for government-subsidized health insurance or provide written information from an employer (or the employer's insurer) about the terms of any coverage that is available to them.

PENALTY ASSESSED

Number of Months Appealed (Husband):	12	Number of Months Assessed:	-0-
Number of Months Appealed (Wife):	12	Number of Months Assessed:	-0-

The Connector has notified the Department of Revenue that, pursuant to its decision, you should be assessed a penalty for Tax Year 2016 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 2017.

NOTIFICATION OF YOUR RIGHT TO APPEAL TO COURT

If you disagree with this decision, you have the right to appeal to Court in accordance with Chapter 30A of the Massachusetts General Laws. To appeal, you must file a complaint with 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: PA17-66

Appeal Decision: Appeal Approved -- 2017 tax penalty overturned.

Hearing Issue: Appeal of the 2017 Tax Year Penalty

Hearing Date: August 7, 2018

Decision Date: September 7, 2018

AUTHORITY

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

JURISDICTION

Any person aggrieved by the assessment or potential assessment of the individual 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 – 2017 (3 pages, dated 5/11/18);
3. Appellant's Letter in Support of Appeal (1 page, undated); and
4. Health Connector's Notice of Hearing (3 pages, dated 7/12/18);

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 2017. The basis for the penalty was that the Appellant was not insured for the months of May – October (6 months) but he was insured for the remaining months in 2017 (January – April and November – December). Exhibits 1 and 2. Based on Exhibit 1 and the Appellant's hearing testimony, I find that the penalty assessment is accurate. (I will address the application of the grace period and its effect on the penalty calculation below.)

2. In his appeal the Appellant stated that none of the grounds for appeal set forth in Exhibit 2 applied to him. Exhibit 3. The Appellant did not provide any documentary evidence to support his appeal. See Exhibits 1 – 4.
3. The Appellant was insured by MassHealth for the months of January – April 2017. Exhibit 1 and Testimony. MassHealth then terminated his coverage because he was earning too much money. Testimony. The hearing record does not indicate if the Appellant then filed an application for insurance coverage through the Health Connector, which has somewhat higher financial eligibility standards.
4. The Appellant was employed as a roofer in Massachusetts for the months of January – August 2017. He was paid \$21 per hour and was not offered health insurance coverage as a job benefit. Starting in September 2017, the Appellant was employed by another roofing business working in Connecticut, where he was paid \$18 per hour. The Appellant promptly enrolled in his new employer's health plan and was insured beginning in November 2017 after he satisfied his new employer's wait period. The Appellant was still insured in 2018. Testimony.
5. The Appellant's principal indebtedness was \$21,000 for a truck. He was paying \$387 per month on the truck loan plus \$102 per month for insurance. The Appellant also had a \$2,200 credit card balance. Testimony.
6. The Appellant filed a Massachusetts personal income tax return for 2017 as a single person with no dependents. The Appellant's federal adjusted gross income (AGI) for 2017 was \$34,325. Exhibit 1.
7. The Appellant was 40 years old at the beginning of 2017 and resided in [name of city or town omitted] in Hampden County, Massachusetts. Exhibit 1.
8. The Appellant's 2017 AGI (\$34,325) was less than 300% of the federal poverty level (\$35,640 for a one person household). DOR Table 2.
9. Based on DOR Table 3 the Appellant could afford to pay \$143 per month for health insurance coverage in 2017. (The calculation is 5.00 % multiplied by \$34,325 AGI = \$1,716.25 per year divided by 12 months = \$143 per month.)
10. Based on DOR Table 4 (Region 2) the Appellant could obtain individual health insurance coverage at his age and location for \$275 per month in 2017.
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 2017 Massachusetts income tax return.

12. I take administrative notice of the financial information set forth in Tables 1 through 6 of the DOR 2017 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 2017. 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 2017. (The DOR instructions are published online at <http://www.mass.gov/dor/2016ScheduleHCInstructions> 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 2017.)

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 tax penalty because ** the Appellant did not have health insurance coverage in 2017. 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 – 2017 that the Appellant signed and filed in this case. See Exhibit 2.

As I will explain, I will waive the entire penalty assessed for 2017 on two independent grounds. Before I go further, however, I point out that the Appellant was insured at the beginning of 2017 (January – April) through MassHealth and again at the end of 2017 (November – December) though his

new employer. According to the Appellant his employer-sponsored health insurance coverage continued in 2018. See Findings of Fact, No. 1, 3 and 4, above.

Applying the objective affordability standards adopted by the Health Connector board of directors, the Appellant was not able to afford health insurance coverage in 2017. Under DOR Table 3 the Appellant would have to pay \$275 per month for individual coverage. Based on his income, however, the Appellant could afford to pay only \$143 per month under DOR Table 3. See Findings of Fact, Nos. 9 and 10, above. Accordingly, I waive the penalty under the affordability requirement set forth in the Massachusetts statute. See Mass. Gen. Law c. 111M, sec. 2 (a), above.

I also question how the 3-month administrative grace period was calculated in this case. MassHealth terminated the Appellant's coverage at the end of April. Accordingly, under the 3-month administrative grace period, a tax penalty would not be assessed for the next three months (May, June and July), while the Appellant was still employed as his first job that did not offer him health insurance benefits. The Appellant then shifted to a new job in September that did offer him health insurance coverage after a waiting period beginning in November. If I apply the 3-month administrative grace period to this transition in the Appellant's coverage, no penalty would be assessed for the months of August, September and October. See Findings of Fact, Nos. 1, 3 and 4, above. Under this approach, there are no penalty months to be assessed against the Appellant.

For the foregoing reasons, I waive the entire 3 month tax penalty assessed against the Appellant for 2017.

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 2016 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 2017.

NOTIFICATION OF YOUR RIGHT TO APPEAL TO COURT

If you disagree with this decision, you have the right to appeal to Court in accordance with Chapter 30A of the Massachusetts General Laws. To appeal, you must file a complaint with 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: PA17-88

Appeal Decision: Penalty Overturned in Full

Hearing Issue: Appeal of the 2017 Tax Year Penalty

Hearing Date: August 9, 2018

Decision Date: September 7, 2018

AUTHORITY

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

JURISDICTION

Any person aggrieved by the assessment or potential assessment of the individual 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 August 9, 2018. Also present with the Appellant was a witness, who was Appellant's family member. The procedures to be followed during the hearing were reviewed with Appellant and Witness. Appellant and Witness were 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 until September 6, 2018 so that Appellant could submit more documents. Appellant submitted a document and it has been marked as Exhibit 5.

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

- Exhibit 1: Correspondence from the Health Connector
- Exhibit 2: Appeal Case Information from Schedule HC 2017
- Exhibit 3: Notice of Appeal, dated May 6, 2018
- Exhibit 4: Statement of Appellant in support of the Appeal
- Exhibit 5: Summary document regarding Appellant's health insurance coverage

FINDINGS OF FACT

The record shows, and I so find:

1. Appellant was 30 years old in 2017. Appellant filed a Massachusetts 2017 tax return as single with no dependents claimed (Exhibit 2).
2. Appellant resided in Norfolk County, MA in 2017 (Exhibit 2).
3. Appellant had an Adjusted Gross Income for 2017 of \$30,535 (Exhibit 2).
4. Appellant was insured through employer sponsored health insurance during 2017 (Testimony of Appellant).

5. Appellant's employer was located out of state and had employees in several states (Exhibit 4 and Testimony of Appellant)
6. Appellant's employer offered its employees several different medical insurance plans (Exhibit 4 and Testimony of Appellant and Witness).
7. When Appellant signed up for the employer sponsored health insurance, Appellant was not notified that the plan Appellant chose did not meet Massachusetts minimum creditable coverage standards (Exhibit 4 and Testimony of Appellant and Witness).
8. Appellant learned that the employer sponsored health insurance did not meet the Massachusetts standards when Appellant filed a 2017 Massachusetts tax return in the spring of 2018 (Exhibit 4 and Testimony of Appellant and Witness).
9. Appellant contacted the employer as soon as Appellant learned that the insurance did not meet the Massachusetts standards (Exhibit 4 and Testimony of Appellant).
10. In the spring of 2017, Appellant's employer told Appellant that the plan did not meet Massachusetts standards and that it was the responsibility of the employee to determine if the plan met the standard for the state in which the employee lived (Exhibit 4 and Testimony of Appellant and Witness).
11. Appellant's employer told Appellant that the company offered other plans that did meet the Massachusetts standards. However, Appellant would not be permitted to enroll in another plan until open enrollment for 2019 (Exhibit 4 and Testimony of Appellant).
12. Appellant is planning to switch to a plan that meets Massachusetts standards as soon as permitted (Testimony of Appellant).
13. Appellant's employer sponsored health insurance coverage in 2017 offered a broad range of comprehensive medical benefits. The plan covered preventive care without a deductible. There were no caps on total benefits for a particular illness or for a single year. There was an individual deductible of \$2,500 per year. There was an out of pocket maximum of \$3,500 (Exhibits 4, 5 and Testimony of Appellant).
14. Appellant has been assessed a penalty for twelve months for 2017 (Exhibit 2).
15. Appellant filed an Appeal on May 6, 2018, appealing the assessment of the penalty. Appellant claimed that Appellant purchased employer sponsored health insurance that did not meet Massachusetts minimum coverage standards as Appellant was not aware that the plan did not meet the standards and that the insurance Appellant purchased was close to or substantially met the standards (Exhibits 3 and 4).

ANALYSIS AND CONCLUSIONS OF LAW

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

obtain health insurance coverage or to make the transition between health insurance policies. See G. L. c. 111M, sec. 2(b) and for Tax Year 2016, Administrative Bulletin 03-10: Guidance Regarding M.G.L. c. 111M and M.G.L. c. 176Q, as implemented by 956 CMR 6.00, which interprets the 63-day gap in coverage to be three months. The Connector's regulations provide for a waiver of the tax penalty in the case of a financial hardship. See 956 CMR 6.08 (1). 956 CMR 6.08(2)(d) provides that the Connector may also consider the extent to which insurance obtained deviated from or substantially met minimum creditable coverage standards when determining if a penalty should be waived.

During 2017, Appellant was covered by employer sponsored health insurance from Appellant's employer. The issue to be decided is whether the policy met the Massachusetts minimum creditable coverage standards and whether Appellant should be assessed a penalty for the months that Appellant was covered by the employer sponsored plan.

Appellant's employer was located out of state. Although Appellant was given several health plans to choose from, Appellant was not informed that only some of them met Massachusetts standards and that Appellant's plan did not meet the standards. Appellant's employer sponsored health insurance coverage in 2017 offered a broad range of comprehensive medical benefits. The plan covered preventive care without a deductible. There were no caps on total benefits for a particular illness or for a single year. There was an out of pocket maximum of \$3,500. There was an individual deductible of \$2,500 per year. The plan deviated from the Massachusetts standards since the deductible is required to be less than \$2,000. See Schedule HC Health Care, Exhibits 4, 5 and Testimony of Appellant and Witness, which I find to be credible.

I find that Appellant did have comprehensive health insurance through the Appellant's employer that substantially met minimum creditable coverage standards. See 956 CMR 6.08 (2)(d)

I find the penalty should be waived in its entirety for 2017.

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 2017 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 2017.

NOTIFICATION OF YOUR RIGHT TO APPEAL TO COURT

If you disagree with this decision, you have the right to appeal to Court in accordance with Chapter 30A of the Massachusetts General Laws. To appeal, you must file a complaint with 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: PA16-678

Appeal Decision Appeal Approved

Hearing Issue: Appeal of the 2016 Tax Year Penalty

Hearing Date: July 10, 2018

Decision Date: July 13, 2018

AUTHORITY

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

JURISDICTION

Any person aggrieved by the assessment or potential assessment of the individual 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 appeared at the hearing, which was held by telephone, on July 10, 2018.

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

- Exhibit 1: Notice of Hearing (6-11-18) (4 pages);
- Exhibit 2: Information from Schedule HC (1 page);
- Exhibit 3: Statement of Grounds for Appeal (with letters and documents) (7-10-17) (7 pages); and
- Exhibit 4: Notice of prior Hearing date (12-27-17) (5 pages).

FINDINGS OF FACT

The record shows, and I so find:

1. Appellant husband, age 28 during 2016, from Suffolk County, was not in the United States legally during 2016.
2. Appellant wife, age 33 during 2018, from Suffolk County, did not reside in Massachusetts until July 2016.
3. When Appellant wife moved to Massachusetts, she obtained health insurance through the Health Connector for herself and their child. She attempted to obtain health insurance through the Health Connector for her husband as well but was not able to do so as he was not here legally.
4. Appellant wife obtained a job in January 2017 that allowed her to cover her husband as well as herself and their child, and since then they have all had health insurance.

5. Appellant husband became a legal citizen of the United States as of September 2017.

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.

Appellants submitted a statement of grounds for this appeal, claiming that the individual mandate penalty did not apply to them because Appellant wife was not a resident of Massachusetts until July 2016, when she obtained health insurance for the remainder of 2016. Appellant husband was not able to obtain health insurance because he was not lawfully present in the United States.

PENALTY ASSESSED

Number of Months Appealed: 5/5 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 2016.

NOTIFICATION OF YOUR RIGHT TO APPEAL TO COURT

If you disagree with this decision, you have the right to appeal to Court in accordance with Chapter 30A of the Massachusetts General Laws. To appeal, you must file a complaint with 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: PA16-758

Appeal Decision Appeal Approved

Hearing Issue: Appeal of the 2016 Tax Year Penalty

Hearing Date: July 10, 2018

Decision Date: July 18, 2018

AUTHORITY

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

JURISDICTION

Any person aggrieved by the assessment or potential assessment of the individual 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 July 10, 2018.

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

- Exhibit 1: Notice of Hearing (6-11-18) (3 pages);
- Exhibit 2: Information from Schedule HC TY 2016 (1 page);
- Exhibit 3: Emails re status (2 pages);
- Exhibit 4: Information from Schedule HC TY2015 (1 page);
- Exhibit 5: Form 1095A TY 2015 (4 pages);
- Exhibit 6: Authorized Representative form (1 page); and
- Exhibit 7: Statement of Grounds for Appeal (5-23-18) (2 pages).

FINDINGS OF FACT

The record shows, and I so find:

1. Appellant, age 48 during 2016, was from Suffolk County.
2. Appellant did not have health insurance during 2016.
3. Appellant had previously had health insurance through Mass Health, but lost that health insurance in 2015. Appellant purchased health insurance through the Health Connector during 2015, but believed she could not afford it and did not continue it for 2016.
4. Appellant had part-time jobs that did not provide health insurance during 2016.
5. Appellant could not afford health insurance based upon the tables in Schedule HC.

6. Appellant's expenses for food, shelter, clothing and transportation used a substantial portion of her income.
7. Appellant now has health insurance through an employer.

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 submitted a statement of grounds for this appeal, claiming that the individual mandate penalty did not apply to because paying for health insurance would have caused a serious deprivation of food, shelter, clothing and other necessities. Appellant could not afford health insurance based on the tables in Schedule HC. Appellant's expenses for food, shelter, clothing and transportation used a substantial portion of her income. Paying for health insurance would have caused a serious deprivation of food, shelter, clothing and other necessities.

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 2016.

NOTIFICATION OF YOUR RIGHT TO APPEAL TO COURT

If you disagree with this decision, you have the right to appeal to Court in accordance with Chapter 30A of the Massachusetts General Laws. To appeal, you must file a complaint with 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: PA15-1105

Appeal Decision Appeal Approved.

Hearing Issue: Appeal of the 2015 Tax Year Penalty

Hearing Date: July 11, 2018

Decision Date: July 16, 2018

AUTHORITY

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

JURISDICTION

Any person aggrieved by the assessment or potential assessment of the individual 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 July 11, 2018. 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 June 12, 2018.
- Exhibit 2: Appeal Case Information from Schedule HC 2015.
- Exhibit 3: The Statement of Grounds for Appeal submitted by the Appellant on April 24, 2017.
- Exhibit 4: The Appellant's letter in support of this Appeal with Tax Form 1095-B 2015 attached.

FINDINGS OF FACT

The record shows, and I so find:

1. The Appellant turned 56 years old in March 2015. The Appellant filed their Federal Income Tax return as a Head of Household with one dependent claimed (Exhibit 2).
2. The Appellant lived in Essex County, MA in 2015 (Exhibit 2).
3. The Appellant's Federal Adjusted Gross Income for 2015 was \$33,390 (Exhibit 2 and Appellant Testimony).

4. According to the information on the Appellant's 2015 Schedule HC, the Appellant did not have health insurance for any months of tax year 2015. The Appellant has been assessed a 12-month tax penalty. This information is incorrect (Exhibits 2, 4 and Appellant Testimony).
5. The Appellant's Form 1095-B 2015 verifies that the Appellant had MassHealth coverage for the months of January and February 2015. The Appellant was uninsured for the period of March through December 2015 (Exhibit 4 and Appellant Testimony).
6. I take administrative notice of the financial information set forth in Tables 1 through 6 in the DOR 2015 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 2015. Table 2 sets forth income at 300% of the Federal poverty level and Tables 5 and 6 set forth tax penalties in effect for 2015.
7. In accordance with Table 3 of Schedule HC for 2015, the Appellant filing the Federal tax return as a Head of Household with one dependent claimed, with an annual adjusted gross income of \$33,390 could afford to pay \$165 per month for health insurance. In accordance with Table 4, the Appellant, age 56, living in Essex County, could have purchased private insurance for \$306 per month for a plan (Schedule HC for 2015). Private insurance was not affordable for the Appellant in 2015.
8. The Appellant would have been eligible for ConnectorCare coverage in 2015 because Appellant's income was less than \$47,190 and the Appellant did not have access to employer sponsored insurance that met Massachusetts minimum creditable coverage requirements (See Table 2 of Schedule HC-2015 and 956 CMR 12.04).
9. The Appellant testified that they were unemployed during tax year 2014 and had MassHealth. The Appellant said that they were able to find employment and the MassHealth ended in 2015. The Appellant explained that their teenage daughter came to live with them and the household expenses increased a great deal. The Appellant also said that they had substantial credit card debt due to the period of unemployment and the change in household composition.
10. The Appellant's monthly living expenses included: rent-\$1,300; heat and electricity-telephone-\$100; food-\$600; transportation-\$60; laundry- \$60; personal care items-\$100; clothing-\$60 and credit card payments of \$200. The Appellant testified that they had additional school expenses for their child including a required iPad that cost \$700. The Appellant said that they had a difficult time meeting their living and student expenses and could not afford health insurance. I found the Appellant to be a credible witness.

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.

Based on the information from the Appellant's 2015 Schedule HC, it appeared that the Appellant did not have health insurance during any period of tax year 2015. Consequently, a twelve-month penalty was assessed. The Appellant submitted a statement of grounds for this appeal, claiming that they did have health insurance for two months in 2015 and a twelve-month penalty is incorrect. In addition, the Appellant stated that the individual mandate penalty should not apply in this case because of financial hardship.

The Appellant was insured through MassHealth for the months of January and February 2015 but was not insured for the ten-month period of March through December 2015. The Appellant would therefore be subject to a seven-month penalty. 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 2015, the Appellant filing the Federal tax return as a Head of Household with one dependent claimed with an adjusted gross income of \$33,390 could afford to pay \$165 per month for health insurance. According to Table 4, the Appellant, age 56, living in Essex County, could have purchased a private insurance plan for \$306 per month. See Schedule HC for 2015. Private insurance was not affordable for the Appellant in 2015.

The Appellant had no access to affordable employer-sponsored health insurance and would have been eligible for ConnectorCare coverage based upon the Appellant's income which was less than \$47,190. See Table 2 of Schedule HC 2015 and 956 CMR 12.04 for eligibility criteria. Since affordable insurance was available to the Appellant in 2015, 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 unemployed in tax year 2014 and that is why they qualified for MassHealth. The Appellant was able to find employment in tax year 2015 but their income was fairly low for a household of two. The Appellant's monthly living expenses were substantial, and the Appellant testified credibly that they struggled to meet these expenses as well as the education expenses for their teen age child. The cost of purchasing health insurance would have caused the Appellant to experience a serious financial hardship. See 956 CMR 6.08(1)(e). The Appellant's penalty for all twelve months is therefore waived.

The Appellant should note that the waiver of their penalty is based upon the facts that I have determined to be true in 2015. 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 2015.

NOTIFICATION OF YOUR RIGHT TO APPEAL TO COURT

If you disagree with this decision, you have the right to appeal to Court in accordance with Chapter 30A of the Massachusetts General Laws. To appeal, you must file a complaint with 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: PA15-1111

Appeal Decision: Appeal Denied

Hearing Issue: Appeal of the 2015 Tax Year Penalty

Hearing Date: July 12, 2018

Decision Date: July 30, 2018

AUTHORITY

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

JURISDICTION

Any person aggrieved by the assessment or potential assessment of the individual 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's representative appeared at the hearing, which was held by telephone, on July 12, 2018. The Appellant did not appear at the hearing. The Appellant's representative offered testimony under oath or affirmation. At the end of the hearing, the record was closed.

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

- Exhibit 1: Appeal Case Information from 2015 Schedule HC
- Exhibit 2: 5/7/18 Appeal (8 pages)
- Exhibit 3: 6/22/18 Cover Letter w/ 1095-B 2015 attached (2 pages)
- Exhibit 4: 7/12/18 Hearing Notice (4 pages)

FINDINGS OF FACT

The record shows, and I so find:

1. The Appellant appealed from the assessment of a seven-month penalty on his 2015 state income tax return. (Exhibit 1)
2. The Appellant's filing status in 2015 was Single with no dependents. The Appellant's federal AGI in 2015 was \$26,380. The Appellant resided in Worcester County in 2015. The Appellant turned forty-six years old in 2015. (Exhibit 1)
3. The Appellant's original 2015 tax return indicated that the Appellant had health insurance coverage in 2015 only in November and December. (Exhibit 1)
4. On May 11, 2018, the Appellant appealed his seven-month penalty, stating that he had health insurance coverage throughout 2015 but had mistakenly reported on his 2015 tax return that he did not have coverage for much of the year. (Exhibit 2)

5. On June 25, 2018, the Appellant submitted to the Health Connector a copy of his 1095-B for 2015. The Appellant had health insurance during all twelve months of 2015. (Exhibit 3)

ANALYSIS AND CONCLUSIONS OF LAW

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

In this case, the Appellant established through clear documentary evidence that he had health insurance coverage during all of 2015 and that he had simply neglected to show this on his tax filing for 2015.

Accordingly, the Appellant’s seven-month penalty for 2015 shall be waived entirely.

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 2015 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 2015.

NOTIFICATION OF YOUR RIGHT TO APPEAL TO COURT

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