

Massachusetts Health Connector Appeals Unit

FINAL APPEAL DECISION: PA19-208

Appeal Decision: Appeal Approved

Hearing Issue: Appeal of the 2019 Tax Year Penalty

Hearing Date: June 22, 2020

Decision Date: July 27, 2020

AUTHORITY

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

JURISDICTION

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

HEARING RECORD

The Appellant appeared at the hearing, which was held by telephone on June 22, 2020.

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 May 26, 2020
- Exhibit 2: Appeal Case Information from Schedule HC 2019
- Exhibit 3: Statement of Grounds for Appeal, dated 02/25/20
- Exhibit 4: Health Connector Special Enrollment Period Decision 7/5/19
- Exhibit 5: Letter to DOR from President, Proudly Landscaping, Inc., dated 3/3/20
- Exhibit 6: Appellant Letter to DOR dated 3/6/20

FINDINGS OF FACT¹

The record shows, and I so find:

1. The Appellant turned 26 years old in January 2019. The Appellant filed their Federal Income Tax Return as a single person with no dependents claimed. (Exhibit 2)
2. The Appellant lived in Hampden County, MA in 2019. (Exhibit 2)

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

3. The Appellant's Federal Adjusted Gross Income for 2019 was \$45,046.00. (Exhibit 2).
4. The Appellant did not have health insurance for any months in tax year 2019. (Exhibit 2 and Appellant's Testimony).
5. The Appellant has been assessed a twelve-month tax penalty for 2019. The Appellant filed an appeal of the assessment in March 2020. (Exhibits 2–6 and Appellant's Testimony).
6. I take administrative notice of the financial information set forth in Tables 1 through 6 of the DOR 2019 Massachusetts Schedule HC Health Care Instructions and Worksheet. Tables 3 and 4 incorporate affordability and premium schedules adopted by the Board of Directors for the Commonwealth Health Insurance Connector Authority for 2019. Table 2 sets forth income at 300% of the Federal poverty level and Tables 5 and 6 set forth tax penalties in effect for 2019.
7. In accordance with Table 3 of Schedule HC for 2019, the Appellant filing the Federal tax return as a single person, with no dependents claimed, with an annual adjusted gross income of \$45,046.00 could afford to pay \$285.29 per month for government-sponsored health insurance. In accordance with Table 4, the Appellant, age 26 living in Hampden County, could have purchased a private market insurance plan for \$257.00 per month. (Schedule HC for 2019). Private insurance was affordable for the Appellant in 2019.
8. The Appellant's employer did not offer health insurance in tax year 2019. (Appellant's Testimony and Exhibit 5).
9. The Appellant would not have been eligible for ConnectorCare coverage in 2019 because the Appellant's income was greater than 300% of the federal poverty level, which was \$36,240.00 in 2019. (Schedule HC for 2019, Table 2).
10. The Appellant worked as a seasonal landscaper such that their income fluctuated on a weekly and monthly basis, they testified they did not understand how the Health Connector marketplace worked, and they missed the open enrollment period for 2019 coverage. (Appellant's Testimony and Exhibit 4). I credit Appellant's testimony.
11. Appellant completed an application to the Health Connector for insurance coverage in June 2019 upon receiving a salary raise. Appellant received a Special Enrollment Period Decision dated July 5, 2019, concluding that Appellant did not qualify to enroll in a new health insurance plan at that time because Appellant had not identified a recognized qualifying event. (Exhibit 4 and Appellant's Testimony).
12. The Appellant's 2019 monthly living expenses of \$2,245.00 pre-tax included: rent - \$1,000, utilities (electricity, hot water, heat) - \$150, car insurance - \$250, motorcycle insurance - \$150, gas (car and motorcycle) - \$200, telephone - \$125, WIFI - \$60, food - \$150, student loans - \$100 and pet care \$60. (Appellant's Testimony).

13. In tax year 2019, the Appellant did not face eviction, did not receive any utility shut off notices, did not incur a significant and unexpected increase in expenses due to a natural or human caused disaster and did not incur significant expense as a result of a family emergency. (Appellant's Testimony).
14. The Appellant currently has health insurance coverage that they obtained through the Health Connector during the open enrollment period in November 2019, effective January 2020. (Appellant's Testimony).

ANALYSIS AND CONCLUSIONS OF LAW

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

The Appellant did not have health insurance for any months during tax year 2019 and has been assessed a twelve-month tax penalty. The Appellant submitted a statement of grounds for this appeal stating that applying the Affordability Tables in Schedule HC to them was inequitable, testified that they could not afford to purchase commercial health insurance, and in June 2019 applied for Connector insurance but did not have a qualifying event for special enrollment at that time. (Exhibits 3 & 6 and Appellant's Testimony).

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

In accordance with Table 3 of Schedule HC for 2019, the Appellant filing the Federal tax return as a single person, with no dependents claimed, with an annual adjusted gross income of \$45,046, could afford to pay \$285.29 per month for government-sponsored health insurance. In accordance with Table 4, the Appellant, age 26, living in Hampden County, could have purchased private market insurance for \$257.00 per month. (Schedule HC for 2019). Private insurance was affordable for the Appellant in 2019.

Appellant did not have access to employer-sponsored insurance in tax year 2019. (Appellant's Testimony and Exhibit 5).

The Appellant would not have been eligible for ConnectorCare coverage in 2019 because the Appellant's income of \$45,046 was greater than 300% of the federal poverty level, which was \$36,420 in 2019. (See Table 2 of Schedule HC-2019 and 956 CMR 12.04).

Since affordable insurance was available to the Appellant in 2019, it must be determined whether the Appellant experienced a hardship pursuant to 956 CMR 6.08.

Appellant had an adjusted gross income of income of \$45,046 in 2019. Dividing that amount by 12 months, their monthly pre-tax income was \$3,753.83. Their monthly living expenses totaled \$2,245.00 which included: rent - \$1,000, utilities (electricity, hot water, heat) - \$150, car insurance - \$250, motorcycle insurance - \$150, gas (car and motorcycle) - \$200, telephone - \$125, WIFI - \$60, food - \$150, student loans - \$100 and pet care \$60. Although in accordance with Table 4 of Schedule HC for 2019, Appellant could have purchased private health insurance for \$257 per month, I conclude that doing so in early 2019 when the Appellant had fluctuating and reduced income, and before they received a raise in June 2019, would have caused them to experience a financial hardship. See 956 CMR 6.08 (1).

Additionally, I note that the Appellant applied to the Health Connector for insurance coverage as soon as they received a raise in June 2019. However, they did not qualify to enroll then because they lacked a recognized qualifying event. Appellant applied again at the beginning of the open enrollment period in November 2019 and remains enrolled in a Connector health plan currently. Thus, Appellant exercised reasonable but unsuccessful efforts in June 2019 to obtain health insurance coverage but now is enrolled in an insurance plan that meets MCC standards. Given that the purpose of imposing a tax penalty is to ensure that uncovered individuals obtain health insurance coverage, I conclude that considering the totality of the circumstances presented here, imposing the penalty would serve no equitable purpose.

For all these reasons, the twelve-month tax penalty for 2019 is waived in its entirety.

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

PENALTY ASSESSED

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

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

NOTIFICATION OF YOUR RIGHT TO APPEAL TO COURT

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

Hearing Officer

Cc: Connector Appeals Unit

Massachusetts Health Connector Appeals Unit

FINAL APPEAL DECISION: PA19-213

Appeal Decision: The penalty is overturned in part.

Hearing Issue: Appeal of the 2019 Tax Year Penalty

Hearing Date: June 23, 2020

Decision Date: July 30, 2020

AUTHORITY

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

JURISDICTION

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

HEARING RECORD

The Appellant appeared at the hearing, which was held by telephone on June 23, 2020. The procedures to be followed during the hearing were reviewed with the appellant who was then sworn in. The Appellant's Family member was also present as support. Exhibits were marked and admitted in evidence with no objection from the appellant. Appellant testified.

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

- Exhibit 1: Appeal Case Information from Schedule HC 2019.¹(1P).
- Exhibit 2: Statement of Grounds for Appeal 2019 signed by Appellant on March 6, 2020. (2PP).
- Exhibit 2(a) Appellant's Supporting Correspondence dated March 6, 2020 (1 PP).
- Exhibit 2(b) Appellant's Paystub dated February 28, 2020(1 PP).
- Exhibit 2(c) Appellant's Credit Union Loan Statement dated December 16, 2019(3 PP).
- Exhibit 3: Notice of Hearing dated May 26, 2020. (3PP).

FINDINGS OF FACT

The record shows, and I so find:

1. Appellant, who filed a 2019 Massachusetts tax return reported he was single, was age 43 in 2019, lived in Middlesex County, and had no dependents. (Exhibit 1, Testimony of Appellant).
2. Appellant indicated the address he was using was for mailing purposes and he has been homeless sleeping in his truck for a year. (Testimony of Appellant).
3. Appellant recently began having to pay child support in the amount of \$230 a week. (Exhibit 2(a), (b), Testimony).
4. Appellant investigated employer sponsored insurance but could not afford the \$127 a week premium. (Testimony

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

of Appellant, Exhibits 2(a)-(c)).

5. Appellant submitted documents that his net take home pay after deductions including child support is \$44 a week leaving him without income to pay for basic necessities including shelter and food. (Testimony of Appellant, Exhibits 2(a)).
6. Appellant investigated obtaining insurance through MassHealth and the Connector but has a difficult time maneuvering the process (Appellant's Testimony).
7. Appellant's Federal Adjusted Gross Income for 2019 was \$51,600 (Exhibit 1). (Appellant's Testimony).
8. Appellant has been assessed a tax penalty for twelve (12) months in 2019. The Appellant has appealed this assessment (Exhibits 1, 2).
9. Appellant had the following monthly expenses for basic necessities in 2019: Car Payment \$575, Insurance \$138, Cell Phone: \$113. Child Support \$989(\$230/week x. 4.3), totaling: \$1,815.
10. According to Table 3 Appellant could have afforded \$344 per month for health insurance in 2019. According to Table 4 Appellant could have purchased insurance for \$306.00 per month.
11. In addition to the foregoing, I take administrative notice of the 2019 Schedule HC Instructions and Worksheets, available at <http://www.mass.gov/dor/docs/dor/health-care/2019>, and in particular, Tables 1-6 which, as discussed below, include the Affordability Schedule and other financial information used in making 2019 individual mandate tax penalty determinations.

ANALYSIS AND CONCLUSIONS OF LAW

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

The appellant submitted a statement of grounds for appeal (Ex. 2), claiming that the individual mandate did not apply to him during 2019 because he experienced financial circumstances such that the expense of purchasing health insurance would have caused her to experience a serious deprivation of food, shelter, clothing or other necessities. During the hearing, the Appellant testified was homeless, more than 30 days in arrears in rent or mortgage, or received an eviction or foreclosure notice. The appellant did not have insurance from January through December. (See Exhibit 1).

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

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

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

The evidence provided by the appellant established that his income for 2019, \$51,600.00 was greater than 300% of the federal poverty level, which for 2019 was \$36,420.00 for a single person. According to Table 3 of Schedule HC for 2019, the Appellant had an adjusted gross income of \$51,600 in 2019 and could have afforded \$344 per month. According to Table 4, Appellant, age 43 and living in Middlesex County during the time he was being penalized for not having insurance, could have purchased insurance for \$306.00 per month. Individual coverage was affordable through the individual market for the appellant in 2019 (Schedule HC for 2019).

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

The Appellant credibly testified that he had the following monthly expenses for basic necessities in 2019: Car Payment \$575, Insurance \$138, Cell Phone: \$113. Child Support \$989(\$230/week x. 4.3), totaling: \$1,815.

The evidence presented by the Appellant in this case is insufficient to establish that he experienced a financial hardship as defined by law of 956 CMR 6.08(1)(a), (e), and (3) so as to completely waive his penalty for the months in question. The Appellant testified that in 2019 he incurred basic monthly expenses of approximately \$1,815. Those expenses were less than his monthly income if his 2019 gross income was \$51,600 to afford insurance premiums of \$306 on the individual market.

Notwithstanding the foregoing analysis, the penalty will be reduced to three (3) months in order to mitigate the harshness of a full twelve-month assessment

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

PENALTY ASSESSED

Number of Months Appealed: 12 Number of Months Assessed: 3

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

NOTIFICATION OF YOUR RIGHT TO APPEAL TO COURT

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

Cc: Connector Appeals Unit

Hearing Officer

ADDENDUM

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

Massachusetts Health Connector Appeals Unit

FINAL APPEAL DECISION: PA19-257

Appeal Decision: The penalty is overturned in full.
Hearing Issue: Appeal of the 2019 Tax Year Penalty
Hearing Date: July 17, 2020
Decision Date: July 30, 2020

AUTHORITY

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

JURISDICTION

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

HEARING RECORD

The Appellant appeared at the hearing, which was held by telephone on July 17, 2020. The procedures to be followed during the hearing were reviewed with the appellant who was then sworn in. The Appellant's Family member was also present as support. Exhibits were marked and admitted in evidence with no objection from the appellant. Appellant testified.

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

- Exhibit 1: Appeal Case Information from Schedule HC. (1 page).
- Exhibit 2: Statement of Grounds for Appeal 2019 Signed by Appellant on 2/26/20. (2 PP).
- Exhibit 3: Health Connector's Notice of Hearing dated 6/10/20 (2 PP).

FINDINGS OF FACT

The record shows, and I so find:

1. Appellant, who filed a 2019 Massachusetts tax return reported he was single, was age 22 in 2019, lived in Worcester County, and had no dependents. (Exhibit 1, Testimony of Appellant).
2. Appellant was living with his girlfriend and their Daughter at his girlfriend Mother's home until July when the Appellant, his girlfriend, and their Daughter moved to an Apartment. (Testimony of Appellant).
3. The Appellant worked Full Time installing insulation but was not paid steadily instead was paid piece mail for jobs completed. (Testimony).
4. Appellant investigated obtaining employer health insurance, but it was unaffordable at a cost of approximately \$80/week. (Testimony of Appellant).
5. Appellant testified that he was laid off during Covid 19 and is on MassHealth. (Appellant's Testimony).
6. Appellant's Federal Adjusted Gross Income for 2019 was \$42,280 (Exhibit 1). (Appellant's Testimony).
7. Appellant has been assessed a tax penalty for twelve (12) months in 2019. The Appellant has appealed this assessment (Exhibits 1, 2).

8. Appellant had the following monthly expenses for basic necessities in 2019: Rent \$1,000, Utilities \$220, Cell Phone \$80, Car Payment \$500, Car Insurance \$280, Food/Incidentals \$430, Credit Card: \$80, totaling: \$2,590.

9. According to Table 3 Appellant could have afforded \$262.49 per month for health insurance in 2019. According to Table 4 Appellant could have purchased insurance for \$257.00 per month.

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

ANALYSIS AND CONCLUSIONS OF LAW

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

The appellant submitted a statement of grounds for appeal (Ex. 2), claiming that the individual mandate did not apply to him during 2019 because the Appellant experienced a financial hardship such the coverage would have been unaffordable for him and because of Other: incurring unexpected increases in basic living expenses due to domestic violence, death of a family member, sudden responsibility for providing care for a family member or fire, flood or natural disaster. See 956 CMR 6.08. et. seq. The appellant did not have insurance from January through December. (See Exhibit 1).

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

To determine if Appellant’s penalty should be waived in whole or in part, we must consider whether affordable insurance which met minimum creditable coverage standards was available to the Appellant through employment, through the private market, or through a government-sponsored program. If affordable insurance was available, we must determine if such insurance was, in fact, not affordable to the appellant because Appellant experienced a financial hardship as defined in 956 CMR 6.08. Appellant investigated obtaining employer health insurance, but it was unaffordable at a cost of approximately \$80/week. (Testimony of Appellant).

The evidence provided by the appellant established that his income for 2019, \$42,280.00, was greater than 300% of the federal poverty level, which for 2019 was \$36,420.00 for a single person. According to Table 3 of Schedule HC for 2019, the Appellant had an adjusted gross income of \$42,280 in 2019 and could have afforded \$262.49 per month. According to Table 4, Appellant, age 22 and living in Worcester County during the time he was being penalized for not having insurance, could have purchased insurance for \$257.00 per month. Individual coverage was affordable through the individual market for the appellant in 2019 (Schedule HC for 2019).

Where the Appellant had access to affordable insurance through the Connector, we need to determine if the Appellant experienced a financial hardship such the coverage would have been unaffordable for him. See 956

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

This 22-year old Appellant credibly testified that he had the following monthly expenses for basic necessities in 2019: Appellant had the following monthly expenses for basic necessities in 2019: Rent \$1,000, Utilities \$220, Cell Phone \$80, Car Payment \$500, Car Insurance \$280, Food/Incidentals \$430, Credit Card: \$80, totaling: \$2,590.

Based upon the facts summarized above, I determine that the cost of purchasing health insurance would have caused the Appellant to experience a serious deprivation of basic necessities. The 22 year-old Appellant was paying for his monthly expenses including supporting his Daughter and helped secure housing for him and his family. Appellant testified that he was laid off during Covid 19 and is on MassHealth. It is concluded that the Appellant established through substantial and credible evidence that he experienced a financial hardship within the meaning of 956 CMR 6.08(1)(e), and (3) which allows consideration of financial issues raised by the appellant on appeal.

The Appellant's penalty is, therefore, waived.

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

PENALTY ASSESSED

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

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

NOTIFICATION OF YOUR RIGHT TO APPEAL TO COURT

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

Cc: Connector Appeals Unit Hearing Officer

ADDENDUM

If the appellant still does not have health insurance, and if his income and employment have not changed, hhe is advised to investigate his eligibility for subsidized health insurance through the Health Connector at www.mahealthconnector.org or by contacting customer service at 1-877-623-6765. The open enrollment period runs from November 1, 2019-January 23, 2019.

Massachusetts Health Connector Appeals Unit

FINAL APPEAL DECISION: PA19-260

Appeal Decision: The penalty is overturned.

Hearing Issue: Appeal of the 2019 Tax Year Penalty

Hearing Date: July 17, 2020

Decision Date: July 30, 2020

AUTHORITY

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

JURISDICTION

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

HEARING RECORD

The Appellant appeared at the hearing, which was held by telephone on July 17, 2020. The Appellant Spouse was not present, but the Appellant testified he was authorized to represent his Spouse at the hearing. The procedures to be followed during the hearing were reviewed with the Appellant who was then sworn in. Exhibits were marked and admitted in evidence with no objection from the appellant. Appellant testified.

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

- Exhibit 1: Appeal Case Information from Schedule HC. (1 page).
- Exhibit 2: Statement of Grounds for Appeal 2019 Signed by Appellant on 3/23/20. (2 PP).
- Exhibit 2(a) Appellant's Supporting Correspondence dated March 23, 2020 (1 PP).
- Exhibit 3: Health Connector's Notice of Hearing dated 6/10/20 (2 PP).

FINDINGS OF FACT

The record shows, and I so find:

1. Appellants, who filed a 2019 Massachusetts tax return reported they were married filing jointly with a family size of 4, including two children whose ages were 22 and 13. (Exhibit 1, Testimony).
2. Appellants' Federal Adjusted Gross Income for 2019 was \$63,596 (Exhibit 1).
3. Appellant testified they were on the Health Connector in 2018 but during the renewal process the premiums mistakenly increased from less than \$200 to over \$900. (Testimony).
4. Appellant testified they continued to call the Connector, that the premium was reduced to \$300, but the Appellant was then sent a refund. (Testimony of Appellant, Exhibit 2(a)).
5. Appellant testified that they found an advocate at a local hospital and they were able to determine that they had 2 accounts with the Connector. (Testimony, Exhibit 2(a)).
6. Appellant testified they were able to reenroll with the Health-Connector in August and their premium is approximately \$250/month. (Testimony of the Appellant, Exhibit 2(a)).

7. Appellant testified they both work full time, are paid hourly, and that the employer plans are too expensive. (Testimony).
9. Appellant testified they could not afford the \$900 a month insurance during the time the premiums increased. (Testimony).
10. Appellant had the following monthly expenses for basic necessities in 2019: Rent: \$1,250, Utilities: \$200, Cell Phone \$135, Car Payment \$270, Car Insurance \$250, Credit Cards \$600, totaling \$2,705/month. (Testimony of Appellant).
11. Appellants have been assessed a tax penalty for four (4) months in 2019. The Appellant has appealed this assessment (Exhibits 1, 2).
12. According to Table 3 Appellant could have afforded \$394.83 per month for health insurance in 2019. According to Table 4 Appellants could have purchased insurance for \$855 per month.
13. In addition to the foregoing, I take administrative notice of the 2019 Schedule HC Instructions and Worksheets, available at <http://www.mass.gov/dor/docs/dor/health-care/2019>, and in particular, Tables 1-6 which, as discussed below, include the Affordability Schedule and other financial information used in making 2019 individual mandate tax penalty determinations.

ANALYSIS AND CONCLUSIONS OF LAW

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

The Appellants submitted a statement of grounds for appeal (Ex. 2), claiming that the individual mandate did not apply to them during 2019 because of Other, that During 2019 other circumstance, that they were unable to obtain government subsidized insurance even though their income qualified them. They also adduced testimony during the hearing that expense of purchasing health insurance would have caused a serious deprivation of food, shelter, clothing, or other necessities.

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

The Appellant testified that they could not afford employer sponsored health insurance where they were both hourly employees. The Appellant testified that she investigated insurance options through the private insurance market and government sponsored insurance.

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

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

According to Table 3 of Schedule HC for 2019, the Appellants had an adjusted gross income of \$63,596.00 in 2019 was less than 300% of the federal poverty level, which for 2019 was \$75,300.00 for a family size of four, and they could have afforded \$394.83 per month to purchase affordable insurance. Pursuant to the Code of Massachusetts Regulations, 956 CMR 6.05(1), the Connector has established an affordability schedule that sets forth the percentage of an individual's adjusted gross income which he can be expected to contribute toward the cost of private health insurance that meets minimum creditable coverage standards. Table 3 of the Affordability Schedule indicates that the Appellants filing married jointly with two (2) dependents with a federal adjusted gross income of \$63,596.00 and higher is deemed to be able to afford a monthly premium of \$394.83 (7.45% of \$63,596.00). According to Table 4, Appellants, age 48 and 46, living in Bristol County during the time they were being penalized for not having insurance, could have purchased insurance for \$855.00 per month, more than the monthly amount deemed affordable from Table 3. Individual coverage was not affordable through the individual market for the Appellants in 2019 (Schedule HC for 2019).

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

The Appellant testified that they had the following monthly expenses for basic necessities in 2019: Rent: \$1,250, Utilities: \$200, Cell Phone \$135, Car Payment \$270, Car Insurance \$250, Credit Cards \$600, totaling \$2,705/month. (Testimony of Appellant). The need for obtaining health insurance has not been lost on the Appellants as they obtained same as soon they could straighten out the renewal and incorrect premiums.

The evidence presented by the Appellants in this case is sufficient to establish that they experienced a financial hardship as defined by law so as to waive their penalty for the months in question. The Appellant testified that in 2019 they incurred basic monthly expenses of approximately \$2,705.00 during the time their premium increased to over \$900. Those expenses were significantly more than their regular monthly pre-tax income of approximately \$5,299.66, thereby making a private health insurance premium of over \$394.93/month unmanageable, and would have caused an undue hardship.

Accordingly, it is concluded that the Appellants did establish through substantial and credible evidence that they experienced other circumstances including a financial hardship within the meaning of 956 CMR 6.08(1)(e), (3). Moreover, the need for obtaining health insurance has not been lost on the Appellants as they obtained same as soon they could straighten out the renewal and incorrect premiums. Based on the totality of the evidence, it is concluded that the appellants were exempt from the individual mandate and their request for a waiver from the penalty is **approved**. The determination that the appellants are eligible for a waiver is with respect to 2019 only and is based upon the extent of information submitted in this appeal.

Therefore, based upon the totality of the evidence, the appellant's request for a waiver from the penalty is allowed for the four (4) months for which they were assessed.

FINAL APPEAL DECISION: PA19-261

Appeal Decision: The penalty is upheld.

Hearing Issue: Appeal of the 2019 Tax Year Penalty

Hearing Date: July 17, 2020

Decision Date: July 30, 2020

AUTHORITY

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

JURISDICTION

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

HEARING RECORD

The Appellant appeared at the hearing, which was held by telephone on July 17, 2020. The Appellant Spouse was not present, but the Appellant testified he was authorized to represent his Spouse at the hearing. The procedures to be followed during the hearing were reviewed with the appellant who was then sworn in. Exhibits were marked and admitted in evidence with no objection from the appellant. Appellant testified.

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

- Exhibit 1: Appeal Case Information from Schedule HC 2019.¹(1P).
- Exhibit 2: Statement of Grounds for Appeal 2019 Signed by Appellant on March 15,2020. (2 PP).
- Exhibit 3: Notice of Hearing dated June 10, 2020. (2PP).

FINDINGS OF FACT

The record shows, and I so find:

1. Appellants, who filed a 2019 Massachusetts tax return reported they were married filing jointly with a family size of 2 and no dependents. (Exhibit 1, Testimony).
2. Appellants' Federal Adjusted Gross Income for 2019 was \$ 122,952 (Exhibit 1).
3. Appellant testified he was employed by an irrigation company and was paid \$22/hour. He testified the work was seasonal and he was laid off in the winter. (Testimony).
4. Appellant testified his employer did not offer health insurance. (Testimony of Appellant).
5. Appellant testified his Spouse worked in a Hair Salon/Spa, that her compensation was commission based, and that she was not offered employer health insurance.

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

6. Appellant testified he investigated obtaining employer health insurance through the Connector but did not meet the deadline. (Testimony of the Appellant).
7. Appellant testified he looked into obtaining private market insurance but the premiums were between \$800 and \$1,200 a month which were unaffordable. (Testimony).
8. Appellant testified they were attempting to pay down substantial credit card debt at approximately \$ 1,000 per month and could not afford to purchase health insurance. (Testimony).
9. Appellant testified he could not afford insurance during the time because the premiums would not have allowed him to pay for basic necessities. (Testimony).
10. Appellant had the following monthly expenses for basic necessities in 2019: Rent: \$1,250, Utilities: \$340, Food/Incidentals: \$800, Cell Phone \$140, Student Loan \$108, Car Payment \$600, Car Insurance \$58(\$700/year), Gas \$140, Credit Card \$1,000, totaling \$4,436/month. (Testimony of Appellant).
11. Appellants have been assessed a tax penalty for twelve (12) months in 2019. The Appellant has appealed this assessment (Exhibits 1, 2).
12. According to Table 3 Appellant could have afforded \$819.68 per month for health insurance in 2019. According to Table 4 Appellant could have purchased insurance for f \$527.00 per month.
13. In addition to the foregoing, I take administrative notice of the 2019 Schedule HC Instructions and Worksheets, available at <http://www.mass.gov/dor/docs/dor/health-care/2019>, and in particular, Tables 1-6 which, as discussed below, include the Affordability Schedule and other financial information used in making 2019 individual mandate tax penalty determinations.

ANALYSIS AND CONCLUSIONS OF LAW

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

The Appellants submitted a statement of grounds for appeal (Ex. 2), claiming that the individual mandate did not apply to them during 2019 because the expense of purchasing health insurance would have caused a serious deprivation of food, shelter, clothing, or other necessities.

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

The appellant testified that they were not offered health employer health insurance. The Appellants testified that he investigated insurance options through the private insurance market and government sponsored insurance, but the cost was too high.

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

According to Table 3 of Schedule HC for 2019, the Appellants had an adjusted gross income of \$122,952.00 in 2019 was greater than 300% of the federal poverty level, which for 2019 was \$49,380.00 for a family size of two, and he could have afforded \$819.68 per month to purchase affordable insurance. Pursuant to the Code of Massachusetts Regulations, 956 CMR 6.05(1), the Connector has established an affordability schedule that sets forth the percentage of an individual's adjusted gross income which he can be expected to contribute toward the cost of private health insurance that meets minimum creditable coverage standards. Table 3 of the Affordability Schedule indicates that the Appellants filing married jointly with no dependents with a federal adjusted gross income of \$122,952.00 and higher is deemed to be able to afford a monthly premium of \$819.68 (8.0% of \$122,952.00). According to Table 4, Appellants, age 36 and 35, living in Barnstable County during the time they were being penalized for not having insurance, could have purchased insurance for \$527.00 per month, less than the monthly amount deemed affordable from Table 3. Individual coverage was affordable through the individual market for the Appellants in 2019 (Schedule HC for 2019).

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

The Appellant testified that they had the following monthly expenses for basic necessities in 2019: Rent: \$1,250, Utilities: \$340, Food/Incidentals: \$800, Cell Phone \$140, Student Loan \$108, Car Payment \$600, Car Insurance \$58(\$700/year), Gas \$140, Credit Card \$1,000, totaling \$4,436/month. (Testimony of Appellant).

The evidence presented by the Appellants in this case is insufficient to establish that they experienced a financial hardship as defined by law so as to waive their penalty for the months in question. The appellant testified that in 2019 they incurred basic monthly expenses of approximately \$4,436.00. Those expenses were significantly less than their regular monthly pre-tax income of approximately \$10,246.00, thereby making a private health insurance premium of \$572.00/month manageable. It does not appear on its face that the payment of \$572.00/month for health insurance would have caused an undue hardship.

Accordingly, it is concluded that the Appellants did not establish through substantial and credible evidence that they experienced a financial hardship within the meaning of 956 CMR 6.08(1)(e), (3). Based on the totality of the evidence, it is concluded that the appellants were not exempt from the individual mandate and their request for a waiver from the penalty is **denied**.

Therefore, based upon the totality of the evidence, the appellant's request for a waiver from the penalty is denied for the twelve months for which they were assessed.

Massachusetts Health Connector Appeals Unit

FINAL APPEAL DECISION: PA19-204

Appeal Decision: Appeal Approved

Hearing Issue: Appeal of the 2019 Tax Year Penalty

Hearing Date: June 22, 2020

Decision Date: July 24, 2020

AUTHORITY

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

JURISDICTION

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

HEARING RECORD¹

The Appellant appeared at the hearing, which was held by telephone on June 22, 2020.

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 May 26, 2020
- Exhibit 2: Appeal Case Information from Schedule HC 2019
- Exhibit 3: Statement of Grounds for Appeal, undated
- Exhibit 4: Notice of Lawsuit Alleging Unpaid Overtime Wages
- Exhibit 5: Emails from Appellant to and from AV, dated 5/2/19
- Exhibit 6: Texts from Appellant to and from AV and HB, HR, dated 5/2/19-7/2/19
- Exhibit7: National Grid Termination Notice 2, dated May 30, 2019

FINDINGS OF FACT

The record shows, and I so find:

1. The Appellant turned 24 years old in August 2019. The Appellant filed their Federal Income Tax Return as a single person with no dependents claimed. (Exhibit 2)
2. The Appellant lived in Worcester County, MA in 2019. (Exhibit 2)

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

3. The Appellant's Federal Adjusted Gross Income for 2019 was \$24,578.00. (Exhibit 2)
4. The Appellant did not have health insurance during any months of tax year 2019. (Exhibit 2 and Appellant's Testimony).
5. The Appellant has been assessed a twelve-month tax penalty for 2019. The Appellant filed an appeal of the assessment. (Exhibits 2 – 3 and Appellant's Testimony).
6. I take administrative notice of the financial information set forth in Tables 1 through 6 of the DOR 2019 Massachusetts Schedule HC Health Care Instructions and Worksheet. Tables 3 and 4 incorporate affordability and premium schedules adopted by the Board of Directors for the Commonwealth Health Insurance Connector Authority for 2019. Table 2 sets forth income at 300% of the Federal poverty level and Tables 5 and 6 set forth tax penalties in effect for 2019.
7. In accordance with Table 3 of Schedule HC for 2019, the Appellant filing the Federal tax return as a single person, with no dependents claimed, with an annual adjusted gross income of \$24,578.00, could afford to pay \$86.00 per month for government-subsidized health insurance. In accordance with Table 4, the Appellant, age 24 living in Worcester County, could have purchased private market health insurance for \$257.00 per month. (Schedule HC for 2019). Private insurance was not affordable for the Appellant in 2019.
8. The Appellant's employer, a business for which Appellant did security guard work on an hourly basis, did not offer health insurance coverage that met the Minimum Creditable Coverage (MCC) standards during 2019. (Appellant's Testimony and Appellant's Spouse's Testimony).
9. The Appellant would have been eligible for government-subsidized ConnectorCare coverage in 2019 because the Appellant's income of \$24,578.00 was less than 300% of the Federal poverty level, which was \$36,420.00 in 2019. The monthly cost of such insurance would have been \$86.02 in accordance with Table 3 of Schedule HC for 2019.
10. The Appellant's pre-tax monthly income was \$2,048 although Appellant's actual monthly income varied because Appellant's employer owed Appellant back wages and Appellant's monthly hours fluctuated. (Appellant's Testimony). The Appellant's 2019 monthly living expenses of \$917 included: rent - \$468, utilities - \$172, car insurance - \$130, internet – \$47 and food - \$100. (Appellant's Testimony).
11. During tax year 2019, the Appellant and Appellant's roommate received a Termination Notice 2 from NationalGrid. (Exhibit 7). Additionally, Appellant was late paying rent on several occasions because of Appellant's employer's chronic errors and tardiness paying Appellant's correct wages. (Exhibit 6 and Appellant's Testimony). Appellant was forced to find a second job to supplement Appellants' income as a security guard and to work seven days per week in order to meet Appellant's living expenses. (Appellant's Testimony).

12. Appellant has a new employer and is currently uninsured.²

ANALYSIS AND CONCLUSIONS OF LAW

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

The Appellant did not have health insurance for any months in tax year 2019. The Appellant has been assessed a twelve-month penalty. The Appellant submitted a statement of grounds for this appeal citing a shut off notice and testifying about other financial hardships in 2019. (See Exhibits 3, 5-7 and Appellant’s Testimony).

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

In accordance with Table 3 of Schedule HC for 2019, the Appellant filing the Federal tax return as a single person, with no dependents claimed, with an annual adjusted gross income of \$24,578.00, could afford to pay \$86.02 per month for government-subsidized health insurance. In accordance with Table 4, the Appellant, age 24 living in Worcester County, could have purchased private market health insurance for \$257.00 per month. (Schedule HC for 2019). Private insurance was not affordable for the Appellant in 2019.

Appellant did not have access to employer-sponsored insurance that was MCC-compliant in tax year 2019.

The Appellant would have been eligible for ConnectorCare coverage in 2019 because the Appellant’s income of \$24,578.00 was less than 300% of the Federal poverty level, which was \$36,420.00 in 2019. (Schedule HC, Table 2).

Since affordable government-subsidized insurance was available to Appellant in 2019, it must be determined whether the Appellant experienced a financial hardship pursuant to 956 CMR 6.08(1) that

² The Appellant was advised to contact a Health Connector Customer Service Representative at 1-877-623-6765 if Appellant qualifies for ConnectorCare coverage or other health insurance made available through the Connector marketplace.

would make insurance coverage not affordable to Appellant and, therefore, warrant waiving the tax penalty in whole or in part.

Appellant's Federal Adjusted Gross Income for 2019 was \$24,578.00. The Appellant's pre-tax monthly income was \$2,048 although Appellant's actual monthly income varied because Appellant's employer owed Appellant back wages and Appellant's monthly hours fluctuated. (Appellant's Testimony). The Appellant's 2019 monthly living expenses of \$917 included: rent - \$468, utilities - \$172, car insurance - \$130, internet - \$47 and food - \$100. (Appellant's Testimony).

The Appellant and Appellant's roommate received a Termination Notice 2 from NationalGrid. (Exhibit 7 and Appellant's Testimony). Additionally, the Appellant testified credibly that Appellant was late making certain monthly rent payments to Appellant's landlord because their employer made errors in calculating Appellant's hourly wage, owed Appellant back pay and was late in paying Appellant's wages. (Appellant's Testimony and Exhibits 5 and 6). Therefore, Appellant had to find a second job and work seven days per week in order to pay their living expenses. (Appellant's Testimony).

Based on all the evidence and testimony in this administrative record, the Appellant has demonstrated that the cost of purchasing health insurance for 2019 would have created a financial hardship for the Appellant that would have caused them to experience deprivation of basic living necessities. See 956 CMR 6.08 (1) & (3). Therefore, Appellant's twelve-month tax penalty is waived in its entirety.

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

PENALTY ASSESSED

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

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

NOTIFICATION OF YOUR RIGHT TO APPEAL TO COURT

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

Hearing Officer

Cc: Connector Appeals Unit

Massachusetts Health Connector Appeals Unit

FINAL APPEAL DECISION: PA19-205

Appeal Decision: Appeal Approved

Hearing Issue: Appeal of the 2019 Tax Year Penalty

Hearing Date: June 22, 2020

Decision Date: July 24, 2020

AUTHORITY

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

JURISDICTION

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

HEARING RECORD¹

The Appellant appeared at the hearing, which was held by telephone, on June 22, 2020. At the outset of the hearing, the Appellant requested that their spouse be allowed to assist in representing Appellant at the telephone hearing. This request was granted. The procedures to be followed during the hearing were reviewed with Appellant and Appellant's spouse. Each individual was then sworn in. Exhibits were marked and admitted into evidence with no objection from Appellant or Appellant's spouse.

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

- Exhibit 1: Health Connector Appeals Unit Notice of Hearing, dated May 26, 2020
- Exhibit 2: Appeal Case Information from Schedule HC 2019
- Exhibit 3: Statement of Grounds for Appeal, dated 3/5/20
- Exhibit 4: Plymouth County Correctional Facility (PCCF) Release Report, Posted 1/14/20
- Exhibit 5: Certificate of Discharge PCCF undated
- Exhibit 6: Fee Agreement, dated August 20, 2018
- Exhibit 7: Notice to Report Wareham District Court, dated September 24, 2019
- Exhibit 8: Order of Probation Conditions, dated 8/19/20

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

FINDINGS OF FACT

The record shows, and I so find:

1. The Appellant turned 56 years old in April 2019. The Appellant filed their Federal Income Tax Return as a married person filing separately with no dependents claimed. (Exhibit 2)
2. The Appellant lived in Plymouth County, MA in 2019. (Exhibit 2)
3. The Appellant's Federal Adjusted Gross Income for 2019 was \$30,805. (Exhibit 2)
4. Information from Schedule HC 2019 provided by the Massachusetts Department of Revenue (DOR) showed that the Appellant did not have health insurance for any months in tax year 2019. (Exhibit 2).
5. The Appellant has been assessed a twelve-month tax penalty for 2019 based on the Information from Schedule HC 2019. (Exhibit 2). The Appellant filed an appeal of this penalty assessment in March 2020. (Exhibits 2–8, Appellant's Testimony and Appellant's Spouse's Testimony).
6. The Appellant was incarcerated in a Plymouth County Correctional Facility from August 20, 2019 through the end of December 2019. (Appellant's Testimony and Exhibits 3-5). I take administrative notice of the DOR 2019 Massachusetts Schedule HC Health Care Instructions and Worksheet (Schedule HC Instructions) which state in relevant part, "other government health coverage' includes comprehensive government-subsidized plans such as care provided at a correctional facility." Based on this information, I find that the Appellant had government-subsidized health coverage that met Minimum Creditable Coverage (MCC) standards during the period of their incarceration in 2019. (2019 Schedule HC Instructions, p. HC-3).
7. The Appellant and Appellant's spouse, who assisted in completing Appellant's 2019 Schedule HC, experienced difficulty understanding the tax forms and instructions. (Appellant's Testimony and Appellant's Spouse's Testimony). I credit their testimony and conclude that when they completed Appellant's Schedule HC, they mistakenly indicated that Appellant had no health insurance coverage for twelve months in 2019, not understanding that Appellant had coverage during the period of their incarceration. (See Paragraph 6 above).
8. The Appellant worked for a small company from January 2019 until August 19, 2019. They were paid on an hourly basis, and their work hours fluctuated on a weekly basis. The Appellant's employer did not offer health insurance coverage that met Minimum Creditable Coverage (MCC) standards during 2019. (Appellant's Testimony and Appellant's Spouse's Testimony).
9. I take administrative notice of the financial information set forth in Tables 1 through 6 of the Schedule HC Health Care Instructions and Worksheet. Tables 3 and 4 incorporate affordability and premium schedules adopted by the Board of Directors for the Commonwealth Health Insurance Connector Authority for 2019. Table 2 sets forth income at 300% of the Federal poverty level and Tables 5 and 6 set forth tax penalties in effect for 2019.

10. In accordance with Table 3 of Schedule HC for 2019, the Appellant filing the Federal tax return as a married person filing separately, with no dependents claimed, with an annual adjusted gross income of \$30,805.00, could afford to pay \$128.35 per month for government-sponsored health insurance. In accordance with Table 4, the Appellant, age 56, living in Plymouth County, could have purchased private market health insurance for \$418.00 per month. (Schedule HC for 2019). Private insurance was not affordable for the Appellant in 2019.
11. The Appellant did not have access to affordable employer-sponsored insurance that met MCC standards in 2019. (See Schedule HC-2014, Table 2, Appellant's Testimony and Appellant's Spouse's Testimony).
12. The Appellant would have been eligible for ConnectorCare during the months they worked in 2019 (January through August 19, 2019) because their income of \$30,805 was less than 300% of the federal poverty level, which was \$36,420 in 2019.
13. Appellants' monthly pre-tax living expenses of \$2,234.00 included: mortgage payment - \$1,200, electricity - \$80, truck insurance - \$400, gas - \$80, train fare - \$200, food - \$240, water bill - \$34. Additionally, Appellant has outstanding legal bills of \$10,000, and significant additional costs relating to an eviction proceeding of a problematic roommate. (Appellant's Testimony, Appellant's Spouse's Testimony and Exhibits 3-8).
14. Appellant currently is unemployed because of the Covid-19 pandemic and is uninsured.² (Appellant's Testimony and Appellant's Spouse Testimony).

ANALYSIS AND CONCLUSIONS OF LAW

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

Based on the Schedule HC 2019, the Appellant did not have health insurance for any months in 2019 and has been assessed a twelve-month penalty. (Exhibit 2). The Appellant submitted a statement of grounds for this appeal citing their incarceration. (Exhibit 3 and Appellant's Testimony). Appellant and

² The Appellant was advised to contact a Health Connector Customer Service Representative at 1-877-623-6765 if Appellant becomes eligible for ConnectorCare coverage or other health insurance made available through the Connector marketplace.

Appellant's Spouse also testified to financial hardship as a basis for the appeal. (Appellant's Testimony and Appellant's Spouse's Testimony).

Based on the language of the Schedule HC Instructions (see Paragraph 6 above), the Appellant had MCC-compliant health insurance coverage during the months of their incarceration (September through December 2019). Subtracting those four months from Appellant's twelve (12) penalty months leaves eight (8) months during which the Appellant was uninsured. Applying the three-month grace period to the eight (8) uninsured months prior to Appellant's incarceration leaves five (5) uninsured months (April through August) for which the Appellant would be assessed a penalty.

To determine if the five (5)-month penalty should be waived in whole or in part, there must be an evaluation of whether affordable insurance which met MCC standards was available to the Appellant through employment, through private insurance, or through a government-sponsored program. If affordable insurance was available, it must be determined if such insurance was not affordable to the Appellant because the Appellant experienced a financial hardship as defined in 956 CMR 6.08.

In accordance with Table 3 of Schedule HC for 2019, the Appellant filing the Federal tax return as a married person filing separately, with no dependents claimed, with an annual adjusted gross income of \$30,805.00, could afford to pay \$128.35 per month for government-sponsored health insurance. In accordance with Table 4, the Appellant, age 56, living in Plymouth County, could have purchased private market health insurance for \$418.00 per month. (Schedule HC for 2019). Private insurance was not affordable for the Appellant in 2019.

The Appellant did not have access to affordable employer-sponsored insurance that met MCC standards in 2019. (See Schedule HC-2014, Table 2, Appellant's Testimony and Appellant's Spouse's Testimony).

The Appellant would have been eligible for ConnectorCare during the months they worked in 2019 because their income of \$30,805 was less than 300% of the federal poverty level, which was \$36,420 in 2019.

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

Appellant had an adjusted gross income of income of \$30,805 in 2019. Dividing that amount by 12 months, their monthly pre-tax income was \$2,567. Appellants' monthly pre-tax living expenses of more than \$2,234.00 included: mortgage payment - \$1,200, electricity - \$80, truck insurance - \$400, gas - \$80, train fare - \$200, food - \$240, water bill - \$34. Additionally, Appellant had outstanding legal bills of \$10,000, and significant additional costs relating to an eviction proceeding of a problematic roommate. The Appellant could earn no income during the period of their incarceration. I conclude based on all of Appellant's circumstances evidenced in this administrative record, that Appellant has demonstrated that purchasing health insurance coverage during 2019 would have caused Appellant to experience a financial hardship pursuant 956 CMR 6.08 (1) & (3).

In summary, the tax penalty for Appellant's four months of incarceration is waived because he had coverage during that time period and the penalty for the five (5) months Appellant was uninsured is waived also based on financial hardship. Thus, the twelve-month penalty is waived in its entirety.

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

PENALTY ASSESSED

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

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

NOTIFICATION OF YOUR RIGHT TO APPEAL TO COURT

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

Hearing Officer

Cc: Connector Appeals Unit

Massachusetts Health Connector Appeals Unit

FINAL APPEAL DECISION: PA19-207

Appeal Decision: Appeal Approved

Hearing Issue: Appeal of the 2019 Tax Year Penalty

Hearing Date: June 22, 2020

Decision Date: July 22, 2020

AUTHORITY

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

JURISDICTION

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

HEARING RECORD

The Appellant appeared at the hearing, which was held by telephone on June 22, 2020.

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 May 26, 2020
- Exhibit 2: Appeal Case Information from Schedule HC 2019
- Exhibit 3: Statement of Grounds for Appeal, dated 3/5/20
- Exhibit 4: IRS Form 1095-B Health Coverage 2019

FINDINGS OF FACT¹

The record shows, and I so find:

1. The Appellant turned 41 years old in January 2019. The Appellant filed their Federal Income Tax Return as a single person with no dependents claimed. (Exhibit 2)
2. The Appellant lived in Hampden County, MA in 2019. (Exhibit 2)
3. The Appellant's Federal Adjusted Gross Income for 2019 was \$20,758.00. (Exhibit 2).

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

4. Information from Schedule HC 2019 provided by the Massachusetts Department of Revenue (DOR) showed that Appellant was uninsured for eight (8) months (March through October 2019). (Exhibit 2).
5. The Appellant was assessed a five-month tax penalty based on the 2019 Schedule HC 2019 (Exhibit 2). The Appellant filed an appeal of this five-month penalty assessment in March 2020. (Exhibits 2-3)
6. Appellant's 2019 Internal Revenue Service (IRS) Form 1095-B Health Coverage shows that Appellant was uninsured for five (5) months (May through September 2019). (Exhibit 4 and Exhibit 2).
7. Appellant testified that their Schedule HC was mistakenly completed inaccurately and that the Form 1095-B correctly reflected that in 2019 Appellant was uninsured for five (5) months, not eight (8) months as shown on the Schedule HC. I credit Appellant's testimony on this point and, in combination with the IRS Form 1095-B, conclude that Appellant was uninsured for five (5) months in 2019 (May through September 2019), not eight (8) months. (Appellant's Testimony and Exhibit 4).
8. I take administrative notice of the financial information set forth in Tables 1 through 6 of the DOR 2019 Massachusetts Schedule HC Health Care Instructions and Worksheet. Tables 3 and 4 incorporate affordability and premium schedules adopted by the Board of Directors for the Commonwealth Health Insurance Connector Authority for 2019. Table 2 sets forth income at 300% of the Federal poverty level and Tables 5 and 6 set forth tax penalties in effect for 2019.
9. In accordance with Table 3 of Schedule HC for 2019, the Appellant filing the Federal tax return as a single person, with no dependents claimed, with an annual adjusted gross income of \$20,758.00, could afford to pay \$50.17 per month for government-sponsored health insurance. In accordance with Table 4, the Appellant, age 41 living in Hampden County, could have purchased a private market insurance plan for \$306.00 per month. (Schedule HC for 2019). Private insurance was not affordable for the Appellant in 2019.
10. The Appellant testified that from January until April 2019, Appellant worked as a delivery driver and was paid by a temporary job placement agency that did not offer health insurance coverage. From April through September 2019, Appellant was employed by the company for which Appellant worked from January until April 2019. The company did not offer health insurance. Appellant was unemployed during October and November 2019. Appellant became employed by a different delivery company in early December 2019, which did not offer health insurance. Appellants' hourly rate and the number of hours Appellant worked fluctuated depending upon the employer and the circumstances. (Appellant's Testimony). Employer-sponsored health insurance was not available to Appellant during 2019.
11. The Appellant would have been eligible for ConnectorCare coverage in 2019 because their income of \$20,758.00 was less than 300% of the Federal Poverty Level, which was \$36,420 in 2019.

12. Appellant was enrolled in MassHealth insurance as of January 2019 and incurred medical expenses paid by MassHealth in March 2019. (Exhibit 4 and Appellant's Testimony). They testified that they believed they were enrolled in MassHealth throughout 2019, did not receive a cancellation notice and re-enrolled in MassHealth during the 2019 open enrollment period. (Appellant's Testimony). I credit Appellant's testimony on these points.
13. Appellants' monthly living expenses of \$975.00 in 2019 included: rent - \$400, food - \$300, gas - \$120, car insurance - \$80, phone - \$75. (Appellant's Testimony)
14. Appellant lived with and aided their aging father who currently experiences health issues. (Appellant's Testimony)
15. In tax year 2019, the Appellant did not face eviction, did not receive any utility shut off notices, and did not incur a significant and unexpected increase in expenses due to a natural or human caused disaster. (Appellant's Testimony).
16. The Appellant re-enrolled in MassHealth during the 2019 open enrollment period and currently has MassHealth insurance coverage. (Appellant's Testimony)

ANALYSIS AND CONCLUSIONS OF LAW

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

The DOR applied the three-month grace period to the information shown on the incorrectly completed Schedule HC, which indicated that Appellant was uninsured for eight (8) months. Therefore, Appellant was assessed a tax penalty of five (5) months. (Exhibits 2 and 4 and Paragraphs 4-7 above). Applying the three-month grace period to the correct number of five (5) uninsured months shown on Appellant's IRS Form 1095-B results in a reduced penalty assessment of two (2) months for Appellant rather than five (5) months. (See Paragraph 7).

Appellant appealed the original 5-month penalty assessment on the ground that imposing a tax penalty would cause Appellant financial hardship, and Appellant is currently enrolled in MassHealth insurance. (Appellant's Testimony).

To determine if the two-month penalty should be waived in whole or in part, there must be an evaluation of whether affordable insurance which met minimum creditable coverage standards was available to the Appellant through employment, through private insurance, or through a government-sponsored program.

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

In accordance with Table 3 of Schedule HC for 2019, the Appellant filing the Federal tax return as a single person with no dependents claimed, with an adjusted gross income of 20,758.00, could afford to pay \$50.17 per month for government-sponsored health insurance. In accordance with Table 4, the Appellant, age 41 living in Hampden County, could have purchased private market health insurance for \$306.00 per month. (Schedule HC for 2019). Private insurance was not affordable for the Appellant in 2019.

The Appellant would have been eligible for ConnectorCare in 2019 because their income of \$20,758.00 was less than 300% of the Federal Poverty Level, which was \$36,420 in 2019. (Schedule HC, Table 2 and Exhibit 2)

Given that affordable government-sponsored insurance was available to Appellant, it must be determined if such insurance was not affordable to the Appellant because of a financial hardship as defined in 956 CMR 6.08 (1).

Appellant had an adjusted gross income of income of \$20,758.00 in 2019. Dividing that amount by 12 months, their monthly pre-tax income was \$1,729.80. Appellant had monthly living expenses of \$975.00 which included: rent - \$400, food - \$300, gas - \$120, car insurance - \$80, phone - \$75. Deducting those expenses from Appellant's monthly pre-tax income leaves \$754.80 monthly pre-tax. The Appellant lived with and assisted their aging father. I conclude that based on all of Appellant's circumstances evidenced in this administrative record, Appellant has demonstrated that purchasing health insurance coverage would have been unaffordable to them because doing so would have caused Appellant to experience a financial hardship. 956 CMR 6.08 (1).

For these reasons, the tax penalty for Appellant's two (2) uninsured months is waived entirely.

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

PENALTY ASSESSED

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

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

NOTIFICATION OF YOUR RIGHT TO APPEAL TO COURT

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

Hearing Officer

Cc: Connector Appeals Unit

FINAL APPEAL DECISION: PA19-211

Appeal Decision: The penalty is overturned in part.
Hearing Issue: Appeal of the 2019 Tax Year Penalty
Hearing Date: June 23, 2020
Decision Date: July 30, 2020

AUTHORITY

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

JURISDICTION

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

HEARING RECORD

The Appellant appeared at the hearing, which was held by telephone on June 23, 2020. The procedures to be followed during the hearing were reviewed with the appellant who was then sworn in. Exhibits were marked and admitted in evidence with no objection from the appellant. Appellant testified.

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

- Exhibit 1: Appeal Case Information from Schedule HC 2019.¹(1P).
- Exhibit 2: Statement of Grounds for Appeal 2019 signed by Appellant on March 1, 2020. (2PP).
- Exhibit 2(a) Appellant's Documentation in Support of Appeal (2PP).
- Exhibit 3: Notice of Hearing dated May 26, 2020. (3PP).

The record was left open until July 7, 2020 for the Appellant to submit proof of health insurance payments made for his family member.

- Exhibit 4: 2019 Wire Transfer and Western Union Receipts for Transfers to Appellant's Family Member. (27PP).

FINDINGS OF FACT

The record shows, and I so find:

1. Appellant, who filed a 2019 Massachusetts tax return reported he was single, was age 30 in 2019, lived in Worcester County, and had no dependents. (Exhibit 1, Testimony of Appellant).
2. Appellant worked full time approximately 40 hours a week for a property management company where he was paid \$20 per hour. The Appellant also worked part time in a maintenance construction position where he was paid per diem. (Exhibit 1, Testimony of Appellant).

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

3. Appellant testified he had insurance 2018 but it became unaffordable in 2019. (Testimony of Appellant, Exhibits 4 and 5).
4. Appellant testified he could not afford the \$260/mo. premium for Employer Sponsored Health Insurance. (Appellant's Testimony).
5. Appellant testified he could not afford the cost of publicly sponsored health insurance through the Connector.
6. Appellant's Federal Adjusted Gross Income for 2019 was \$47,269.56 (Exhibit 1). (Appellant's Testimony).
7. Appellant has been assessed a tax penalty for twelve (12) months in 2019. The Appellant has appealed this assessment (Exhibits 1, 2).
8. Appellant had the following monthly expenses for basic necessities in 2019: Rent \$500/mo., Internet \$65/mo., Student Loan \$1,000/mo., Transportation \$120/mon, Credit Cards \$260/mon, Food \$260/mo., totaling: \$2,205.
9. Appellant was making payments to his Mother who lived in Nigeria for emergency medical expenses in the amount of \$12,400 (Exhibits 2(a),4).
10. Appellant testified he sent his Mother approximately over \$11,000 in 2019, so that she could pay for her care. (Appellant's Testimony, Exhibits 2(a), 4).
11. According to Table 3 Appellant could have afforded \$299.37 per month for health insurance in 2019. According to Table 4 Appellant could have purchased insurance for \$259.00 per month.
12. In addition to the foregoing, I take administrative notice of the 2019 Schedule HC Instructions and Worksheets, available at <http://www.mass.gov/dor/docs/dor/health-care/2019>, and in particular, Tables 1-6 which, as discussed below, include the Affordability Schedule and other financial information used in making 2019 individual mandate tax penalty determinations.

ANALYSIS AND CONCLUSIONS OF LAW

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

The appellant submitted a statement of grounds for appeal (Ex. 2), claiming that the individual mandate did not apply to him during 2019 because he incurred or incurring unexpected increases in basic living expenses due to sudden responsibility for providing care for a family member or fire. The appellant did not have insurance from January through December. (See Exhibit 1).

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

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

The evidence provided by the appellant established that his income for 2019, \$47,269.00 was greater than 300% of the federal poverty level, which for 2019 was \$36,420.00 for a single person. According to Table 3 of Schedule HC for 2019, the Appellant had an adjusted gross income of \$47,269 in 2019 and could have afforded \$299.37 per month. According to Table 4, Appellant, age 30 and living in Worcester County during the time he was being penalized for not having insurance, could have purchased insurance for \$259.00 per month. Individual coverage was affordable through the individual market for the appellant in 2019 (Schedule HC for 2019).

The next issue to consider is whether the appellant had access to affordable employer health insurance once he became eligible to enroll in 2019. The employee testified that the cost of an individual plan was \$260.00 per month. Pursuant to 26 IRC section 36B and 45 CFR section 155.305(f), applicants are eligible for an Advanced Premium Tax Credit (APTC) if they meet qualifying income levels and other eligibility requirements. Massachusetts residents may also be eligible for additional state premium assistance through the Health Connector's ConnectorCare program if: a) their household income does not exceed 300 percent of the Federal Poverty Level (FPL) and b) they are eligible for an APTC. 956 CMR 12.09(1) An applicant who has access to other qualifying health insurance, including insurance through an employer, will be blocked from eligibility for an APTC if the coverage is affordable and meets minimum value standards, as those terms are defined by the law. See 26 CFR section 1.36B-2(c)(3). Coverage for plan year 2019 is considered to be affordable if the employee's contribution for an individual plan is 9.86 percent or less of the employee's projected household modified adjusted income (MAGI). The coverage is considered to meet minimum value standards if it has an actuarial value of at least 60 percent.

In this case, the monthly cost for an individual plan through the appellant's employer was \$260.00. That cost is less than 9.86 percent of the appellant's projected household MAGI for 2019 (i.e.—9.86 percent of \$47,269.00 is \$4,660/12 or \$388.39/month). Hence, since the cost of employer insurance is less than \$388.39/month, the appellant is considered to have had access to qualifying health insurance. See 956 CMR 12.05 and 45 CFR section 155.305 (f)(1)(ii)(B).

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

The Appellant credibly testified that he had the following monthly expenses for basic necessities in 2019 Rent \$500, Internet \$65, Student Loan \$1,000, Transportation \$120, Credit Cards \$260, Food \$260, totaling: \$2,205. He credibly testified he reimbursed his Mother for the cost of her health care for over \$11,000 in 2019.

The evidence presented by the Appellant in this case is insufficient to establish that he experienced a financial hardship as defined by law so as to completely waive his penalty for the months in question. The Appellant testified that in 2019 he incurred basic monthly expenses of approximately \$2,205.00, as well as \$11,000 in

payments for his Mother's health care. Those expenses were less than his regular monthly net take home pay of \$670/week or approximately \$2,881.00/month, thereby making a private health insurance premium of \$288.91/month seemingly manageable. The Appellant's testimony regarding the health insurance invoice for his Mother's admission and surgery in January 2019, and wire payments from the Appellant was corroborated by the bank statements.

Notwithstanding the foregoing analysis, the penalty will be reduced to three (3) months in order to mitigate the harshness of a full twelve-month assessment.

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

PENALTY ASSESSED

Number of Months Appealed: 12 Number of Months Assessed: 3

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

NOTIFICATION OF YOUR RIGHT TO APPEAL TO COURT

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

Cc: Connector Appeals Unit

Hearing Officer

ADDENDUM

If the appellant still does not have health insurance, and if his income and employment have not changed, hhe is advised to investigate his eligibility for subsidized health insurance through the Health Connector at www.mahealthconnector.org or by contacting customer service at 1-877-623-6765. The open enrollment period runs from November 1, 2019-January 23, 2019.

Massachusetts Health Connector Appeals Unit

FINAL APPEAL DECISION: PA19-211

Appeal Decision: The penalty is overturned in part.

Hearing Issue: Appeal of the 2019 Tax Year Penalty

Hearing Date: June 23, 2020

Decision Date: July 30, 2020

AUTHORITY

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

JURISDICTION

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

HEARING RECORD

The Appellant appeared at the hearing, which was held by telephone on June 9, 2020. The procedures to be followed during the hearing were reviewed with the appellant who was then sworn in. Exhibits were marked and admitted in evidence with no objection from the appellant. Appellant testified.

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

- Exhibit 1: Appeal Case Information from Schedule HC 2019.¹(1P).
- Exhibit 2: Statement of Grounds for Appeal 2019 signed by Appellant on March 1, 2020. (2PP).
- Exhibit 3: Notice of Hearing dated May 26, 2020. (3PP).

FINDINGS OF FACT

The record shows, and I so find:

1. Appellant, who filed a 2019 Massachusetts tax return reported she was single, was age 45 in 2019, lived in Middlesex County, and had no dependents. (Exhibit 1, Testimony of Appellant).
2. Appellant worked full-time forty to forty-five hours a week, was paid minimum wage plus monthly commissions which varied from month to month. (Testimony of Appellant).
3. Appellant testified she could not obtain employer sponsored insurance until the open enrollment period in November 2019.

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

4. Appellant testified she had health insurance through the Connector in 2017 and 2018 but was unable to afford same because she experienced some financial difficulties. (Testimony of Appellant).
5. Appellant testified she did not investigate purchasing health insurance through the Connector but was not able to do until the open enrollment period in November 2019. (Testimony of Appellant).
6. Appellant testified she was able to purchase employer sponsored insurance in November 2019 at cost of \$75 per week.
7. The Appellant was laid off from her employer in April 2020 because of Covid and went on MassHealth. (Testimony of Appellant).
8. Appellant testified she was recently rehired from her Employer. (Testimony of Appellant).
9. Appellant testified the property she inherited from her grandmother which she resided was facing foreclosure in August 2019.
10. Appellant testified that because she was facing foreclosure, that she could not afford the \$1,800 a month in carrying costs for the property, and that she had to sell the property and move in 2019. (Testimony of Appellant).
11. Appellant's Federal Adjusted Gross Income for 2019 was \$54,758(Exhibit 1).
12. Appellant has been assessed a tax penalty for seven (7) months in 2019. The Appellant has appealed this assessment (Exhibits 1, 2).
13. Appellant had the following monthly expenses for basic necessities in 2019: Utilities \$150, Oil Heat, \$300 (\$600 month during the late fall-early spring months, or annual average of \$300/month), Propane Gas \$262, Car Payments \$425, Car insurance \$ 185, Gas \$320, Food \$430, totaling: \$2,072.
14. According to Table 3 Appellant could have afforded \$365.05 per month for health insurance in 2019. According to Table 4 Appellant could have purchased insurance for \$350.00 per month.
15. In addition to the foregoing, I take administrative notice of the 2019 Schedule HC Instructions and Worksheets, available at <http://www.mass.gov/dor/docs/dor/health-care/2019>, and in particular, Tables 1-6 which, as discussed below, include the Affordability Schedule and other financial information used in making 2019 individual mandate tax penalty determinations.

ANALYSIS AND CONCLUSIONS OF LAW

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

The appellant did submit grounds with her appeal that that the expense of purchasing health insurance was not affordable to her because: Other: to wit: "My employer health insurance was not able to receive until open enrollment as Nov. 2019 same for Health Connector." She also testified during the hearing that she received a foreclosure notice and was forced to sell the property. The Appellant also testified during the hearing that the expense of purchasing health insurance would have also caused a serious deprivation of food, shelter, clothing, or other necessities. (See Exhibits 2).

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

To determine if Appellant's penalty should be waived in whole or in part, we must consider whether affordable insurance which met minimum creditable coverage standards was available to the Appellant through employment, through the private market, or through a government-sponsored program. If affordable insurance was available, we must determine if such insurance was, in fact, not affordable to the appellant because the Appellant experienced a financial hardship as defined in 956 CMR 6.08. Appellant credibly testified that she had health insurance through her step father's employer health insurance. (Testimony of Appellant).

According to Table 3 of Schedule HC for 2019, the Appellant had an adjusted gross income of \$54,758 in 2019 and could have afforded \$365.05 per month. According to Table 4, Appellant, age 45 and living in Middlesex County during the time she was being penalized for not having insurance, could have purchased insurance for \$350.00 per month. Individual coverage was affordable through the individual market for the appellant in 2019 (Schedule HC for 2019).

The next issue to consider is whether the appellant had access to affordable employer health insurance in 2019. The employee testified that she was unable to enroll until November 2019 under her Employer's open enrollment period because she did not have a qualifying event. When she was able to enroll the cost was \$75/week or X 4.3 at \$322.50 per month. Pursuant to 26 IRC section 36B and 45 CFR section 155.305(f), applicants are eligible for an Advanced Premium Tax Credit (APTC) if they meet qualifying income levels and other eligibility requirements. Massachusetts residents may also be eligible for additional state premium assistance through the Health Connector's ConnectorCare program if: a) their household income does not exceed 300 percent of the Federal Poverty Level (FPL) and b) they are eligible for an APTC. 956 CMR 12.09(1) An applicant who has access to other qualifying health insurance, including insurance through an employer, will be blocked from eligibility for an APTC if the coverage is affordable and meets minimum value standards, as those terms are defined by the law. See 26 CFR section 1.36B-2(c)(3). Coverage for plan year 2019 is considered to be affordable if the employee's contribution for an individual plan is 9.86 percent or less of the employee's projected household modified

adjusted income (MAGI). The coverage is considered to meet minimum value standards if it has an actuarial value of at least 60 percent.

In this case, the monthly cost for an individual plan through the appellant's employer was \$322.50. That cost is less than 9.86 percent of the appellant's projected household MAGI for 2019 (i.e.—9.86 percent of \$54,758.00 is \$5,399/12 or \$449.92/month). Hence, since the cost of employer insurance is less than \$449.92/month, notwithstanding she testified she was unable to enroll until November, she is not considered to have had access to qualifying health insurance. See 956 CMR 12.05 and 45 CFR section 155.305 (f)(1)(ii)(B).

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

The Appellant credibly testified that she had the following monthly expenses for basic necessities in 2019: Utilities \$150, Oil Heat \$600 month during the late fall-early spring months (6 months or annual average of \$300/month), Propane Gas \$262, Car Payments \$425, Car insurance \$ 185, Gas \$320, Food \$430, totaling: \$2,205. The Appellant credibly testified regarding being unable to make the payments for the property she inherited and that she had to sell the property and move to avoid the foreclosure. The mandate was not lost on the Appellant as she obtained employer health insurance in November 2019 when she was eligible through her employer.

Based upon the facts summarized above, the evidence presented by the Appellant in this case is insufficient to establish that she experienced a financial hardship as defined by law so as to completely waive her penalty for the months in question. The Appellant was paying for her monthly expenses at \$2,205 per month. Those expenses were less than her regular monthly income, thereby making a private health insurance premium of \$365.05/month seemingly manageable

Notwithstanding the foregoing analysis, the penalty will be reduced to two (2) months in order to mitigate the harshness of a full twelve-month assessment.

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

PENALTY ASSESSED

Number of Months Appealed: 7 Number of Months Assessed: 2

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

NOTIFICATION OF YOUR RIGHT TO APPEAL TO COURT

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

Cc: Connector Appeals Unit

Hearing Officer

ADDENDUM

If the appellant still does not have health insurance, and if her income and employment have not changed, She is advised to investigate her eligibility for subsidized health insurance through the Health Connector at www.mahealthconnector.org or by contacting customer service at 1-877-623-6765. The open enrollment period runs from November 1, 2019-January 23, 2019.

FINAL APPEAL DECISION: PA19-212

Appeal Decision: The penalty is overturned in full.
Hearing Issue: Appeal of the 2019 Tax Year Penalty
Hearing Date: June 23, 2020
Decision Date: July 30, 2020

AUTHORITY

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

JURISDICTION

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

HEARING RECORD

The Appellant appeared at the hearing, which was held by telephone on June 23, 2020. The procedures to be followed during the hearing were reviewed with the appellant who was then sworn in. The Appellant's Family member was also present as support. Exhibits were marked and admitted in evidence with no objection from the appellant. Appellant testified.

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

- Exhibit 1: Appeal Case Information from Schedule HC 2019.¹(1P).
- Exhibit 2: Statement of Grounds for Appeal 2019 signed by Appellant on March 4, 2020. (2PP).
- Exhibit 2(a) Appellant's Documentation in Support of Appeal March 4, 2020 (2PP).
- Exhibit 2(b) Appellant's Notice to Vacate dated May 31, 2019(1 PP).
- Exhibit 2(c) Appellant's Unemployment Hearing Results dated December 12, 2019(3 PP).
- Exhibit 2(d) Appellant's 2019 1095 C (1 PP).
- Exhibit 3: Notice of Hearing dated May 26, 2020. (3PP).

FINDINGS OF FACT

The record shows, and I so find:

1. Appellant, who filed a 2019 Massachusetts tax return reported he was single, was age 23 in 2019, lived in Worcester County, and had no dependents. (Exhibit 1, Testimony of Appellant).
2. Appellant was living with his family in Abington, Norfolk County Massachusetts when he received an eviction notice from his Mother because his Mother was in pre-foreclosure which required the property be vacant. (Exhibits 2, 2(a) Testimony of Appellant).
3. In August 2019 the Appellant informed his employer he had to move to his new residence which was in Fiskdale Massachusetts, more than two hours from his prior home. (Exhibit 2(a), Testimony).

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

4. Appellant was forced to go on unemployment until his request for a transfer with his existing employer could be processed. The unemployment claim was not resolved until December 2019. (Testimony of Appellant, Exhibits 2(a), (c), and (d)).
5. Appellant testified that he is now enrolled in a full time vocational program but still does not have insurance through his employer. He inquired with his employer about insurance but was not offered any. (Appellant's Testimony).
6. Appellant indicated that he was covered under MassHealth but lost his coverage because his income exceeded their limits. (Exhibit 4(d)).
7. Appellant testified that because of his eviction, having to move, the loss of income, and waiting several months for unemployment, he could not afford insurance through the individual market or through government sponsored insurance.
8. Appellant's Federal Adjusted Gross Income for 2019 was \$45,395 (Exhibit 1). (Appellant's Testimony).
9. Appellant has been assessed a tax penalty for six (6) months in 2019. The Appellant has appealed this assessment (Exhibits 1, 2).
10. Appellant had the following monthly expenses for basic necessities in 2019: Rent \$775, Utilities \$65, Cell Phone \$300, Cable \$300, Car Payment \$456, Insurance \$150, Food/Incidentals \$400, totaling: \$2,446.
11. According to Table 3 Appellant could have afforded \$287.50 per month for health insurance in 2019. According to Table 4 Appellant could have purchased insurance for \$231.00 per month.
12. In addition to the foregoing, I take administrative notice of the 2019 Schedule HC Instructions and Worksheets, available at <http://www.mass.gov/dor/docs/dor/health-care/2019>, and in particular, Tables 1-6 which, as discussed below, include the Affordability Schedule and other financial information used in making 2019 individual mandate tax penalty determinations.

ANALYSIS AND CONCLUSIONS OF LAW

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

The appellant submitted a statement of grounds for appeal (Ex. 2), claiming that the individual mandate did not apply to him during 2019 because he was homeless, more than 30 days in arrears in rent or mortgage, or received an eviction or foreclosure notice. The appellant did not have insurance from April through December. (See Exhibit 1).

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

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

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

The evidence provided by the appellant established that his income for 2019, \$45,395.00 was greater than 300% of the federal poverty level, which for 2019 was \$36,420.00 for a single person. According to Table 3 of Schedule HC for 2019, the Appellant had an adjusted gross income of \$45,395 in 2019 and could have afforded \$287.50 per month. According to Table 4, Appellant, age 30 and living in Worcester County during the time he was being penalized for not having insurance, could have purchased insurance for \$257.00 per month. However, the Appellant was unemployed (without any income) during the time he was uninsured and as a result Individual coverage was not affordable through the individual market for the appellant in 2019 (Schedule HC for 2019).

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

This remarkable 23-year old credibly testified he received an eviction notice which was corroborated with an exhibit. He also credibly testified he was forced to move, relocate his job, and was not receiving any income during that time. The Appellant credibly testified that he had the following monthly expenses for basic necessities in 2019: Rent \$775, Utilities \$65, Cell Phone \$300, Cable \$300, Car Payment \$456, Insurance \$150, Food/Incidentals \$400, totaling: \$2,446.

Based upon the facts summarized above, I determine that the cost of purchasing health insurance would have caused the Appellant to experience a serious deprivation of basic necessities. The Appellant was paying for his monthly expenses once he became employed and secured housing. It is concluded that the Appellant established through substantial and credible evidence that he experienced a financial hardship within the meaning of 956 CMR 6.08(1)(a), (e), and (3) which allows consideration of financial issues raised by the appellant on appeal.

The Appellant's penalty is, therefore, waived.

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

PENALTY ASSESSED

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

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

NOTIFICATION OF YOUR RIGHT TO APPEAL TO COURT

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

Cc: Connector Appeals Unit

Hearing Officer

ADDENDUM

If the appellant still does not have health insurance, and if his income and employment have not changed, hhe is advised to investigate his eligibility for subsidized health insurance through the Health Connector at www.mahealthconnector.org or by contacting customer service at 1-877-623-6765. The open enrollment period runs from November 1, 2019-January 23, 2019.

Massachusetts Health Connector Appeals Unit

FINAL APPEAL DECISION: PA19-215

Appeal Decision: The penalty is overturned in full.
Hearing Issue: Appeal of the 2019 Tax Year Penalty
Hearing Date: June 23, 2020
Decision Date: July 30, 2020

AUTHORITY

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

JURISDICTION

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

HEARING RECORD

The Appellant appeared at the hearing, which was held by telephone on June 9, 2020. The procedures to be followed during the hearing were reviewed with the appellant who was then sworn in. Exhibits were marked and admitted in evidence with no objection from the appellant. Appellant testified.

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

- Exhibit 1: Appeal Case Information from Schedule HC 2019.¹(1P).
- Exhibit 2: Statement of Grounds for Appeal 2019 signed by Appellant on March 5, 2020. (2PP).
- Exhibit 2(a) Appellant's Supporting Correspondence dated March 5, 2020 (1 PP).
- Exhibit 2(b) Appellant's 2019 W2 (1 PP).
- Exhibit 2(c) Appellant's On Line Payments Statements dated January 1-December 31, 2019(5 PP).
- Exhibit 2(d) Appellant's Lease from August 31, 2019 (1 PP).
- Exhibit 3: Notice of Hearing dated May 26, 2020. (3PP).

FINDINGS OF FACT

The record shows, and I so find:

1. Appellant, who filed a 2019 Massachusetts tax return reported she was single, was age 39 in 2019, lived in Barnstable County, and had no dependents. (Exhibit 1, Testimony of Appellant).

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

2. Appellant worked full-time for a small employer and was not offered health insurance. (Testimony of Appellant, Exhibit 2(a)).
3. Appellant testified she investigated obtaining insurance through the Connector but the premiums in the amount of approximately \$250-300 a month were unaffordable. (Appellant's Testimony).
4. Appellant testified that her weekly net pay was approximately under \$500 per week. (Appellant's Testimony, Exhibit 2(b)).
5. Appellant indicated she has obtained MassHealth for 2020. (Testimony of Appellant, Exhibit 2(a)).
6. Appellant testified that the added expense of purchasing even the minimum coverage was not feasible. (Testimony of Appellant).
7. Appellant's Federal Adjusted Gross Income for 2019 was \$35,417(Exhibit 1).
8. Appellant has been assessed a tax penalty for eight (8) months in 2019. The Appellant has appealed this assessment (Exhibits 1, 2).
9. Appellant had the following monthly expenses for basic necessities in 2019: Rent: \$1,200, Utilities \$200, Cable/Internet \$150, Cell Phone \$70, Car insurance \$90, Credit Cards \$500, Gas \$140, Food \$300, totaling: \$2,650.
10. According to Table 3 Appellant could have afforded \$147.57 per month for health insurance in 2019. According to Table 4 Appellant could have purchased insurance for \$286.00 per month.
11. In addition to the foregoing, I take administrative notice of the 2019 Schedule HC Instructions and Worksheets, available at <http://www.mass.gov.dor/docs/dor/health-care/2019>, and in particular, Tables 1-6 which, as discussed below, include the Affordability Schedule and other financial information used in making 2019 individual mandate tax penalty determinations.

ANALYSIS AND CONCLUSIONS OF LAW

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

The appellant submitted grounds with her appeal that that the expense of purchasing health insurance was not affordable to her because the expense of purchasing health insurance would have also caused a serious deprivation of food, shelter, clothing, or other necessities. (See Exhibit 2).

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

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

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

According to Table 3 of Schedule HC for 2019, the Appellant had an adjusted gross income of \$35,417 in 2019 and could have afforded \$147.57 per month. According to Table 4, Appellant, age 39 and living in Barnstable County during the time she was being penalized for not having insurance, could have purchased insurance for \$286.00 per month. Individual coverage was not affordable through the individual market for the appellant in 2019 (Schedule HC for 2019).

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

The Appellant credibly testified that she had the following monthly expenses for basic necessities in 2019: Rent: \$1,200, Utilities \$200, Cable/Internet \$150, Cell Phone \$70, Car insurance \$90, Credit Cards \$500, Gas \$140, Food \$300, totaling: \$2,650.

Based upon the facts summarized above, I determine that the cost of purchasing health insurance would have caused the Appellant to experience a serious deprivation of basic necessities. Pursuant to 956 CMR 6.08(1)(e) and 956 CMR 6.08(3), the Appellant's weekly net pay of approximately \$500 per week would be subsumed in her monthly expenses at \$2,650 per month. She was not able to afford the \$147.57 per month for the cost of an individual plan. In addition, the mandate was not lost on the Appellant as she obtained government-sponsored health insurance for 2020. It is concluded that the Appellant established through substantial and credible evidence that she experienced a financial hardship within the meaning of 956 CMR 6.08(1)(e), and (3) which allows consideration of financial issues raised by the appellant on appeal.

The Appellant's penalty is, therefore, waived.

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

PENALTY ASSESSED

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

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

NOTIFICATION OF YOUR RIGHT TO APPEAL TO COURT

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

Cc: Connector Appeals Unit

Hearing Officer

ADDENDUM

If the appellant still does not have health insurance, and if her income and employment have not changed, she is advised to investigate her eligibility for subsidized health insurance through the Health Connector at www.mahealthconnector.org or by contacting customer service at 1-877-623-6765. The open enrollment period runs from November 1, 2019-January 23, 2019.

FINAL APPEAL DECISION: PA19-263

Appeal Decision: The penalty is overturned in part.
Hearing Issue: Appeal of the 2019 Tax Year Penalty
Hearing Date: July 17, 2020
Decision Date: July 30, 2020

AUTHORITY

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

JURISDICTION

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

HEARING RECORD

The Appellant appeared at the hearing, which was held by telephone on July 17, 2020. The procedures to be followed during the hearing were reviewed with the appellant who was then sworn in. The Appellant's Family member was also present as support. Exhibits were marked and admitted in evidence with no objection from the appellant. Appellant testified.

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

- Exhibit 1: Appeal Case Information from Schedule HC. (1 page).
- Exhibit 2: Statement of Grounds for Appeal 2019 Signed by Appellant on 3/18/20. (2 PP).
- Exhibit 2(a) Appellant's Supporting Correspondence dated March 18, 2020 (2 PP).
- Exhibit 2(b) Appellant's Supporting Documentation dated March 15, 2020 (7 PP).
- Exhibit 3: Health Connector's Notice of Hearing dated 6/10/20 (2 PP).

FINDINGS OF FACT

The record shows, and I so find:

1. Appellant, who filed a 2019 Massachusetts tax return reported he was single, was age 26 in 2019, lived in Middlesex County, and had no dependents. (Exhibit 1, Testimony of Appellant).
2. Appellant turned 26 years of age in 2019 and lived independently. (Testimony of Appellant).
3. The Appellant was employed as an Independent Contractor, paid \$22/hour, and missed the deadline to enroll in Employer Sponsored Insurance. (Testimony).
4. The Appellant's contracted work was temporary for a few months at the beginning of 2019 and he was unsure of how long the employment would continue.
5. The Appellant was caring for his sick parent and supported her financially at approximately \$400-\$500 a month where his Mother's income was reduced because she had to leave work for treatment. (Testimony of Appellant).
6. Appellant testified he was unaware of the enrollment period with his employer. (Exhibit 2(a)Appellant's

Testimony).

7. Appellant's Federal Adjusted Gross Income for 2019 was \$46,036. (Exhibit 1). (Appellant's Testimony).
8. Appellant has been assessed a tax penalty for twelve (12) months in 2019. The Appellant has appealed this assessment (Exhibits 1, 2).
9. Appellant had looked into obtaining health insurance with the Connector in 2018.
10. Appellant had the following monthly expenses for basic necessities in 2019: Rent \$500, Utilities \$120, Cell Phone \$110, Car Payment \$500, Car Insurance \$150, Gas \$200, Food/Incidentals \$300, Credit Card: \$50, totaling: \$1,930.
11. According to Table 3 Appellant could have afforded \$291.56 per month for health insurance in 2019. According to Table 4 Appellant could have purchased insurance for \$257.00 per month.
12. In addition to the foregoing, I take administrative notice of the 2019 Schedule HC Instructions and Worksheets, available at <http://www.mass.gov/dor/docs/dor/health-care/2019>, and in particular, Tables 1-6 which, as discussed below, include the Affordability Schedule and other financial information used in making 2019 individual mandate tax penalty determinations.

ANALYSIS AND CONCLUSIONS OF LAW

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

The appellant submitted a statement of grounds for appeal (Ex. 2), claiming that the individual mandate did not apply to him during 2019 because During 2019, he incurred unexpected increases in basic living expenses due to domestic violence, death of a family member, sudden responsibility for providing care for a family member or fire, flood or natural disaster, and Other: during 2019 there were other circumstances, such Affordability Tables are inequitable that he was unable to obtain government sponsored-subsidized insurance even though his income qualified him. See 956 CMR 6.08. et. seq. The appellant did not have insurance from January through December. (See Exhibits 2(a), 4,).

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

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

financial hardship as defined in 956 CMR 6.08. Appellant investigated obtaining employer health insurance but missed the enrollment periods. (Testimony of Appellant).

The evidence provided by the appellant established that his income for 2019, \$46,036.00, was greater than 300% of the federal poverty level, which for 2019 was \$36,420.00 for a single person. According to Table 3 of Schedule HC for 2019, the Appellant had an adjusted gross income of \$46,360 in 2019 and could have afforded \$291.56 per month. According to Table 4, Appellant, age 26 and living in Middlesex County during the time he was being penalized for not having insurance, could have purchased insurance for \$257.00 per month. Individual coverage was affordable through the individual market for the appellant in 2019 (Schedule HC for 2019).

The next issue to consider is whether the appellant had access to affordable employer health insurance in 2019. The employee testified that he missed the deadline for applying for employer health insurance in 2019.

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

This 26-year old Appellant credibly testified that he had the following monthly expenses for basic necessities in 2019: Rent \$500, Utilities \$120, Cell Phone \$110, Car Payment \$500, Car Insurance \$150, Gas \$200, Food/Incidentals \$300, Credit Card: \$50, totaling: \$1,930. The Appellant credibly testified that was caring for his sick parent and supported her financially at approximately \$400-\$500 a month where his Mother's income was reduced because she had to leave work for treatment. (Testimony of Appellant).

The evidence presented by the Appellant in this case is insufficient to establish that he experienced a financial hardship as defined by law, so as to completely waive his penalty for the months in question. The Appellant testified that in 2019 he incurred basic monthly expenses of approximately \$2,330.00 including payments for his Mother's health care. Those expenses were less than his regular monthly net take home pay of \$ 1,380 Bi-weekly net pay, or approximately \$2,990.00/month, thereby making a private health insurance premium of \$257/month seemingly manageable.

Notwithstanding the foregoing analysis, the penalty will be reduced to three (3) months in order to mitigate the harshness of a full twelve-month assessment.

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

PENALTY ASSESSED

Number of Months Appealed: 12 Number of Months Assessed: 3

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

NOTIFICATION OF YOUR RIGHT TO APPEAL TO COURT

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

Cc: Connector Appeals Unit

Hearing Officer

ADDENDUM

If the appellant still does not have health insurance, and if his income and employment have not changed, hhe is advised to investigate his eligibility for subsidized health insurance through the Health Connector at www.mahealthconnector.org or by contacting customer service at 1-877-623-6765. The open enrollment period runs from November 1, 2019-January 23, 2019.

Massachusetts Health Connector Appeals Unit

FINAL APPEAL DECISION: PA19-267

Appeal Decision Appeal Approved

Hearing Issue: Appeal of the 2019 Tax Year Penalty

Hearing Date: July 20, 2020

Decision Date: July 30, 2020

AUTHORITY

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

JURISDICTION

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

HEARING RECORD

The Appellant appeared at the hearing, which was held by telephone, on July 20, 2020. The procedures to be followed during the hearing were reviewed with the Appellant who was then sworn in. Exhibits were marked and admitted into evidence with no objection from the Appellant.

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

- Exhibit 1: Notice of Hearing dated June 11, 2020
- Exhibit 2: Appeal Case Information from form Schedule HC
- Exhibit 3: Statement of Grounds for Appeal dated March 17, 2020
- Exhibit 4: Written Statement of Appeal

FINDINGS OF FACT

The record shows, and I so find:

1. The appellant is thirty years old and is single. He lives in Worcester County, Massachusetts.
2. Appellant work in the retail business but is currently laid off. The company he worked for did not offer health insurance. He had health insurance in 2019 for part of the year but could not keep it due to the cost.
3. Appellant is not now working due to the pandemic.
4. Appellant does not have health insurance in 2020.
5. The Appellant's monthly expenses totaled \$2,666.00, consisting of rent \$500.00, car payment \$500.00, car insurance \$166.00, car gas \$400.00 food \$500.00, credit card \$100.00, entertainment \$400.00, toiletries \$50.00 clothing \$250.00.
6. The Appellant did submit a Statement of Grounds for Appeal-2019 under the grounds for Appeal , " During 2019, the expense of purchasing health insurance would have caused a serious deprivation of food, shelter, clothing or other necessities."
7. I take administrative notice of the information set forth in tables 1 through 6 in the Department of Revenue Schedule HC Health Care Instructions and Worksheets (Schedule HC Instructions). Tables 3 & 4 incorporate the affordability schedules adopted by the board of directors of the Commonwealth Health Insurance Connector Authority for 2019. Table 1 sets forth the income eligibility standards for various family sizes at 150% of the federal poverty level and Table 2 sets forth the income eligibility standards for various family sizes at 300 per cent of the federal poverty level, which is the income eligibility standard for the government-subsidized health insurance program. See Mass. G.L. c. 118H, s.3(a)(1). Tables 5 and 6 set forth the tax penalties for 2019.
8. Based on the appellant's federal adjusted gross income and the above referenced tables, I find the appellant would not have been eligible for subsidized health insurance,because Appellant's income of 51,766.00 was more than \$36,420.00. The monthly premium for health insurance available on the private market in Worcester County for a 29 year old single person was \$257.00. The tables reflect that Appellant could afford \$345.10. This is less than what the appellant is deemed to afford. (Tables 2, 3 & 4 of the Schedule HC Instructions)

ANALYSIS AND CONCLUSIONS OF LAW

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

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

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

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

Appellant reported a federal AGI of \$51,766.00 in 2019, and Appellant’s filing status was single. EX 2. According to the Affordability Schedule established by the Connector’s board and included in the Instructions and Worksheets of the 2019 Massachusetts Schedule HC, Appellant could afford to pay \$345.10 monthly for health insurance. See 2019 Schedule HC Instructions and Worksheets, *supra* at Table 3. Private insurance would have been available to him from the Premium Tables, at a cost of \$257.00 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 worked for a retail firm. He was not offered health insurance from his company. He had health insurance for part of the year but could not afford to pay the insurance and had to cancel his insurance.

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

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

PENALTY ASSESSED

Number of Months Appealed: 1 Number of Months Assessed: 0

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

OR

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

NOTIFICATION OF YOUR RIGHT TO APPEAL TO COURT

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

Hearing Officer

Cc: Connector Appeals Unit

Massachusetts Health Connector Appeals Unit

FINAL APPEAL DECISION: PA19-298

Appeal Decision: Penalty Overturned in Full

Hearing Issue: Appeal of the 2019 Tax Year Penalty

Hearing Date: July 13, 2020

Decision Date: July 31, 2020

AUTHORITY

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

JURISDICTION

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

HEARING RECORD

The appellant appeared at the hearing which was held by telephone on July 13, 2020, and testified under oath. The hearing record consists of the appellant's testimony and the following documents which were admitted into evidence without his objection:

Ex. 1—Statement of Grounds for Appeal—2019

Ex. 2—Appeal Case Information from Schedule HC ¹

Ex.3--Notice of Hearing

The record was held open at the conclusion of the hearing for documentation requested by the hearing officer. The documentation was submitted in a timely fashion and was marked as follows:

Ex. 4—2019 Form 1095-B

Ex. 5—Certification of Coverage dated July 17, 2020

FINDINGS OF FACT

The record shows, and I so find:

1. The appellants, husband and wife, are 56 and 55-years-old and they have three children aged 17, 21 and 23. (Testimony, Ex. 2)

1

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

2. The appellant husband has been a member of a union since at least 1999 during which time he has had health insurance provided through the union. He works on a seasonal basis, and during his layoff period, his health insurance continues if he has acquired a sufficient number of hours in his bank. For the 2014-2018 tax years, the insurance provided through the union has not met Massachusetts minimum creditable coverage standards (MCC) due to a small deviation in the plan and the appellants were assessed tax penalties for failure to obtain compliant insurance. On those occasions, the appellant filed an appeal with the Health Connector and the matter was resolved internally without a hearing based on a certification provided by the union and approved by the Connector.² (Testimony, Ex. 2)
3. In 2019, the appellants had union -provided health insurance from January through October. In November and December, they had insurance through MassHealth. They have continued their MassHealth coverage in 2020. (Testimony, Exs. 2,4)
4. The appellant husband received a Form 1095-B from the union showing that he and his family had insurance coverage for the months of January through October, 2019. He also received a certification of health coverage from the union which serves as “evidence of health coverage” for the period of January through October, 2019. (Testimony, Exs. 4,5)
5. The appellants reported an adjusted gross income of \$63,292.00 on their 2019 jointly filed federal tax return, and reported that they were married with two dependents. (Ex. 2)

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

ANALYSIS AND CONCLUSIONS OF LAW

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

The appellants submitted a statement of grounds for appeal (Ex. 1), claiming that the individual mandate did not apply to them during 2019 because they purchased health insurance that didn't meet minimum creditable coverage standards since that is what their employer offered, and they felt that their circumstances prevented them from buying other insurance that met the requirements.

The appellants had health insurance for all of 2019, but they did not receive and/or submit to the Health Connector a letter from the husband's union indicating that the union-provided insurance from January through October is considered to comply with state MCC requirements. As such, although they had coverage for the entire year, the union-provided insurance was considered to be non-conforming. According to M.G.L. c. 111M, s. 2, residents are permitted a 63-day gap between periods of coverage without facing a tax penalty; for Tax Year 2019, Administrative Bulletin 03-10: Guidance Regarding M.G.L. c. 111M and M.G.L. c. 176Q, as implemented by 956 CMR 6.00, interprets the 63-day gap in coverage to be three months. As a result, gaps of three months are not

² For the 2014 tax year, the appellants filed an appeal, but did not submit required documentation to the Department of Revenue.

subject to penalty. Since the appellants were deemed to be uninsured for ten months, they were assessed and are appealing a penalty of seven months (i.e. the months of uninsurance less the gap period of three months).

The appellant husband testified credibly that he has been a member of a union since 1999 during which time he has had union -provided health insurance. He testified that for the 2014-2018 tax years, the health insurance was not considered to have met state MCC requirements due to a small deviation in the plan. He testified that he and his wife were assessed tax penalties for those years, and that following an appeal each year, the matter was resolved internally by the Health Connector.

The record was left open at the conclusion of the hearing for the appellants to submit documentation of their coverage for the months of January through October. Unfortunately, while the documentation they submitted shows evidence of coverage for the months in question, it does not indicate that the coverage is deemed to be MCC-compliant. Accordingly, it cannot be concluded that the appellants had compliant health insurance during those months. Although the appellants did not allege either in their appeal or testimony that they could not have afforded the cost of subsidized or unsubsidized insurance if union insurance was unavailable, an affordability analysis will follow based on the evidence in the record and the aforementioned Affordability Schedules

The information extracted from the appellants' Schedule HC (Ex.2), established that their income for 2019, \$63,292.00, was less than 300% of the federal poverty level (FPL), which for 2019 was \$75,300.00 for a family of four. Table 3 of the Affordability Schedule indicates that a married couple filing jointly with one or more dependents with a federal adjusted gross income between \$57,611.00 and \$65,840.00 is deemed to be able to afford a monthly premium of \$400.85 (7.60% of \$63,292.00/12). Table 4 of the Premium Schedule indicates that a 54-year-old individual (the age of the younger of the two appellants in 2019) in Middlesex County (where the appellants resided in 2019) could have purchased private health insurance for \$968.00 per month, more than the monthly amount deemed affordable from Table 3. Thus, according to the foregoing analysis, the appellants could not have purchased affordable private health insurance in 2019.

Based on the totality of the evidence, it is concluded that in the absence of union-provided health insurance which was determined in prior tax years to comply with MCC standards, but not in 2019, the appellants could not have purchased affordable insurance on the private market. Accordingly, their request for a waiver from the penalty is **granted** for the months for which they were assessed. The determination that the appellants are eligible for a waiver is with respect to 2019 only and is based upon the extent of information submitted in this appeal.

PENALTY ASSESSED

Number of Months Appealed (husband): 7 Number of Months Assessed: 0
Number of Months Appealed (wife): 7 Number of Months Assessed: 0

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

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

NOTIFICATION OF YOUR RIGHT TO APPEAL TO COURT

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

Hearing Officer

Cc: Connector Appeals Unit

Massachusetts Health Connector Appeals Unit

FINAL APPEAL DECISION: PA19-302

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

Hearing Issue: Appeal of the 2019 Tax Year Penalty

Hearing Date: July 15, 2020

Decision Date: July 21, 2020

AUTHORITY

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

JURISDICTION

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

HEARING RECORD

Appellants, who were Husband and Wife, appeared at the hearing, which was held by telephone, on July 15, 2020. The hearing record consists of the testimony of Appellants, and the following documents, which were admitted into evidence:

- Exhibit 1: Health Connector Hearing Notice (4 pages)
- Exhibit 2: Appeal Case Information sheet containing information from Appellant's Schedule HC (1 page)¹
- Exhibit 3: Statement of Grounds_ (with attachments consisting of instructions and work sheet to 2019 Schedule HC, filled out by Appellants) (8 pages)
- Exhibit 4: Decision in PA 18-390 (4 pages)
- Exhibit 5: Decision in PA 17-566 (3 pages)
- Exhibit 6: Decision in PA 16-244 (3 pages)
- Exhibit 7: Decision in PA 14-128 (4 pages)
- Exhibit 8: Decision in PA 13-1234 (4 pages)
- Exhibit 9: Decision in PA 12-339 (4 pages)

FINDINGS OF FACT

The record shows, and I so find:

¹ Exhibit 2 is a computer printout continuing information extracted from the Schedule HC that Appellants submitted as part of their 2019 Massachusetts tax return. The Schedule HC is the form on which Massachusetts taxpayers report information relevant to the individual mandate penalty, which is the subject of this appeal. Exhibit 2 also contains information about prior appeals, if any.

1. Appellants are a married couple.
2. Husband was 64 at the end of 2019. Wife was 59 at the end of 2019.
3. Throughout 2019, and at the time of the hearing, Appellants resided in Barnstable County in the Commonwealth of Massachusetts.
4. Appellants filed their 2019 Massachusetts taxes with a status of married filing jointly with no dependents.
5. Appellants reported on their Massachusetts tax return and confirmed in their testimony at the hearing that they had adjusted gross income in 2019 of \$60,485. This income consisted of earnings from part time jobs held by each of them in Massachusetts.
6. Appellants reported on the Schedule HC that they filed with their Massachusetts tax return, and confirmed in their testimony at the hearing, that neither of them had health insurance at any point in 2019.
7. Appellants both worked in part-time jobs which did not offer them health insurance.
8. Appellants have not had health insurance in a number of years.
9. Appellants have been assessed the individual mandate penalty in prior years. In those cases, they appealed the penalty and the penalty was waived, on the grounds that they could not afford health insurance or its purchase would cause them a hardship.

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

ANALYSIS AND CONCLUSIONS OF LAW

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

To determine whether Appellants should face a penalty for not having insurance, I must first determine whether Appellants could have afforded insurance in 2019.

Appellants testified credibly that their part-time employment did not offer health insurance and so they did not have employment sponsored insurance available to them in 2019.

Further, Appellants would not have been eligible for government-subsidized insurance in 2019. Their adjusted gross income of \$60,4585 was above \$49,380, which is 300 percent of the federal poverty limit for a household of two people. (I obtain the figure of \$49,380 from Table 2 to the instructions for the 2019 Schedule HC.) Persons with household incomes above 300 percent of the federal poverty limit are not eligible for Connector Care, which is government subsidized insurance. See 956 CMR 12.04 (Connector Care eligibility requirements.)

Finally, Appellants would not have been able to afford unsubsidized health insurance on their income, using state affordability standards that are set by the Health Connector's board in accordance with Massachusetts statute. G.L. c. 111M, § 2(a). During 2019, individuals like Appellants in a household of two people and an income of \$60,485 were deemed able to afford 7.6% of income for insurance. I base this figure on Table 3, Affordability, which sets out the affordability standards adopted by the Health Connector board and is printed in the instructions to Schedule HC. This means that Appellants were deemed able to afford 7.6% of \$60,485, which amounts to only \$4,596 annually or \$383 a month. In 2019, individuals like Appellants who lived in Barnstable County and were seeking insurance for a married couple, the older of whom was 64 years of age, would have had to pay a monthly premium of \$836 for the least expensive unsubsidized health insurance plan available to them. I obtain that premium figure from Table 4, Premiums, printed in the instructions to Schedule HC. Thus, using state-established standards, Appellants were deemed unable to afford unsubsidized insurance in 2019.

Because Appellants would not have been able to afford health insurance meeting minimum creditable coverage standards in 2019, they are not subject to the individual mandate penalty under G.L. c. 111M. Therefore, I do not have to inquire further to determine whether the purchase of such health insurance would have constituted a hardship justifying a waiver of the penalty. Accordingly, based on these facts, I allow the Appellants' appeal and waive the penalty for each of them for 2019.

PENALTY ASSESSED

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

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

NOTIFICATION OF YOUR RIGHT TO APPEAL TO COURT

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

Hearing Officer

Cc: Connector Appeals Unit

Massachusetts Health Connector Appeals Unit

FINAL APPEAL DECISION: PA19-303

Appeal Decision The appeal is denied, but the tax penalty is waived in part.

Hearing Issue: Appeal of the 2019 Tax Year Penalty

Hearing Date: July 15, 2020

Decision Date: July 21, 2020

AUTHORITY

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

JURISDICTION

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

HEARING RECORD

Appellant appeared at the hearing, which was held by telephone, on July 15, 2020. The hearing record consists of the testimony of Appellant, and the following documents, which were admitted into evidence:

Exhibit 1: Health Connector Hearing Notice (4 pages)

Exhibit 2: Appeal Case Information sheet containing information from Appellant's Schedule HC (1 page)¹

Exhibit 3: Statement of Grounds (with attachments consisting of a handwritten statement by Appellant, a handwritten budget, and printouts of quotes for various insurance policies) (10 pages)

FINDINGS OF FACT

The record shows, and I so find:

1. Appellant was 26 at the end of 2019.
2. Throughout 2019, and at the time of the hearing, Appellant resided in Hampden County in the Commonwealth of Massachusetts.
3. Appellant filed his 2019 Massachusetts taxes with a status of single with no dependents.

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

4. Appellant reported on his Massachusetts tax return and confirmed in his testimony at the hearing that he had adjusted gross income in 2019 of \$48,322. This income consisted of earnings from several jobs he held in Massachusetts.
5. Appellant reported on the Schedule HC that he filed with his Massachusetts tax return, and confirmed in his testimony at the hearing, that he did not have health insurance at any point in 2019.
6. Appellant testified that none of his jobs offered him health insurance.
7. In a Statement of Grounds for Appeal (Exhibit 3), which Appellant submitted and discussed at the hearing, he stated that during 2019, he had a number of regular expenses in addition to rent, food and utilities, which included repayment of loans for his automobile, and for pieces of equipment that he used for some of his part-time work. He also stated that he had high gas and toll costs because of a long commute to his main employment.
8. In the budget that he submitted in Exhibit 3, Appellant claimed that he had regular monthly expenses totaling \$2,941, and monthly take-home pay of \$3,164.

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

ANALYSIS AND CONCLUSIONS OF LAW

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

To determine whether Appellant should face a penalty for not having insurance, I must first determine whether he could have afforded insurance in 2019.

Appellant testified that his various jobs did not offer health insurance and so he did not have employment sponsored insurance available to him in 2019.

Further, Appellant would not have been eligible for government-subsidized insurance in 2019. His adjusted gross income of \$48,322 was above \$36,420, which is 300 percent of the federal poverty limit for a household of one person. (I obtain the figure of \$36,420 from Table 2 to the instructions for the 2019 Schedule HC.) Persons with household incomes above 300 percent of the federal poverty limit are not eligible for Connector Care, which is government subsidized insurance. See 956 CMR 12.04 (Connector Care eligibility requirements.)

However, Appellant would have been able to afford unsubsidized health insurance on his income, using state affordability standards that are set by the Health Connector’s board in accordance with Massachusetts statute. G.L.c. 111M, § 2(a). During 2019, an individual like Appellant in a household of one person and with an income of \$48,322 was deemed able to afford 7.6% of income for insurance. I

base this figure on Table 3, Affordability, which sets out the affordability standards adopted by the Health Connector board and is printed in the instructions to Schedule HC. This means that Appellant was deemed able to afford 7.6% of \$48,322, which amounts to \$3,672 annually or \$306 a month. In 2019, an individual like Appellant, who lived in Hampden County and was 26 years of age, could have obtained health insurance for a premium of \$257 a month. I obtain that premium figure from Table 4, Premiums, printed in the instructions to Schedule HC. Thus, using state-established standards, Appellant was deemed able to afford unsubsidized insurance in 2019.

Because Appellant could have obtained affordable health insurance using state standards, I must determine whether he has raised circumstances establishing a hardship that would constitute grounds for waiving that penalty. See 956 CMR 6.08 (stating grounds for penalty appeal). Appellant made two related claims: first, that due to his high expenses, he only had approximately \$223 a month available after meeting his necessary expenses; and second, that the prices of insurance available to him ranged from \$444 to \$806 a month. There are problems with both these contentions. Certain parts of his submitted budget were questionable. He claimed that he was paying \$360 a month for gas; according to figures released by the American Automobile Association, the average price of gas in 2019 in Massachusetts was \$2.50 a gallon. (See [https://www.usnews.com/news/best-states/massachusetts/articles/2019-10-15/average-cost-of-gas-in-massachusetts-down-2-cents#:~:text=15%2C%202019%2C%20at%20%3A37%20p.m.&text=BOSTON%20\(AP\)%20%E2%80%94%20The%20average,lower%20than%20the%20national%20average..](https://www.usnews.com/news/best-states/massachusetts/articles/2019-10-15/average-cost-of-gas-in-massachusetts-down-2-cents#:~:text=15%2C%202019%2C%20at%20%3A37%20p.m.&text=BOSTON%20(AP)%20%E2%80%94%20The%20average,lower%20than%20the%20national%20average..)) This would mean that Appellant was using 144 gallons of gas a month; assuming gas mileage of 40 miles per gallon, which is what Appellant said he was able to get in 2019, he would be driving 5,760 miles a month, which seems excessive even for a long commute. Therefore, I do not credit the budget that he submitted. Secondly, the quotes of insurance prices he submitted in Exhibit 3 were for Platinum, Gold and Silver plans available through the Health Connector. Plans in these metallic tiers were more expensive than Bronze plans, which also would have been available to him. Appellant could have obtained a Bronze plan for \$257 a month in 2019, which would have satisfied the requirements of the individual mandate statute. See Schedule HC Instructions, Table 4.

However, I do take into consideration the fact that Appellant's budget was tight, even though I find that he could have afforded health insurance. Accordingly, I exercise my discretion to reduce the penalty assessed against him from 12 months to 2 months and urge him to shop again for health insurance during the next open enrollment season in 2020.

PENALTY ASSESSED

Number of Months Appealed : 12 Number of Months Assessed: 2

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

NOTIFICATION OF YOUR RIGHT TO APPEAL TO COURT

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

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

Hearing Officer

Cc: Connector Appeals Unit

Massachusetts Health Connector Appeals Unit

FINAL APPEAL DECISION: PA19-304

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

Hearing Issue: Appeal of the 2019 Tax Year Penalty

Hearing Date: July 15, 2020

Decision Date: July 21, 2020

AUTHORITY

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

JURISDICTION

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

HEARING RECORD

Appellant appeared at the hearing, which was held by telephone, on July 15, 2020. The hearing record consists of the testimony of Appellant, and the following documents, which were admitted into evidence:

Exhibit 1: Health Connector Hearing Notice (4 pages)

Exhibit 2: Appeal Case Information sheet containing information from Appellant's Schedule HC (1 page)¹

Exhibit 3: Statement of Grounds (with attachments) (4 pages)

FINDINGS OF FACT

The record shows, and I so find:

1. Appellant was 23 at the end of 2019.
2. For the months of March through October 2019, Appellant worked at a country club in Plymouth County in the Commonwealth of Massachusetts and lived in temporary housing provided as part of his job. For the rest of the year, and at the time of the hearing, he resided in Florida.
3. Appellant filed his 2019 Massachusetts taxes as a part year resident of the Commonwealth. He reported a status of single with no dependents.

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

4. Appellant reported on his Massachusetts tax return that he had adjusted gross income in 2019 of \$23,463. Ex. 2. However, at the hearing, he stated that the income he earned in Massachusetts was only \$12,621, and the remainder of the reported income was earned in Florida.
5. Appellant reported on the Schedule HC that he filed with his Massachusetts tax return, and confirmed in his testimony at the hearing, that he did not have health insurance for the five months that he was in Massachusetts in 2019.
6. Appellant worked in the United States in 2019 on an H1B visa. He worked in the sports industry. For the majority of the year, he was living in Florida, working at a country club there. He stated that he got health insurance through that job.
7. However, in the summer months, he came to Massachusetts for a seasonal job. He did not receive health insurance through that employment.
8. He stated that he was unaware that he needed to obtain insurance in Massachusetts.
9. He stated that by the time of the hearing, he had married a woman in Florida and had obtained a regular, full-time job in that state. He did not anticipate returning to Massachusetts for employment.

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

ANALYSIS AND CONCLUSIONS OF LAW

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

Further, according to M.G.L. c. 111M, § 2, residents are permitted a 63-day gap between periods of coverage without facing a penalty. Administrative Bulletin 03-10: Guidance Regarding M.G.L. c. 111M and M.G.L. c. 176Q, as implemented by 956 CMR 6.00, interpret the 63-day gap in coverage to be three months. As a result, gaps of three months are not subject to penalty. In Appellant’s case, he reported that he was a resident of Massachusetts for only five months of 2019, during which time he did not have health insurance. Because he is entitled to a three-month gap without penalty, he has only been assessed a penalty for two months. See Exhibit 2.

To determine whether Appellant should face a penalty for not having insurance, I must determine whether he was subject to the mandate in the first place. As stated above, the individual mandate applies only to Massachusetts residents. G.L. c. 111M, § 2. Although Appellant filed his taxes as a part-year resident, it is questionable whether he was in fact a resident of Massachusetts. While in the Commonwealth, he was working a short-term job and living in temporary housing provided by his employer as part of his compensation. He spent more months in Florida during the year. Further, he has settled in Florida as a permanent resident, having married and obtained a full-time job there. Thus,

even though he earned income in Massachusetts, he could have qualified as a non-resident living and earning money here temporarily.

However, because Appellant filed taxes as a part year resident, I will determine whether he was subject to the individual mandate penalty for failing to obtain insurance during that five month period. In order to do that, I must first determine whether he had affordable insurance available to him but did not obtain it.

Appellant testified credibly that his seasonal job in Massachusetts did not offer health insurance and so he did not have employment sponsored insurance available to him in 2019.

Based on his income alone, Appellant would have been eligible for government-subsidized insurance in 2019. His adjusted gross income of \$23,463 was below \$36,420, which is 300 percent of the federal poverty limit for a household of one person. (I obtain the figure of \$36,420 from Table 2 to the instructions for the 2019 Schedule HC.) Persons with household incomes below 300 percent of the federal poverty limit are eligible for Connector Care, which is government subsidized insurance. See 956 CMR 12.04 (Connector Care eligibility requirements.) However, a person is eligible for Connector Care only if that person is a resident of the Commonwealth. 956 CMR 12.08. To be a resident, an adult like Appellant must have an intent to reside in the Commonwealth. 956 CMR 12.02. It is questionable whether Appellant had such an intent because he was living in temporary short-term housing while working in a short-term job, with an intent to return to Florida at the end of the summer. Thus, it is arguable that Appellant was not eligible for Connector Care during his period without insurance.

If Appellant were not eligible for Connector Care, he would not have been able to afford unsubsidized health insurance on his income, using state affordability standards that are set by the Health Connector's board in accordance with Massachusetts statute. G.L. c. 111M, § 2(a). During 2019, an individual like Appellant in a household of one person and with an income of \$23,463 was deemed able to afford 2.9% of income for insurance. I base this figure on Table 3, Affordability, which sets out the affordability standards adopted by the Health Connector board and is printed in the instructions to Schedule HC. This means that Appellant was deemed able to afford 2.9% of \$23,463, which amounts to \$680 annually or \$56 a month. In 2019, an individual like Appellant who lived in Plymouth County and was 23 years of age, would have had to pay a premium of \$257 a month for the cheapest insurance available to him. I obtain that premium figure from Table 4, Premiums, printed in the instructions to Schedule HC. Thus, using state-established standards, Appellant was deemed unable to afford unsubsidized insurance in 2019.

Even if Appellant were deemed to be a resident who could have obtained Connector Care during his five months in the Commonwealth, I conclude that he has stated grounds sufficient to waive the individual mandate penalty. Having come to the United States on a temporary work visa, and living for only a short time in the Commonwealth, he was unaware of the state law mandating the purchase of insurance. He had insurance through his job in Florida, where he lived most of the year, and did not realize that he didn't have insurance through his temporary seasonal employment in Massachusetts. Given these circumstances, I exercise my discretion to waive the penalty in its entirety.

PENALTY ASSESSED

Number of Months Appealed : __2__ Number of Months Assessed: __0

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

NOTIFICATION OF YOUR RIGHT TO APPEAL TO COURT

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

Hearing Officer

Cc: Connector Appeals Unit

Massachusetts Health Connector Appeals Unit

FINAL APPEAL DECISION: PA19-305

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

Hearing Issue: Appeal of the 2019 Tax Year Penalty

Hearing Date: July 15, 2020

Decision Date: July 21, 2020

AUTHORITY

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

JURISDICTION

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

HEARING RECORD

Appellant appeared at the hearing, which was held by telephone, on July 15, 2020. The hearing record consists of the testimony of Appellant, and the following documents, which were admitted into evidence:

Exhibit 1: Health Connector Hearing Notice (4 pages)

Exhibit 2: Appeal Case Information sheet containing information from Appellant's Schedule HC (1 page)¹

Exhibit 3: Statement of Grounds (with attachments including a statement by appellant; a shut off notice from National Grid; a medical bill from Partners Hospital; and documents relating to treatment of Appellant's child) (4 pages)

FINDINGS OF FACT

The record shows, and I so find:

1. Appellant was 25 at the end of 2019.
2. She lived in Essex County during 2019.
3. Appellant filed her 2019 Massachusetts taxes as a head of household with one dependent. Her dependent was her daughter who lived with her.

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

4. Appellant reported on her Massachusetts tax return, and confirmed at the hearing, that she had adjusted gross income in 2019 of \$57,011. She earned that income through a full-time job in Massachusetts. That job offered insurance to Appellant, but she did not take the insurance when she began employment because at the time she was covered under her mother's health insurance plan.
5. Appellant reported on the Schedule HC that she filed with her Massachusetts tax return, and confirmed in her testimony at the hearing, that she had health insurance for the months of January and February 2019 but did not have insurance for the balance of the year.
6. Before March 2019, Appellant was insured under an insurance plan that her mother obtained through her employment. However, at some point early in 2019, her mother's employer's insurer disenrolled Appellant from the plan. Appellant did not realize that she had been dropped from coverage until later in the year when she tried to seek minor medical services and was told she was not covered.
7. She tried to figure out the cause of the problem through her mother but was unable to do so. At that point, she felt she had no option but to wait until her employer's open enrollment period at the end of 2019, at which point she enrolled in insurance effective at the start of 2020.
8. Appellant was insured through her employer's plan at the time of the hearing. Appellant's minor daughter was insured through that child's father's health insurance plan.
9. Appellant had financial and other difficulties during 2019. Even though she had been insured at the time of her daughter's birth, she had a significant medical bill remaining from that hospital stay, which she was paying down during 2019. See Exhibit 3.
10. She fell into arrears on her electric bill and received a shut-off notice from her electricity supplier in October 2019. She was able to pay off the arrears and did not experience shut-off.

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

ANALYSIS AND CONCLUSIONS OF LAW

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

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

To determine whether Appellant should face a penalty for not having insurance, I must first determine whether she had affordable insurance available to her. Appellant did have affordable insurance available to her through her employer in 2019. I base this conclusion on the facts that she was able to obtain affordable insurance through her employer in 2020 and she worked for the same employer in 2019.

However, Appellant explained that she did not obtain health insurance through her employer in 2019 because she had been covered on her mother's insurance. She testified credibly that she did not realize she had been dropped from that insurance effective March 2019, until some time later that year. At that point, she could not sign up for her own employer's health insurance until the employer's open enrollment period at the end of the year.

Appellant would not have been eligible for government-subsidized insurance in 2019. Her adjusted gross income of \$57,011 was above \$49,380, which is 300 percent of the federal poverty limit for a household of two people. (I obtain the figure of \$49,380 from Table 2 to the instructions for the 2019 Schedule HC.) Persons with household incomes above 300 percent of the federal poverty limit are not eligible for Connector Care, which is government subsidized insurance. See 956 CMR 12.04 (Connector Care eligibility requirements.)

Even though Appellant was not eligible for ConnectorCare, she would have been able to afford unsubsidized health insurance on her income, using state affordability standards that are set by the Health Connector's board in accordance with Massachusetts statute. G.L. c. 111M, § 2(a). During 2019, an individual like Appellant in a household of two persons and with an income of \$57,011 was deemed able to afford 7.45% of income for insurance. I base this figure on Table 3, Affordability, which sets out the affordability standards adopted by the Health Connector board and is printed in the instructions to Schedule HC. This means that Appellant was deemed able to afford 7.45% of \$57,011, which amounts to \$4,274 annually or \$353 a month. In 2019, an individual like Appellant who lived in Essex County and was 25 years of age, would have been able to obtain insurance for a monthly premium of \$257 a month. I obtain that premium figure from Table 4, Premiums, printed in the instructions to Schedule HC. Thus, using state-established standards, Appellant was deemed able to afford unsubsidized insurance in 2019.

Because Appellant could have obtained affordable health insurance in 2019, I must determine whether she has stated grounds sufficient to waive the penalty for failing to obtain that insurance. I determine that Appellant has met that standard. Appellant testified credibly that she experienced financial problems during 2019 and produced evidence that she had received a shut-off notice for her electric service in October. See Exhibit 3. Receipt of a shut-off notice for an essential utility constitutes grounds for waiver of the individual mandate penalty. See 956 CMR 6.08(1)(b). Thus, Appellant's appeal is granted and the penalty is waived in its entirety.

PENALTY ASSESSED

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

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

NOTIFICATION OF YOUR RIGHT TO APPEAL TO COURT

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

Hearing Officer

Cc: Connector Appeals Unit

Massachusetts Health Connector Appeals Unit

FINAL APPEAL DECISION: PA19-306

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

Hearing Issue: Appeal of the 2019 Tax Year Penalty

Hearing Date: July 15, 2020

Decision Date: July 21, 2020

AUTHORITY

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

JURISDICTION

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

HEARING RECORD

Appellant appeared at the hearing, which was held by telephone, on July 15, 2020. The hearing record consists of the testimony of Appellant, and the following documents, which were admitted into evidence:

Exhibit 1: Health Connector Hearing Notice (4 pages)

Exhibit 2: Appeal Case Information sheet containing information from Appellant's Schedule HC (1 page)¹

Exhibit 3: Statement of Grounds (with attachments including a statement by appellant) (6 pages)

FINDINGS OF FACT

The record shows, and I so find:

1. Appellant was 25 at the end of 2019.
2. She lived in Hampden County during 2019.
3. Appellant filed her 2019 Massachusetts taxes as a head of household with two dependents. Her dependents were two daughters who lived with her.
4. Appellant reported on her Massachusetts tax return, and confirmed at the hearing, that she had adjusted gross income in 2019 of \$47,496. She earned that income in part through a full-time

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

job in Massachusetts; however because the job was seasonal, she had periods of unemployment when she collected unemployment benefits.

5. Appellant stated in her Schedule HC and confirmed in her testimony at the hearing that she did not have health insurance at any point in 2019.
6. She testified that her job did not offer her health insurance.
7. Appellant testified that before 2019 she had applied for Connector Care, which is subsidized health insurance offered by the Commonwealth. However, she experienced difficulties enrolling herself and her two daughters. She claimed that she paid premiums for a period of time but was told that her daughters weren't signed up. As a result, she stated that she stopped paying premiums.
8. In the statement that she submitted with her Statement of Grounds, and in her testimony at the hearing, Appellant stated that she had financial difficulties during the course of 2019, resulting from her periods of unemployment. She stated that during that time, she received shut-off notices for both electric and water, and those utilities were cut off at some point during the year.

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

ANALYSIS AND CONCLUSIONS OF LAW

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

To determine whether Appellant should face a penalty for not having insurance, I must first determine whether she had affordable insurance available to her. Appellant did not have affordable insurance available to her through her employer in 2019.

Appellant would have been eligible for government-subsidized insurance in 2019. Her adjusted gross income of \$47,496 was below \$62,340, which is 300 percent of the federal poverty limit for a household of three persons. (I obtain the figure of \$62,340 from Table 2 to the instructions for the 2019 Schedule HC.) Persons with household incomes below 300 percent of the federal poverty limit are eligible for Connector Care, which is government subsidized insurance, provided they meet the other eligibility requirements of legal permanent residence in the United States and lack of access to affordable employer insurance. See 956 CMR 12.04 (Connector Care eligibility requirements.) I conclude that Appellant met these other requirements based on her testimony that she did not have insurance through her employer and on the fact that she had been determined eligible for Connector Care in previous years.

Despite being eligible for Connector Care, Appellant was not enrolled in 2019 because she had experienced difficulties with enrollment in the past. It was not possible to determine the cause of those

difficulties and Appellant was urged to re-apply using the services of an enrollment assister. A list of enrollment assisters available free of charge can be found at this website:
<https://my.mahealthconnector.org/enrollment-assisters>.

Without access to Connector Care, Appellant would not have been able to afford unsubsidized health insurance on her income, using state affordability standards that are set by the Health Connector's board in accordance with Massachusetts statute. G.L. c. 111M, § 2(a). During 2019, an individual like Appellant in a household of three persons and with an income of \$47,496 was deemed able to afford 4.9% of income for insurance. I base this figure on Table 3, Affordability, which sets out the affordability standards adopted by the Health Connector board and is printed in the instructions to Schedule HC. This means that Appellant was deemed able to afford 4.9% of \$47,496, which amounts to \$2,327 annually or \$193 a month. In 2019, an individual like Appellant who lived in Hampden County and was 49 years of age, would have had to pay a premium of \$855 a month for a family health insurance plan. I obtain that premium figure from Table 4, Premiums, printed in the instructions to Schedule HC. Thus, using state-established standards, Appellant was deemed unable to afford unsubsidized insurance in 2019.

Because Appellant could have obtained affordable health insurance in 2019 through Connector Care, I must determine whether she has stated grounds sufficient to waive the penalty for failing to obtain that insurance. I determine that Appellant has met that standard. Appellant testified credibly that she experienced financial problems and received shut off notices for both electricity and water during 2019. See Exhibit 3. Receipt of a shut-off notice for an essential utility constitutes grounds for waiver of the individual mandate penalty. See 956 CMR 6.08(1)(b). Thus, Appellant's appeal is granted and the penalty is waived in its entirety.

PENALTY ASSESSED

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

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

NOTIFICATION OF YOUR RIGHT TO APPEAL TO COURT

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

Hearing Officer

Cc: Connector Appeals Unit

Massachusetts Health Connector Appeals Unit

FINAL APPEAL DECISION: PA19-323

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

Hearing Issue: Appeal of the 2019 Tax Year Penalty

Hearing Date: July 22, 2020

Decision Date: July 30, 2020

AUTHORITY

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

JURISDICTION

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

HEARING RECORD

Appellant appeared at the hearing, which was held by telephone, on July 22, 2020. The hearing record consists of the testimony of Appellant, and the following documents, which were admitted into evidence:

Exhibit 1: Health Connector Hearing Notice (4 pages)

Exhibit 2: Appeal Case Information sheet containing information from Appellant's Schedule HC (1 page)¹

Exhibit 3: Statement of Grounds (4 pages)

FINDINGS OF FACT

The record shows, and I so find:

1. Appellant was 58 at the end of 2019.
2. She lived in Suffolk County during 2019.
3. Appellant filed her 2019 Massachusetts taxes as single with no dependents.
4. Appellant reported on her Massachusetts tax return, and confirmed at the hearing, that she had adjusted gross income in 2019 of \$44,340.

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

5. Appellant stated in her Schedule HC and confirmed in her testimony at the hearing that she had health insurance meeting minimum creditable coverage standards from January through June of 2019, but did not have any health insurance for the remaining six months of the year.
6. In the first half of 2019, she worked at a job through which she was able to get health insurance. However, that job ended in June. For the remainder of the year, her income consisted of unemployment compensation.
7. She was offered insurance through COBRA, which is a federal law providing, among other things, that an individual who leaves an employer-sponsored health plan due to layoff will be offered the option to purchase that coverage at full cost but at a group rate for a period after the layoff. 29 U.S.C. § 1161. However, the cost of the COBRA coverage for Appellant was approximately \$500 a month, which she was not able to afford on the unemployment benefits that she was receiving.
8. In early 2020, Appellant was hired at a new position, through which she obtained health insurance. She was insured as of the date of the hearing.

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

ANALYSIS AND CONCLUSIONS OF LAW

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

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

To determine whether Appellant should face a penalty for not having insurance, I must first determine whether she had affordable insurance available to her during the period when she was not insured. As explained below, I conclude that Appellant did not have affordable insurance available to her during the period of July through December 2019 when she was uninsured.

During the six-month period without insurance, Appellant was not employed and so did not have insurance available to her through employment. She did have COBRA coverage available, but its monthly premium of \$500 was not affordable to her using state-prescribed affordability standards, as explained below.

Further, Appellant would not have been eligible for government-subsidized insurance in 2019. Her 2019 adjusted gross income of \$44,340 was above \$36,420, which is 300 percent of the federal poverty limit for a household of one person. (I obtain the figure of \$36,420 from Table 2 to the instructions for the 2019 Schedule HC.) Persons with household incomes above 300 percent of the federal poverty limit are not eligible for Connector Care, which is government subsidized insurance. See 956 CMR 12.04 (Connector Care eligibility requirements.)

Finally, Appellant would not have been able to afford unsubsidized health insurance on her income, using state affordability standards that are set by the Health Connector's board in accordance with Massachusetts statute. G.L. c. 111M, § 2(a). During 2019, an individual like Appellant in a household of one person and with an income of \$44,340 was deemed able to afford 7.6% of income for insurance. I base this figure on Table 3, Affordability, which sets out the affordability standards adopted by the Health Connector board and is printed in the instructions to Schedule HC. This means that Appellant was deemed able to afford 7.6% of \$44,340, which amounts to \$3,369 annually or \$280 a month. In 2019, an individual like Appellant who lived in Suffolk County and was 58 years of age, would have had to pay a premium of at least \$418 a month for a health insurance plan. I obtain that premium figure from Table 4, Premiums, printed in the instructions to Schedule HC. Thus, using state-established standards, Appellant was deemed unable to afford unsubsidized insurance in 2019. Under the same analysis, she also would have been unable to afford the \$500 monthly premium for COBRA coverage.

Because Appellant could not have obtained affordable health insurance in 2019, she should not be assessed the individual mandate penalty. I therefore do not have to inquire further whether she has stated grounds for a waiver of that penalty. See 956 CMR 6.08(1). Appellant's appeal is granted and the penalty is waived in its entirety.

PENALTY ASSESSED

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

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

NOTIFICATION OF YOUR RIGHT TO APPEAL TO COURT

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

Hearing Officer

Cc: Connector Appeals Unit

Massachusetts Health Connector Appeals Unit

FINAL APPEAL DECISION: PA19-324

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

Hearing Issue: Appeal of the 2019 Tax Year Penalty

Hearing Date: July 22, 2020

Decision Date: July 30, 2020

AUTHORITY

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

JURISDICTION

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

HEARING RECORD

Appellant appeared at the hearing, which was held by telephone, on July 22, 2020. The hearing record consists of the testimony of Appellant, and the following documents, which were admitted into evidence:

Exhibit 1: Health Connector Hearing Notice (4 pages)

Exhibit 2: Appeal Case Information sheet containing information from Appellant's Schedule HC (1 page)¹

Exhibit 3: Statement of Grounds (4 pages)

FINDINGS OF FACT

The record shows, and I so find:

1. Appellant was 29 at the end of 2019.
2. He lived in Bristol County during 2019.
3. Appellant filed his 2019 Massachusetts taxes as single with no dependents.
4. Appellant reported on his Massachusetts tax return, and confirmed at the hearing, that he had adjusted gross income in 2019 of \$29,662.
5. Appellant stated in his Schedule HC and confirmed at the hearing that he did not have health insurance meeting minimum creditable coverage standards at any point in 2019.

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

6. Appellant worked at a job in Massachusetts. That job offered health insurance, but Appellant believed it was too expensive for him to afford and also he was not able to enroll in the insurance until open enrollment at the end of the year.
7. Appellant had once applied for MassHealth, which is Medicaid, available to residents whose income is below 133% of the federal poverty limit. He had been told that his income was too high for that program. He did not realize that there was another program, Connector Care, available through the Health Connector for persons whose household incomes were between 133 and 300 percent of the federal poverty limit. However, at some point in 2020, he did apply for Connector Care and was enrolled in insurance as of the date of the hearing.

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

ANALYSIS AND CONCLUSIONS OF LAW

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

To determine whether Appellant should face a penalty for not having insurance, I must first determine whether he had affordable insurance available to him.

Appellant testified credibly that the insurance offered through his employment was not affordable to him. However, Appellant would have been eligible for government-subsidized insurance in 2019. His adjusted gross income of \$29,662 was below \$36,420, which is 300 percent of the federal poverty limit for a household of one person. (I obtain the figure of \$36,420 from Table 2 to the instructions for the 2019 Schedule HC.) Persons with household incomes below 300 percent of the federal poverty limit are eligible for Connector Care, which is government subsidized insurance, provided they meet other eligibility requirements, such as legal permanent residence in the United States. See 956 CMR 12.04 (Connector Care eligibility requirements.) I conclude that Appellant did meet these other eligibility requirements in 2019 because he testified that he had been determined eligible for Connector Care in 2020. However, Appellant did not apply for Connector Care in 2019, because he did not know about the program and because he was deterred by the fact that he had previously been told he was not eligible for MassHealth.

Finally, Appellant would not have been able to afford unsubsidized health insurance on his income, using state affordability standards that are set by the Health Connector’s board in accordance with Massachusetts statute. G.L. c. 111M, § 2(a). During 2019, an individual like Appellant in a household of one person and with an income of \$29,662 was deemed able to afford 4.2% of income for insurance. I base this figure on Table 3, Affordability, which sets out the affordability standards adopted by the Health Connector board and is printed in the instructions to Schedule HC. This means that Appellant

was deemed able to afford 4.2% of \$29,662, which amounts to \$1,245 annually or \$103 a month. In 2019, an individual like Appellant who lived in Bristol County and was 29 years of age, would have had to pay a premium of at least \$257 a month for a health insurance plan. I obtain that premium figure from Table 4, Premiums, printed in the instructions to Schedule HC. Thus, using state-established standards, Appellant was deemed unable to afford unsubsidized insurance in 2019.

Because Appellant could have obtained affordable health insurance in 2019 through the Connector Care program, but didn't, he is subject to the individual mandate penalty unless it is waived. I must determine whether he has stated grounds sufficient to waive the penalty. Appellant claimed in his appeal that, given his income, the cost of purchasing health insurance would have caused him to experience a serious deprivation of the necessities of life. This would constitute grounds for a waiver of the penalty. See 956 CMR 6.08(1)(e). Appellant's income was relatively low and left little margin for him to afford insurance in 2019 without getting significant assistance. He was unaware that he had an option of obtaining low-cost insurance through Connector Care because he had previously been told that his income was too high to qualify for MassHealth. At some point, he learned that he could apply for Connector Care and he did so, obtaining coverage by the time of the hearing. This indicates that his period without coverage was a temporary condition, caused by his confusion about the assistance programs available to him. Accordingly, I will exercise my discretion to waive the individual mandate penalty.

PENALTY ASSESSED

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

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

NOTIFICATION OF YOUR RIGHT TO APPEAL TO COURT

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

Hearing Officer

Cc: Connector Appeals Unit

Massachusetts Health Connector Appeals Unit

FINAL APPEAL DECISION: PA19-326

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

Hearing Issue: Appeal of the 2019 Tax Year Penalty

Hearing Date: July 22, 2020

Decision Date: July 30, 2020

AUTHORITY

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

JURISDICTION

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

HEARING RECORD

Appellant appeared at the hearing, which was held by telephone, on July 22, 2020. The hearing record consists of the testimony of Appellant, and the following documents, which were admitted into evidence:

Exhibit 1: Health Connector Hearing Notice (4 pages)

Exhibit 2: Appeal Case Information sheet containing information from Appellant's Schedule HC (1 page)¹

Exhibit 3: Statement of Grounds (w/ attachments) (11 pages)

FINDINGS OF FACT

The record shows, and I so find:

1. Appellant was 27 at the end of 2019.
2. He lived in Essex County during 2019.
3. Appellant filed his 2019 Massachusetts taxes as single with no dependents.
4. Appellant reported on his Massachusetts tax return, and confirmed at the hearing, that he had adjusted gross income in 2019 of \$45,681.
5. Appellant stated in his Schedule HC and confirmed at the hearing that he did not have health insurance meeting minimum creditable coverage standards at any point in 2019.

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

6. Prior to 2019, Appellant had been covered on his parents' health insurance. However, he had lost that coverage at some point in 2018, although he did not realize that fact until some point toward the end of 2019.
7. In 2019, Appellant was working part time in the restaurant industry. His employment did not offer him health insurance.
8. Appellant lost that employment in early 2020, as a result of the disruption caused by the COVID-19 virus.
9. Shortly afterward, Appellant obtained new employment in the construction business. In that position, he was able to obtain health insurance. He was covered as of the date of the hearing.

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

ANALYSIS AND CONCLUSIONS OF LAW

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

To determine whether Appellant should face a penalty for not having insurance, I must first determine whether he had affordable insurance available to him.

Appellant did not have insurance available to him through employment in 2019. Further, Appellant would not have been eligible for government-subsidized insurance in 2019. His adjusted gross income of \$45,681 was above \$36,420, which is 300 percent of the federal poverty limit for a household of one person. (I obtain the figure of \$36,420 from Table 2 to the instructions for the 2019 Schedule HC.) Persons with household incomes above 300 percent of the federal poverty limit are not eligible for Connector Care, which is government subsidized insurance. See 956 CMR 12.04 (Connector Care eligibility requirements.)

However, Appellant would have been able to afford unsubsidized health insurance on his income, using state affordability standards that are set by the Health Connector's board in accordance with Massachusetts statute. G.L. c. 111M, § 2(a). During 2019, an individual like Appellant in a household of one person and with an income of \$45,681 was deemed able to afford 7.6% of income for insurance. I base this figure on Table 3, Affordability, which sets out the affordability standards adopted by the Health Connector board and is printed in the instructions to Schedule HC. This means that Appellant was deemed able to afford 7.6% of \$45,681, which amounts to \$3,471 annually or \$289 a month. In 2019, an individual like Appellant who lived in Essex County and was 27 years of age, could have obtained health insurance for a premium of \$257. I obtain that premium figure from Table 4, Premiums, printed in the instructions to Schedule HC. Thus, using state-established standards, Appellant was deemed able to afford unsubsidized insurance in 2019.

Because Appellant could have obtained affordable health insurance in 2019 but didn't, he is subject to the individual mandate penalty unless it is waived. Therefore, I must determine whether he has stated grounds sufficient to waive the penalty. Appellant claimed in his appeal that, given his income, the cost of purchasing health insurance would have caused him to experience a serious deprivation of the necessities of life. This would constitute grounds for a waiver of the penalty. See 956 CMR 6.08(1)(e). Appellant's earnings in 2019 were somewhat variable because of the nature of his work. He testified that he was hoping to get a raise in salary through the course of the year that would have made health insurance more affordable. He submitted documentation of his regular expenses, which included required payments for student loans and a car loan, on top of rent, utilities and parking at his place of employment. See Exhibit 3. He stated that he was struggling to live pay check to pay check. Given his expenses, the variability of his income over the course of the year, and the fact that, under the state affordability standards, health insurance was only marginally affordable to him, I conclude that he has met the standard for a waiver of the penalty. Accordingly, I exercise my discretion to waive the penalty.

PENALTY ASSESSED

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

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

NOTIFICATION OF YOUR RIGHT TO APPEAL TO COURT

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

Hearing Officer

Cc: Connector Appeals Unit

Massachusetts Health Connector Appeals Unit

FINAL APPEAL DECISION: PA19-59

Appeal Decision Appeal Approved.

Hearing Issue: Appeal of the 2019 Tax Year Penalty

Hearing Date: May 12, 2020

Decision Date: July 8, 2020

AUTHORITY

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

JURISDICTION

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

HEARING RECORD

Appellant appeared at the hearing, which was held by telephone, on May 12, 2020. 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 (4-6-20) (3 pages);
- Exhibit 2: Information from Schedule HC TY 2019 (1 page); and
- Exhibit 3: Statement of Grounds for Appeal (2-24-20) (4 pages).

FINDINGS OF FACT

The record shows, and I so find:

1. Appellant, age 37 during 2019, from Essex County, filed single on the tax return with a family size of 1) (Exhibit 2).
2. Appellant did not have health insurance for 2019. (Appellant's testimony, Exhibits 2, and 3).
3. Appellant's Federal Adjusted Gross Income for 2019 was \$33,952.00 (Exhibit 2).
4. Appellant previously had health insurance that they thought was at no cost, but then received a bill for \$260.00 per month, and did not believe that was affordable for them. (Appellant testimony, Exhibit 3).
5. Appellant now has health insurance. (Appellant Testimony).

6. Appellant's expenses for food, shelter, clothing, and other necessities used a significant amount of the income (Appellant's Testimony). The monthly expenses for food, shelter, clothing, child support and other necessities, totaled approximately \$1,800.00 per month averaged out, or \$21,600.00 for the year (Appellant's Testimony).
7. I take administrative notice of the financial information set forth in Tables 1 through 6 in the DOR 2019 Massachusetts Schedule HC Health Care Instructions and Worksheets. Tables 3 and 4 incorporate affordability and premium schedules adopted by the Board of Directors for the Commonwealth Health Insurance Connector Authority for 2019. Table 2 sets forth income at 300% of the Federal poverty level and Tables 5 and 6 set forth tax penalties in effect for 2019.
8. Appellant could not afford health insurance based on the tables in Schedule HC. According to Table 4, the health insurance would cost \$286.00 for individual coverage. According to Table 3, Appellant was deemed to afford \$141.00.
9. Private insurance was not affordable for the Appellant in 2019 (Schedule HC for 2019).
10. Appellant's AGI was under 300% of the Federal Poverty Level, and Appellant therefore may have qualified for subsidized health insurance through the Health Connector. (Schedule HC for 2019).
11. Appellant claimed that they should be granted a waiver based on the grounds that paying for health insurance would have caused a serious deprivation of food, shelter, clothing and other necessities during 2019. (Testimony of Appellant, Exhibit 3).
12. Appellant did not incur significant and unexpected increases in essential expenses as a result of domestic violence; due to the death of a spouse, family member, or partner who shared household expenses; the sudden responsibility for providing full care for an aging parent or other family member; or fire, flood, or other natural or man-made disaster in 2019 (Exhibit 3).
13. Appellant was not homeless, was not thirty days or more behind in rent in 2019, and Appellant did not receive a shut-off notice for basic utilities. (Appellant Testimony, Exhibit 3).

ANALYSIS AND CONCLUSIONS OF LAW

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

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

Appellant did not have health insurance for 2019. They have been assessed a tax penalty for twelve months. Appellant appealed the assessment. See Exhibits 2 and 3. To determine if the penalty should be waived in whole or in part, we must consider whether affordable insurance which met minimum

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

Private insurance was not affordable for the Appellant during 2019. According to Tables 3 and 4 of the HC Schedule for 2019, Appellant, with an adjusted gross income of \$33,952.00 was deemed not to have been able to afford health insurance on the private market. According to Table 3, Appellant could have afforded to pay \$141.00 per month; according to Table 4, Appellant, who was 37 years old in 2019, lived in Essex County and filed the 2019 Massachusetts taxes as single with a family size of 1, would have had to pay \$286.00 for individual coverage per month for insurance on the private market. See CMR 6.05 (1)(2), Schedule HC Tables 3 and 4, and Exhibit 2.

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

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

PENALTY ASSESSED

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

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

NOTIFICATION OF YOUR RIGHT TO APPEAL TO COURT

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

Hearing Officer

Cc: Connector Appeals Unit

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

Massachusetts Health Connector Appeals Unit

FINAL APPEAL DECISION: PA19-60

Appeal Decision Appeal Approved.

Hearing Issue: Appeal of the 2019 Tax Year Penalty

Hearing Date: May 12, 2020

Decision Date: July 8, 2020

AUTHORITY

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

JURISDICTION

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

HEARING RECORD

Appellants appeared at the hearing, which was held by telephone, on May 12, 2020. The hearing record consists of the Appellant's testimony, through an interpreter, and the following documents which were admitted into evidence without objection by Appellant:

- Exhibit 1: Notice of Hearing (4-6-20) (3 pages);
- Exhibit 2: Information from Schedule HC TY 2019 (1 page); and
- Exhibit 3: Statement of Grounds for Appeal (2-26-20) (3 pages).

FINDINGS OF FACT

The record shows, and I so find:

1. Appellants, ages 30 and 25 during 2019, from Essex County, filed married filing jointly on the tax return with a family size of 3) (Exhibit 2).
2. One of the Appellants had health insurance for all of 2019, and the other Appellant had health insurance for February 2019, but did not have health insurance for the remaining months of 2019. (Appellant's testimony, Exhibits 2, and 3).
3. Appellants' Federal Adjusted Gross Income for 2019 was \$46,863.00 (Exhibit 2).
4. Appellant thought the cost for the health insurance would be \$75.00, but then received a bill for \$220.00 per month, and did not believe that was affordable for them. (Appellant testimony, Exhibit 3).

5. Appellants now both have health insurance. (Appellant Testimony).
6. Appellants' expenses for food, shelter, clothing, and other necessities used a significant amount of the income (Appellant's Testimony). The monthly expenses for food, shelter, clothing, child costs and other necessities, totaled approximately \$3,000.00 per month averaged out, or \$36,000.00 for the year (Appellant's Testimony).
7. I take administrative notice of the financial information set forth in Tables 1 through 6 in the DOR 2019 Massachusetts Schedule HC Health Care Instructions and Worksheets. Tables 3 and 4 incorporate affordability and premium schedules adopted by the Board of Directors for the Commonwealth Health Insurance Connector Authority for 2019. Table 2 sets forth income at 300% of the Federal poverty level and Tables 5 and 6 set forth tax penalties in effect for 2019.
8. Appellants could not afford health insurance based on the tables in Schedule HC. According to Table 4, the health insurance would cost \$665.00 for individual coverage. According to Table 3, Appellants were deemed to afford \$191.00.
9. Private insurance was not affordable for the Appellants in 2019 (Schedule HC for 2019).
10. Appellants' AGI was under 300% of the Federal Poverty Level, and Appellants therefore may have qualified for subsidized health insurance through the Health Connector. (Schedule HC for 2019).
11. Appellants claimed that they should be granted a waiver based on the grounds that paying for health insurance would have caused a serious deprivation of food, shelter, clothing and other necessities during 2019. (Testimony of Appellant, Exhibit 3).
12. Appellants did not incur significant and unexpected increases in essential expenses as a result of domestic violence; due to the death of a spouse, family member, or partner who shared household expenses; the sudden responsibility for providing full care for an aging parent or other family member; or fire, flood, or other natural or man-made disaster in 2019 (Exhibit 3).
13. Appellants were not homeless, were not thirty days or more behind in rent in 2019, and Appellants did not receive a shut-off notice for basic utilities. (Appellant Testimony, Exhibit 3).

ANALYSIS AND CONCLUSIONS OF LAW

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

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

One of Appellants did have health insurance for all of 2019, and the other Appellant had health insurance for February 2019, but did not have health insurance for the remaining months of 2019. They

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

Private insurance was not affordable for the Appellants during 2019. According to Tables 3 and 4 of the HC Schedule for 2019, Appellants, with an adjusted gross income of \$46,863.00 were deemed not to have been able to afford health insurance on the private market. According to Table 3, Appellants could have afforded to pay \$191.00 per month; according to Table 4, Appellants, who were 30 and 25 years old in 2019, lived in Essex County and filed the 2019 Massachusetts taxes as married filing jointly with a family size of 3, would have had to pay \$665.00 for family coverage per month for insurance on the private market. See CMR 6.05 (1)(2), Schedule HC Tables 3 and 4, and Exhibit 2.

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

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

PENALTY ASSESSED

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

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

NOTIFICATION OF YOUR RIGHT TO APPEAL TO COURT

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

Hearing Officer

Cc: Connector Appeals Unit

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

Massachusetts Health Connector Appeals Unit

FINAL APPEAL DECISION: PA19-63

Appeal Decision Appeal Approved.

Hearing Issue: Appeal of the 2019 Tax Year Penalty

Hearing Date: May 12, 2020

Decision Date: July 8, 2020

AUTHORITY

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

JURISDICTION

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

HEARING RECORD

Appellant appeared at the hearing, which was held by telephone, on May 12, 2020. 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 (4-6-20) (3 pages);
- Exhibit 2: Information from Schedule HC TY 2019 (1 page); and
- Exhibit 3: Statement of Grounds for Appeal (2-28-20) (with letter) (4 pages).

FINDINGS OF FACT

The record shows, and I so find:

1. Appellant, age 45 during 2019, from Norfolk County, filed single on the tax return with a family size of 1) (Exhibit 2).
2. Appellant did have health insurance for January and for October through December of 2019, but did not have health insurance for remaining months of 2019. (Appellant's testimony, Exhibits 2, and 3).
3. Appellant's Federal Adjusted Gross Income for 2019 was \$52,468.00 (Exhibit 2).
4. Appellant had health insurance through the employer for January 2019, and then was unemployed from February through September 2019, and then had health insurance through the new employer for October through December, and continues to have health insurance through

the employer. Appellant lived on savings and a part-time job during the months that Appellant did not have health insurance. (Appellant testimony, Exhibit 3).

5. Appellant now has health insurance. (Appellant Testimony).
6. Appellant's expenses for food, shelter, clothing, and other necessities used a significant amount of the income (Appellant's Testimony). In addition, Appellant provided money to the Appellant's daughter and grandchildren, as well as to the Appellant's brother, who had disabilities and for whom Appellant was guardian. The monthly expenses for food, shelter, clothing, support for family and other necessities, totaled approximately \$3,800.00 per month averaged out, or \$45,600.00 for the year (Appellant's Testimony).
7. I take administrative notice of the financial information set forth in Tables 1 through 6 in the DOR 2019 Massachusetts Schedule HC Health Care Instructions and Worksheets. Tables 3 and 4 incorporate affordability and premium schedules adopted by the Board of Directors for the Commonwealth Health Insurance Connector Authority for 2019. Table 2 sets forth income at 300% of the Federal poverty level and Tables 5 and 6 set forth tax penalties in effect for 2019.
8. Appellant could not afford health insurance based on the tables in Schedule HC. According to Table 4, the health insurance would cost \$350.00 for individual coverage. According to Table 3, Appellant was deemed to afford \$349.00.
9. Private insurance was not affordable for the Appellant in 2019 (Schedule HC for 2019).
10. Appellant's AGI was over 300% of the Federal Poverty Level, and Appellant therefore would not have qualified for subsidized health insurance through the Health Connector. (Schedule HC for 2019).
11. Appellant claimed that they should be granted a waiver based on the grounds that paying for health insurance would have caused a serious deprivation of food, shelter, clothing and other necessities during 2019. (Testimony of Appellant, Exhibit 3).
12. Appellant did not incur significant and unexpected increases in essential expenses as a result of domestic violence; due to the death of a spouse, family member, or partner who shared household expenses; the sudden responsibility for providing full care for an aging parent or other family member; or fire, flood, or other natural or man-made disaster in 2019 (Exhibit 3).
13. Appellant was not homeless, was not thirty days or more behind in rent in 2019, and Appellant did not receive a shut-off notice for basic utilities. (Appellant Testimony, Exhibit 3).

ANALYSIS AND CONCLUSIONS OF LAW

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

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

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

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

Private insurance was not affordable for the Appellant during 2019. According to Tables 3 and 4 of the HC Schedule for 2019, Appellant, with an adjusted gross income of \$52,468.00 was deemed not to have been able to afford health insurance on the private market. According to Table 3, Appellant could have afforded to pay \$349.00 per month; according to Table 4, Appellant, who was 45 years old in 2019, lived in Norfolk County and filed the 2019 Massachusetts taxes as single with a family size of 1, would have had to pay \$350.00 for individual coverage per month for insurance on the private market. See CMR 6.05 (1)(2), Schedule HC Tables 3 and 4, and Exhibit 2.

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

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

PENALTY ASSESSED

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

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

NOTIFICATION OF YOUR RIGHT TO APPEAL TO COURT

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

Hearing Officer

Cc: Connector Appeals Unit

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

Massachusetts Health Connector Appeals Unit

FINAL APPEAL DECISION: PA19-86

Appeal Decision Appeal Approved.

Hearing Issue: Appeal of the 2019 Tax Year Penalty

Hearing Date: May 19, 2020

Decision Date: July 8, 2020

AUTHORITY

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

JURISDICTION

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

HEARING RECORD

Appellants appeared at the hearing, which was held by telephone, on May 19, 2020. An observer also attended the meeting with the permission of the Appellants. The hearing record consists of the Appellants' testimony, and the following documents which were admitted into evidence without objection by Appellant:

- Exhibit 1: Notice of Hearing (4-17-20) (3 pages);
- Exhibit 2: Information from Schedule HC TY 2019 (1 page); and
- Exhibit 3: Statement of Grounds for Appeal (2-26-20) (with document) (5 pages).

FINDINGS OF FACT

The record shows, and I so find:

1. Appellants, ages 30 and 34 during 2019, from Barnstable County, filed married filing jointly on the tax return with a family size of 2 (Exhibit 2).
2. One of the Appellants had health insurance for all of 2019, and the other Appellant had health insurance for January through March and for October through December of 2019, but did not have health insurance for the remaining months of 2019. (Appellant's testimony, Exhibits 2, and 3).
3. Appellants' Federal Adjusted Gross Income for 2019 was \$92,425.00 (Exhibit 2).

4. The Appellant who did not have health insurance in Massachusetts for April through September had health insurance through the Dominican Republic for all of the months of 2019 that there was no health insurance in Massachusetts. Appellant believed that they were not eligible to purchase health insurance in Massachusetts until October of 2019. (Appellant testimony, Exhibit 3).
5. Appellants now both have health insurance. (Appellant Testimony).
6. I take administrative notice of the financial information set forth in Tables 1 through 6 in the DOR 2019 Massachusetts Schedule HC Health Care Instructions and Worksheets. Tables 3 and 4 incorporate affordability and premium schedules adopted by the Board of Directors for the Commonwealth Health Insurance Connector Authority for 2019. Table 2 sets forth income at 300% of the Federal poverty level and Tables 5 and 6 set forth tax penalties in effect for 2019.
7. Appellants could afford health insurance based on the tables in Schedule HC. According to Table 4, the health insurance would cost \$558.00 for family coverage. According to Table 3, Appellants were deemed to afford \$616.00.
8. Private insurance was affordable for the Appellants in 2019 (Schedule HC for 2019).
9. Appellants' AGI was over 300% of the Federal Poverty Level, and Appellants therefore would not have qualified for subsidized health insurance through the Health Connector. (Schedule HC for 2019).
10. Appellants claimed that they should be granted a waiver based on the grounds that the Appellant who did not have health insurance in Massachusetts for some of 2019 did have it in the Dominican Republic and did not believe that they eligible to purchase health insurance in Massachusetts until October 2019. (Testimony of Appellant, Exhibit 3).
11. Appellants did not incur significant and unexpected increases in essential expenses as a result of domestic violence; due to the death of a spouse, family member, or partner who shared household expenses; the sudden responsibility for providing full care for an aging parent or other family member; or fire, flood, or other natural or man-made disaster in 2019 (Exhibit 3).
12. Appellants were not homeless, were not thirty days or more behind in rent in 2019, and Appellants did not receive a shut-off notice for basic utilities. (Appellant Testimony, Exhibit 3).

ANALYSIS AND CONCLUSIONS OF LAW

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

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

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

Private insurance was affordable for the Appellants during 2019. According to Tables 3 and 4 of the HC Schedule for 2019, Appellants, with an adjusted gross income of \$92,425.00 were deemed to have been able to afford health insurance on the private market. According to Table 3, Appellants could have afforded to pay \$616.00 per month; according to Table 4, Appellants, who were 30 and 34 years old in 2019, lived in Barnstable County and filed the 2019 Massachusetts taxes as married filing jointly with a family size of 2, would have had to pay \$558.00 for family coverage per month for insurance on the private market. See CMR 6.05 (1)(2), Schedule HC Tables 3 and 4, and Exhibit 2.

With regard to the hardship waiver of the penalty, Appellants claimed that the Appellant who did not have health insurance in Massachusetts for some of 2019 did have it in the Dominican Republic and did not believe that they eligible to purchase it in Massachusetts until October 2019. For these reasons, the waiver of the penalty is approved.

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

PENALTY ASSESSED

Number of Months Appealed: 0/3 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 2019.

NOTIFICATION OF YOUR RIGHT TO APPEAL TO COURT

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

Hearing Officer

Cc: Connector Appeals Unit

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

Massachusetts Health Connector Appeals Unit

FINAL APPEAL DECISION: PA19-89

Appeal Decision Appeal Approved.

Hearing Issue: Appeal of the 2019 Tax Year Penalty

Hearing Date: May 19, 2020

Decision Date: July 9, 2020

AUTHORITY

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

JURISDICTION

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

HEARING RECORD

Appellant appeared at the hearing, which was held by telephone, on May 19, 2020. 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 (4-17-20) (3 pages);
- Exhibit 2: Information from Schedule HC TY 2019 (1 page); and
- Exhibit 3: Statement of Grounds for Appeal (2-29-20) (5 pages).

FINDINGS OF FACT

The record shows, and I so find:

1. Appellant, age 26 during 2019, from Plymouth County, filed single on the tax return with a family size of 1) (Exhibit 2).
2. Appellant did have health insurance for October through December of 2019, but did not have health insurance for the remaining months of 2019. (Appellant's testimony, Exhibits 2, and 3).
3. Appellant's Federal Adjusted Gross Income for 2019 was \$47,151.00 (Exhibit 2).
4. Appellant was paying for college during 2019, and believed that health insurance was not affordable as a result. In October 2019, Appellant enrolled in the employer's health insurance and continues to have health insurance through the employer. (Appellant testimony, Exhibit 3).

5. Appellant's expenses for food, shelter, clothing, education and other necessities used a significant amount of the income (Appellant's Testimony). The monthly expenses for food, shelter, clothing, education and other necessities, totaled approximately \$3,345.00 per month averaged out, or \$40,140.00 for the year (Appellant's Testimony).
6. I take administrative notice of the financial information set forth in Tables 1 through 6 in the DOR 2019 Massachusetts Schedule HC Health Care Instructions and Worksheets. Tables 3 and 4 incorporate affordability and premium schedules adopted by the Board of Directors for the Commonwealth Health Insurance Connector Authority for 2019. Table 2 sets forth income at 300% of the Federal poverty level and Tables 5 and 6 set forth tax penalties in effect for 2019.
7. Appellant could afford health insurance based on the tables in Schedule HC. According to Table 4, the health insurance would cost \$257.00 for individual coverage. According to Table 3, Appellant was deemed to afford \$298.00.
8. Private insurance was affordable for the Appellant in 2019 (Schedule HC for 2019).
9. Appellant's AGI was over 300% of the Federal Poverty Level, and Appellant therefore would not have qualified for subsidized health insurance through the Health Connector. (Schedule HC for 2019).
10. Appellant claimed that they should be granted a waiver based on the grounds that paying for health insurance would have caused a serious deprivation of food, shelter, clothing and other necessities during 2019. (Testimony of Appellant, Exhibit 3).
11. Appellant did not incur significant and unexpected increases in essential expenses as a result of domestic violence; due to the death of a spouse, family member, or partner who shared household expenses; the sudden responsibility for providing full care for an aging parent or other family member; or fire, flood, or other natural or man-made disaster in 2019 (Exhibit 3).
12. Appellant was not homeless, was not thirty days or more behind in rent in 2019, and Appellant did not receive a shut-off notice for basic utilities. (Appellant Testimony, Exhibit 3).

ANALYSIS AND CONCLUSIONS OF LAW

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

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

Appellant did have health insurance for October through December of 2019, but did not have health insurance for the remaining months of 2019. They have been assessed a tax penalty for six months.

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

Private insurance was affordable for the Appellant during 2019. According to Tables 3 and 4 of the HC Schedule for 2019, Appellant, with an adjusted gross income of \$47,151.00 was deemed to have been able to afford health insurance on the private market. According to Table 3, Appellant could have afforded to pay \$298.00 per month; according to Table 4, Appellant, who was 26 years old in 2019, lived in Plymouth County and filed the 2019 Massachusetts taxes as single with a family size of 1, would have had to pay \$257.00 for individual coverage per month for insurance on the private market. See CMR 6.05 (1)(2), Schedule HC Tables 3 and 4, and Exhibit 2.

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

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

PENALTY ASSESSED

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

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

NOTIFICATION OF YOUR RIGHT TO APPEAL TO COURT

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

Hearing Officer

Cc: Connector Appeals Unit

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

Massachusetts Health Connector Appeals Unit

FINAL APPEAL DECISION: PA19-91

Appeal Decision Appeal Approved.

Hearing Issue: Appeal of the 2019 Tax Year Penalty

Hearing Date: May 19, 2020

Decision Date: July 13, 2020

AUTHORITY

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

JURISDICTION

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

HEARING RECORD

Appellant appeared at the hearing, which was held by telephone, on May 19, 2020. An observer also attended the meeting with the permission of the Appellants. The record was left open to allow Appellant to submit additional documents regarding health insurance. Appellant submitted additional documents as noted for Exhibit 4 below. The hearing record consists of the Appellants' testimony, through an interpreter, and the following documents which were admitted into evidence without objection by Appellant:

- Exhibit 1: Notice of Hearing (4-17-20) (3 pages);
- Exhibit 2: Information from Schedule HC TY 2019 (1 page);
- Exhibit 3: Statement of Grounds for Appeal (3-3-20) (with documents) (6 pages); and
- Exhibit 4: 1095-C forms regarding employer-sponsored health insurance (2 pages).

FINDINGS OF FACT

The record shows, and I so find:

1. Appellant, age 31 during 2019, from Suffolk County, filed married filing separately on the tax return with a family size of 1 (Exhibit 2).
2. Appellant's spouse had health insurance for all of 2019 through the employer, and Appellant believed that Appellant had the health insurance through the spouse's employer as well for all of 2019. (Appellant's testimony, Exhibits 2, 3 and 4).

3. Appellant submitted 1095-C forms that showed that the health insurance is offered by the employer, but Schedule 1095-C's are not necessarily proof that the individual had the insurance. (Exhibit 4).
4. Appellant indicated that Appellant left Massachusetts in November 2019 and was not in Massachusetts for November and December 2019.
5. Appellant's Federal Adjusted Gross Income for 2019 was \$23,194.00 (Exhibit 2).
6. I take administrative notice of the financial information set forth in Tables 1 through 6 in the DOR 2019 Massachusetts Schedule HC Health Care Instructions and Worksheets. Tables 3 and 4 incorporate affordability and premium schedules adopted by the Board of Directors for the Commonwealth Health Insurance Connector Authority for 2019. Table 2 sets forth income at 300% of the Federal poverty level and Tables 5 and 6 set forth tax penalties in effect for 2019.
7. Appellant could not afford health insurance based on the tables in Schedule HC. According to Table 4, the health insurance would cost \$279.00 for individual coverage. According to Table 3, Appellant was deemed to afford \$56.00.
8. Private insurance was not affordable for the Appellant in 2019 (Schedule HC for 2019).
9. Appellant's AGI was under 300% of the Federal Poverty Level, and Appellant therefore may have qualified for subsidized health insurance through the Health Connector, although the tax filing status as married filing separately would have been a barrier for subsidized coverage. (Schedule HC for 2019).
10. Appellant claimed that they should be granted a waiver based on the grounds that the Appellant was not in Massachusetts for some of 2019, and also that Appellant believed they had health insurance through the spouse's employer. (Testimony of Appellant, Exhibits 3, 4).
11. Appellant did not incur significant and unexpected increases in essential expenses as a result of domestic violence; due to the death of a spouse, family member, or partner who shared household expenses; the sudden responsibility for providing full care for an aging parent or other family member; or fire, flood, or other natural or man-made disaster in 2019 (Exhibit 3).
12. Appellant was not homeless, was not thirty days or more behind in rent in 2019, and Appellant did not receive a shut-off notice for basic utilities. (Appellant Testimony, Exhibit 3).

ANALYSIS AND CONCLUSIONS OF LAW

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

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

Appellant believed they had health insurance for all of 2019 through Appellant's spouse's employer, but did not file a Schedule 1099-HC with the tax return. They have been assessed a tax penalty for twelve months. Appellant appealed the assessment. See Exhibits 2 and 3. To determine if the penalty should be waived in whole or in part, we must consider whether affordable insurance which met minimum creditable coverage standards was available to the Appellant through employment, through the private market, or through a government-sponsored program. If affordable insurance was available, we must determine if such insurance was, in fact, not affordable to the Appellant because they experienced a financial hardship as defined in 956 CMR 6.08.

Private insurance was not affordable for the Appellant during 2019. According to Tables 3 and 4 of the HC Schedule for 2019, Appellant, with an adjusted gross income of \$23,194.00 was deemed to not have been able to afford health insurance on the private market. According to Table 3, Appellant could have afforded to pay \$56.00 per month; according to Table 4, Appellant, who was 31 years old in 2019, lived in Suffolk County and filed the 2019 Massachusetts taxes as married filing separately with a family size of 1, would have had to pay \$279.00 for individual coverage per month for insurance on the private market. See CMR 6.05 (1)(2), Schedule HC Tables 3 and 4, and Exhibit 2.

With regard to the hardship waiver of the penalty, Appellant claimed that the Appellant was not in Massachusetts for November and December 2019, and also that Appellant believed that Appellant had coverage through the spouse's employer's insurance. While Appellant did not provide the document that would have proven the coverage (i.e. Schedule 1099-HC), it appears that there was confusion about the coverage and on that basis, a waiver is granted. For these reasons, the waiver of the penalty is approved.

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

PENALTY ASSESSED

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

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

NOTIFICATION OF YOUR RIGHT TO APPEAL TO COURT

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

Hearing Officer

Cc: Connector Appeals Unit

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

Massachusetts Health Connector Appeals Unit

FINAL APPEAL DECISION: PA19-119

Appeal Decision Appeal Approved.

Hearing Issue: Appeal of the 2019 Tax Year Penalty

Hearing Date: May 27, 2020

Decision Date: July 16, 2020

AUTHORITY

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

JURISDICTION

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

HEARING RECORD

Appellant appeared at the hearing, which was held by telephone, on May 27, 2020. 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 (4-21-20) (3 pages);
- Exhibit 2: Information from Schedule HC TY 2019 (1 page); and
- Exhibit 3: Statement of Grounds for Appeal (3-4-20) (3 pages).

FINDINGS OF FACT

The record shows, and I so find:

1. Appellant, age 31 during 2019, from Middlesex County, filed single on the tax return with a family size of 1) (Exhibit 2).
2. Appellant did not have health insurance for 2019. (Appellant's testimony, Exhibits 2, and 3).
3. Appellant's Federal Adjusted Gross Income for 2019 was \$35,173.00 (Exhibit 2).
4. Appellant did not work enough hours to qualify for the employer's health insurance. Appellant looked into health insurance through the Health Connector but did not believe it was affordable for them. (Appellant testimony, Exhibit 3).
5. Appellant's expenses for food, shelter, clothing, child-related expenses and other necessities used a significant amount of the income (Appellant's Testimony). The monthly expenses for

food, shelter, clothing, child-related expenses and other necessities, totaled approximately \$2,770.00 per month averaged out, or \$33,240.00 for the year (Appellant's Testimony).

6. I take administrative notice of the financial information set forth in Tables 1 through 6 in the DOR 2019 Massachusetts Schedule HC Health Care Instructions and Worksheets. Tables 3 and 4 incorporate affordability and premium schedules adopted by the Board of Directors for the Commonwealth Health Insurance Connector Authority for 2019. Table 2 sets forth income at 300% of the Federal poverty level and Tables 5 and 6 set forth tax penalties in effect for 2019.
7. Appellant could not afford health insurance based on the tables in Schedule HC. According to Table 4, the health insurance would cost \$279.00 for individual coverage. According to Table 3, Appellant was deemed to afford \$146.00.
8. Private insurance was not affordable for the Appellant in 2019 (Schedule HC for 2019).
9. Appellant's AGI was under 300% of the Federal Poverty Level, and Appellant therefore may have qualified for subsidized health insurance through the Health Connector. (Schedule HC for 2019).
10. Appellant claimed that they should be granted a waiver based on the grounds that paying for health insurance would have caused a serious deprivation of food, shelter, clothing and other necessities during 2019. (Testimony of Appellant, Exhibit 3).
11. Appellant did not incur significant and unexpected increases in essential expenses as a result of domestic violence; due to the death of a spouse, family member, or partner who shared household expenses; the sudden responsibility for providing full care for an aging parent or other family member; or fire, flood, or other natural or man-made disaster in 2019 (Exhibit 3).
12. Appellant was not homeless, was not thirty days or more behind in rent in 2019, and Appellant did not receive a shut-off notice for basic utilities. (Appellant Testimony, Exhibit 3).

ANALYSIS AND CONCLUSIONS OF LAW

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

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

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

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

Private insurance was not affordable for the Appellant during 2019. According to Tables 3 and 4 of the HC Schedule for 2019, Appellant, with an adjusted gross income of \$35,173.00 was deemed not to have been able to afford health insurance on the private market. According to Table 3, Appellant could have afforded to pay \$146.00 per month; according to Table 4, Appellant, who was 31 years old in 2019, lived in Middlesex County and filed the 2019 Massachusetts taxes as single with a family size of 1, would have had to pay \$279.00 for individual coverage per month for insurance on the private market. See CMR 6.05 (1)(2), Schedule HC Tables 3 and 4, and Exhibit 2.

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

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

PENALTY ASSESSED

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

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

NOTIFICATION OF YOUR RIGHT TO APPEAL TO COURT

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

Hearing Officer

Cc: Connector Appeals Unit

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

Massachusetts Health Connector Appeals Unit

FINAL APPEAL DECISION: PA19-123

Appeal Decision: Appeal Approved
Hearing Issue: Appeal of the 2019 Tax Year Penalty
Hearing Date: May 28, 2020
Decision Date: July 10, 2020

AUTHORITY

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

JURISDICTION

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

HEARING RECORD

Appellant appeared at the hearing, which was held by telephone, on May 28, 2020. The procedures to be followed during the hearing were reviewed with Appellant. Appellant was sworn in. Exhibits were marked and admitted in evidence with no objection from Appellant. Appellant testified.

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

Exhibit 1: Notice of Hearing sent to Appellant dated April 21, 2020
Exhibit 2: Appeal Case Information Sheet from Schedule HC 2019
Exhibit 3: Notice of Appeal, dated March 9, 2020
Exhibit 4: Statement in Support of Appeal

FINDINGS OF FACT

The record shows, and I so find:

1. Appellant was 47 years old in 2019 and filed a 2019 Massachusetts tax return as single with no dependents claimed (Exhibit 2).
2. Appellant lived in Worcester County, MA in 2019 (Exhibit 2).
3. Appellant's Adjusted Gross Income for 2019 was \$53,040 (Exhibit 2).
4. As part of a divorce order, Appellant had been covered under a former spouse's health insurance plan in 2018 (Testimony of Appellant).
5. When Appellant went to file taxes for 2019, Appellant learned that the former spouse had lost the job and health insurance and that Appellant had not been insured under the policy in 2019 (Testimony of Appellant).
6. Appellant works for a small company and employer sponsored health insurance was not available in 2019 (Testimony of Appellant).
7. Appellant's employer was exploring employer sponsored health insurance for Appellant (Testimony of Appellant).
8. Appellant struggled to pay Appellant's monthly bills, which included \$698 per month for child support (Testimony of Appellant).

9. Appellant did not have health insurance for twelve months in 2019 (Testimony of Appellant and Exhibit 2).
10. Appellant was assessed a penalty for twelve months for 2019 (Exhibit 2).
11. Appellant filed a hardship appeal on March 9, 2020, claiming that Appellant was not aware that Appellant was no longer covered by health insurance through Appellant's ex-spouse (Exhibit 4 and Testimony of Appellant).
12. I take administrative notice of the financial information set forth in Tables 1 through 6 in the DOR 2019 Massachusetts Schedule HC Health Care Instructions and Worksheets. Tables 3 and 4 incorporate affordability and premium schedules adopted by the Board of Directors for the Commonwealth Health Insurance Connector Authority for 2019. Table 2 sets forth income at 300% of the Federal poverty level and Tables 5 and 6 set forth tax penalties in effect for 2019.
13. According to Table 3 of Schedule HC for 2019 a person filing as single with no dependents claimed and with a Federal Adjusted Gross Income of \$53,040 could afford to pay \$353 per month for health insurance. According to Table 4, Appellant, age 47 and living in Worcester County, could have purchased private insurance for \$350 per month. Private insurance was considered affordable for Appellant in 2019.
14. According to Table 2 of Schedule HC for 2019, Appellant, earning more than \$36,420 would not have met the income eligibility guidelines for government subsidized insurance.

ANALYSIS AND CONCLUSIONS OF LAW

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

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

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

During 2019, Appellant did not become aware that Appellant was no longer covered by health insurance through a former spouse's employment. Appellant became aware of the lack of insurance when Appellant filed taxes for 2019. Private insurance was considered affordable for Appellant. See Schedule HC for Healthcare, Tables 3 and 4 and Testimony of Appellant, which I find to be credible.

Since Appellant was not aware that Appellant was uninsured in 2019, I find that the penalty should be waived in its entirety.

HOWEVER, Appellant should note that this decision was based upon the facts as I have found them for 2019. A similar decision may not be made in the future if Appellant fails to have health insurance that meets the Massachusetts Minimum Creditable Coverage standards.

PENALTY ASSESSED

Number of Months Appealed: 12

Number of Months Assessed: 0

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

OR

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

NOTIFICATION OF YOUR RIGHT TO APPEAL TO COURT

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

ADDENDUM: If Appellant still does not have insurance coverage, Appellant should contact the Massachusetts Health Connector at 1-877-623-6765 to explore coverage options.

Massachusetts Health Connector Appeals Unit

FINAL APPEAL DECISION: PA19-127

Appeal Decision: Penalty Overturned in Full
Hearing Issue: Appeal of the 2019 Tax Year Penalty
Hearing Date: May 28, 2020
Decision Date: July 13, 2020

AUTHORITY

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

JURISDICTION

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

HEARING RECORD

Appellant appeared at the hearing, which was held by telephone, on May 28, 2020. The procedures to be followed during the hearing were reviewed with Appellant. Appellant was sworn in. Exhibits were marked and admitted in evidence with no objection from Appellant. Appellant testified. The hearing record consists of the testimony of Appellant, and the following documents which were admitted in evidence:

- Exhibit 1: Correspondence from the Health Connector, dated April 21, 2020
- Exhibit 2: Appeal Case Information from Schedule HC 2019
- Exhibit 3: Notice of Appeal, dated March 18, 2020
- Exhibit 4: Statement in Support of Appeal

FINDINGS OF FACT

The record shows, and I so find:

1. Appellant was 26 years old in 2019. Appellant filed a Massachusetts 2019 tax return as married filing separately with no dependents claimed (Exhibit 2).
2. Appellant resided in Worcester County, MA in 2019 (Exhibit 2).
3. The Appeal information sheet shows that Appellant had an Adjusted Gross Income for 2019 of \$91,384 (Exhibit 2).
4. However, Appellant had an Adjusted gross income of \$44,000 for 2019 (Testimony of Appellant).
5. Appellant worked two seasonal jobs (Testimony of Appellant).
6. Appellant had worked at one of the seasonal jobs for seven years (Testimony of Appellant).
7. Appellant had health insurance through the seasonal job for all years except for 2019 (Testimony of Appellant).
8. Appellant was usually laid off of the seasonal job and re-hired and had to apply for the insurance every year, with the help of a union (Testimony of Appellant).
9. There was an issue with the paperwork in 2019 and Appellant was not enrolled in the insurance (Exhibit 4 and Testimony of Appellant).

10. Appellant and the union spent time trying to get Appellant into the plan, but they were unsuccessful (Testimony of Appellant).
11. Appellant looked at the Health Connector health insurance, but did not enroll when Appellant learned that Appellant was not eligible for subsidies (Testimony of Appellant).
12. During 2019, Appellant had the following expenses for basic necessities: rent \$1,000; utilities \$400; telephone \$45; food \$520; clothing \$50; car payment \$265; car insurance \$120; gasoline \$433; car maintenance \$100; medical \$42. Appellant's expense for necessities were \$2,975.
13. I take administrative notice of the financial information set forth in Tables 1 through 6 in the DOR 2019 Massachusetts Schedule HC Health Care Instructions and Worksheets. Tables 3 and 4 incorporate affordability and premium schedules adopted by the Board of Directors for the Commonwealth Health Insurance Connector Authority for 2019. Table 2 sets forth income at 300% of the Federal poverty level and Tables 5 and 6 set forth tax penalties in effect for 2019.
14. According to Table 3 of Schedule HC for 2019 a person filing as married filing separately with no dependents with an adjusted gross income of \$44,000 could afford to pay \$279 per month for private insurance. According to Table 4, Appellant, aged 27 and living in Worcester County could have purchased private insurance for \$257 per month.
15. Private insurance was considered to be affordable for Appellant in 2019 (Schedule HC for 2019).
16. Appellant, earning more than \$36,420 would not have been income eligible for government subsidized health insurance (Schedule HC for 2019).
17. Appellant did not have health insurance for the entire year of 2019 (Testimony of Appellant and Exhibit 2).
18. Appellant has been assessed a penalty for twelve months for 2019 (Exhibit 2).
19. Appellant filed a hardship appeal on March 18, 2020 (Exhibit 3).
20. Appellant began coverage under the health insurance plan from Appellant's seasonal job in January 2020 (Testimony of Appellant).

ANALYSIS AND CONCLUSIONS OF LAW

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

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

According to Tables 3 and 4 of Massachusetts Schedule HC 2019, Appellant was deemed to be able to afford private health insurance. Since Appellant potentially had access to affordable insurance, we need to consider whether Appellant experienced a financial hardship as defined by 956 CMR 6.08.

Appellant had been employed at a seasonal job for seven years. Appellant had always been covered by a health insurance plan from the job with the assistance of a union. Appellant was laid off and re-hired and had to apply for the health insurance every year. In 2019, there was a problem with Appellant obtaining the health insurance and Appellant and the union fought to get the insurance. Appellant made sure that the same issue did not occur in 2020, and Appellant was back on the health insurance for 2020.

During 2019, Appellant's monthly expenses were \$2,975. Appellant's monthly income was \$3,666. Appellant may have been able to afford health insurance at a cost of \$257.00. However, However, given Appellant's circumstances and since Appellant began health insurance in 2020, I will waive the penalty for 2019. See Testimony of Appellant, which I find to be credible and 956 CMR 6.08.

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

PENALTY ASSESSED

Number of Months Appealed: 12

Number of Months Assessed: 0

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

OR

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

NOTIFICATION OF YOUR RIGHT TO APPEAL TO COURT

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

ADDENDUM

Appellant should note that this decision is based upon the facts as I have found them for 2019 and that such a decision may not be made in the future if Appellant fails to have health insurance in the future. Appellant is also advised to check Appellant's 2019 tax return as there is a discrepancy concerning Appellant's income.

Massachusetts Health Connector Appeals Unit

FINAL APPEAL DECISION: PA19-135

Appeal Decision Appeal Approved.

Hearing Issue: Appeal of the 2019 Tax Year Penalty

Hearing Date: June 3, 2020

Decision Date: July 16, 2020

AUTHORITY

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

JURISDICTION

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

HEARING RECORD

Appellant appeared at the hearing, which was held by telephone, on June 3, 2020. 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 (5-5-20) (3 pages);
- Exhibit 2: Information from Schedule HC TY 2019 (1 page); and
- Exhibit 3: Statement of Grounds for Appeal (3-4-20) (with letter) (7 pages).

FINDINGS OF FACT

The record shows, and I so find:

1. Appellant, age 30 during 2019, filed single on the tax return with a family size of 1) (Exhibit 2).
2. Appellant did not have health insurance for 2019. (Appellant's testimony, Exhibits 2, and 3).
3. Appellant was residing in Massachusetts from January through the beginning of October of 2019. (Exhibit 2).
4. Appellant's Federal Adjusted Gross Income for 2019 was \$19,357.00 (Exhibit 2).
5. Appellant was unemployed from November 2018 until the summer of 2019. (Appellant testimony, Exhibit 3).
6. Appellant's expenses for food, shelter, clothing, and other necessities used all of the income (Appellant's Testimony). The monthly expenses for food, shelter, clothing, and other necessities,

totaled approximately \$2,200.00 per month averaged out, or \$26,400.00 for the year (Appellant's Testimony).

7. Appellant now has health insurance through the employer as of February 1, 2020 in Florida, where Appellant resides.
8. I take administrative notice of the financial information set forth in Tables 1 through 6 in the DOR 2019 Massachusetts Schedule HC Health Care Instructions and Worksheets. Tables 3 and 4 incorporate affordability and premium schedules adopted by the Board of Directors for the Commonwealth Health Insurance Connector Authority for 2019. Table 2 sets forth income at 300% of the Federal poverty level and Tables 5 and 6 set forth tax penalties in effect for 2019.
9. Appellant could not afford health insurance based on the tables in Schedule HC. According to Table 4, the health insurance would cost \$257.00 for individual coverage. According to Table 3, Appellant was deemed to afford \$46.00.
10. Private insurance was not affordable for the Appellant in 2019 (Schedule HC for 2019).
11. Appellant's AGI was under 300% of the Federal Poverty Level, and Appellant therefore may have qualified for subsidized health insurance through the Health Connector. (Schedule HC for 2019).
12. Appellant claimed that they should be granted a waiver based on the grounds that paying for health insurance would have caused a serious deprivation of food, shelter, clothing and other necessities during 2019. (Testimony of Appellant, Exhibit 3).
13. Appellant did not incur significant and unexpected increases in essential expenses as a result of domestic violence; due to the death of a spouse, family member, or partner who shared household expenses; the sudden responsibility for providing full care for an aging parent or other family member; or fire, flood, or other natural or man-made disaster in 2019 (Exhibit 3).
14. Appellant was not homeless, was not thirty days or more behind in rent in 2019, and Appellant did not receive a shut-off notice for basic utilities. (Appellant Testimony, Exhibit 3).

ANALYSIS AND CONCLUSIONS OF LAW

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

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

Appellant did not have health insurance for 2019. Appellant was a part-year resident of Massachusetts (from January until October 3, 2019). They have been assessed a tax penalty for six months. Appellant appealed the assessment. See Exhibits 2 and 3. To determine if the penalty should be waived in whole

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

Private insurance was not affordable for the Appellant during 2019. According to Tables 3 and 4 of the HC Schedule for 2019, Appellant, with an adjusted gross income of \$19,357.00 was deemed not to have been able to afford health insurance on the private market. According to Table 3, Appellant could have afforded to pay \$46.00 per month; according to Table 4, Appellant, who was 30 years old in 2019, and filed the 2019 Massachusetts taxes as single with a family size of 1, would have had to pay \$257.00 for individual coverage per month for insurance on the private market. See CMR 6.05 (1)(2), Schedule HC Tables 3 and 4, and Exhibit 2.

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

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

PENALTY ASSESSED

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

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

NOTIFICATION OF YOUR RIGHT TO APPEAL TO COURT

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

Hearing Officer

Cc: Connector Appeals Unit

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

Massachusetts Health Connector Appeals Unit

FINAL APPEAL DECISION: PA19-137

Appeal Decision Appeal Approved.

Hearing Issue: Appeal of the 2019 Tax Year Penalty

Hearing Date: June 3, 2020

Decision Date: July 16, 2020

AUTHORITY

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

JURISDICTION

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

HEARING RECORD

Appellant appeared at the hearing, which was held by telephone, on June 3, 2020. 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 (5-5-20) (3 pages);
- Exhibit 2: Information from Schedule HC TY 2019 (1 page); and
- Exhibit 3: Statement of Grounds for Appeal (3-10-20) (3 pages).

FINDINGS OF FACT

The record shows, and I so find:

1. Appellant, age 30 during 2019, from Essex County, filed Head of Household on the tax return with a family size of 4. (Exhibit 2).
2. Appellant did not have health insurance for 2019. (Appellant's testimony, Exhibits 2, and 3).
3. Appellant's Federal Adjusted Gross Income for 2019 was \$70,871.00 (Exhibit 2).
4. Appellant was the sole provider for the children and Appellant's mother who lived with Appellant. The children had health insurance. (Appellant testimony, Exhibit 3).
5. Appellant was offered health insurance through the employer but did not believe it was affordable. (Appellant Testimony).
6. Appellant now has health insurance as of March 2020. (Appellant Testimony).

7. Appellant's expenses for food, shelter, clothing, child care and other necessities used a significant amount of the income (Appellant's Testimony). The monthly expenses for food, shelter, clothing, child care and other necessities, totaled approximately \$4,000.00 per month averaged out, or \$48,000.00 for the year (Appellant's Testimony).
8. I take administrative notice of the financial information set forth in Tables 1 through 6 in the DOR 2019 Massachusetts Schedule HC Health Care Instructions and Worksheets. Tables 3 and 4 incorporate affordability and premium schedules adopted by the Board of Directors for the Commonwealth Health Insurance Connector Authority for 2019. Table 2 sets forth income at 300% of the Federal poverty level and Tables 5 and 6 set forth tax penalties in effect for 2019.
9. Appellant could not afford health insurance based on the tables in Schedule HC. According to Table 4, the health insurance would cost \$665.00 for individual coverage. According to Table 3, Appellant was deemed to afford \$440.00.
10. Private insurance was not affordable for the Appellant in 2019 (Schedule HC for 2019).
11. Appellant's AGI was under 300% of the Federal Poverty Level for a family of 4, and Appellant therefore may have qualified for subsidized health insurance through the Health Connector. (Schedule HC for 2019).
12. Appellant claimed that they should be granted a waiver based on the grounds that paying for health insurance would have caused a serious deprivation of food, shelter, clothing and other necessities during 2019. (Testimony of Appellant, Exhibit 3).
13. Appellant did not incur significant and unexpected increases in essential expenses as a result of domestic violence; due to the death of a spouse, family member, or partner who shared household expenses; the sudden responsibility for providing full care for an aging parent or other family member; or fire, flood, or other natural or man-made disaster in 2019 (Exhibit 3).
14. Appellant was not homeless, was not thirty days or more behind in rent in 2019, and Appellant did not receive a shut-off notice for basic utilities. (Appellant Testimony, Exhibit 3).

ANALYSIS AND CONCLUSIONS OF LAW

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

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

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

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

Private insurance was not affordable for the Appellant during 2019. According to Tables 3 and 4 of the HC Schedule for 2019, Appellant, with an adjusted gross income of \$70,871.00 was deemed not to have been able to afford health insurance on the private market. According to Table 3, Appellant could have afforded to pay \$440.00 per month; according to Table 4, Appellant, who was 30 years old in 2019, lived in Essex County and filed the 2019 Massachusetts taxes as Head of Household with a family size of 4, would have had to pay \$665.00 for family coverage per month for insurance on the private market. See CMR 6.05 (1)(2), Schedule HC Tables 3 and 4, and Exhibit 2.

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

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

PENALTY ASSESSED

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

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

NOTIFICATION OF YOUR RIGHT TO APPEAL TO COURT

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

Hearing Officer

Cc: Connector Appeals Unit

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

Massachusetts Health Connector Appeals Unit

FINAL APPEAL DECISION: PA19-141

Appeal Decision: Penalty Overturned in Full
Hearing Issue: Appeal of the 2019 Tax Year Penalty
Hearing Date: June 4, 2020
Decision Date: July 17, 2020

AUTHORITY

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

JURISDICTION

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

HEARING RECORD

Appellant appeared at the hearing, which was held by telephone, on June 4, 2020. The procedures to be followed during the hearing were reviewed with Appellant. Appellant was sworn in. Exhibits were marked and admitted in evidence with no objection from Appellant. Appellant testified.

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

- Exhibit 1: Correspondence from the Health Connector, dated May 5, 2020
- Exhibit 2: Tax information sheet from DOR
- Exhibit 3: Notice of Appeal, dated March 9, 2020
- Exhibit 4: Statement in Support of Appeal

FINDINGS OF FACT

The record shows, and I so find:

1. Appellant was 44 years old in 2019. Appellant filed a Massachusetts 2019 tax return as Head of Household with two dependents claimed (Exhibit 2).
2. Appellant resided in Plymouth County, MA in 2019 (Exhibit 2).
3. Appellant had an Adjusted Gross Income for 2019 of \$58,019 (Exhibit 2).
4. Appellant was divorced in 2017 (Testimony of Appellant).
5. Appellant did not have access to employer sponsored health insurance in 2019 (Testimony of Appellant).
6. Appellant did apply for government subsidized health insurance in 2019 (Testimony of Appellant).
7. Appellant did not qualify for subsidized health insurance due to the custody order from the divorce (Testimony of Appellant).
8. Appellant's ex-spouse is delinquent in paying child support (Testimony of Appellant and Exhibit 4).
9. Appellant struggled financially and was unable to pay basic expenses in 2019 (Testimony of Appellant).
10. Appellant received shut-off notices for electricity in 2019 (Exhibit 4 and Testimony of Appellant).
11. During 2019, Appellant had the following expenses for basic necessities: mortgage \$2,300; Utilities \$200; oil heat \$200; telephone \$250; food \$867; supplies \$100; clothing \$100; car payment \$170; car insurance \$300;

gasoline \$100; and legal fees \$42. Additionally, Appellant had a monthly payment of \$350 on a credit card that had been used for living expenses. Appellant's expenses for necessities were \$4,979.

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

13. According to Table 3 of Schedule HC for 2019 a person filing as Head of Household with two dependents with an adjusted gross income of \$58,019 could afford to pay \$283 per month for private insurance. According to Table 4, Appellant, aged 44 and living in Plymouth County could have purchased private insurance for \$768 per month for a family plan.

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

15. Appellant, earning less than \$62,340 would have been income eligible for government subsidized health insurance. However, Appellant was found ineligible for government subsidized health insurance due to the custody order from Appellant's divorce (Schedule HC for 2019 and Testimony of Appellant).

16. Appellant did not have health insurance for the entire year of 2019 (Testimony of Appellant and Exhibit 2).

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

18. Appellant filed an Appeal on March 9, 2020 stating that the expense of purchasing health insurance would have caused a serious deprivation of food, shelter, clothing or other necessities, and that Appellant had received shut off notices for essential utilities and (Exhibits 3 and 4).

ANALYSIS AND CONCLUSIONS OF LAW

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

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

Appellant was not eligible for employer sponsored health insurance. Private health insurance is not considered affordable for Appellant. Appellant was denied government subsidized health insurance due to the custody order from Appellant's divorce. Affordable health insurance was not available to Appellant in 2019. See 2, 3 and 4 of Massachusetts Schedule HC 2019, 956 CMR 6 and Testimony of Appellant, which I find to be credible.

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

PENALTY ASSESSED

Number of Months Appealed: 12

Number of Months Assessed: 0

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

OR

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

NOTIFICATION OF YOUR RIGHT TO APPEAL TO COURT

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

ADDENDUM

Appellant is encouraged to re-apply for subsidized health insurance from the Health Connector as changes are made to Appellant's divorce order.

Massachusetts Health Connector Appeals Unit

FINAL APPEAL DECISION: PA19-142

Appeal Decision: Appeal Approved
Hearing Issue: Appeal of the 2019 Tax Year Penalty
Hearing Date: June 4, 2020
Decision Date: July 14, 2020

AUTHORITY

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

JURISDICTION

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

HEARING RECORD

The Appellant appeared at the hearing, which was held by telephone, on June 4, 2020. The procedures to be followed during the hearing were reviewed with Appellant. Appellant was sworn in. Exhibits were marked and admitted in evidence with no objection from Appellant. Appellant testified.

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

Exhibit 1: Notice of Hearing sent to Appellant dated May 5, 2020
Exhibit 2: Appeal Case Information Sheet from Schedule HC 2019
Exhibit 3: Notice of Appeal, dated March 10, 2020
Exhibit 4: Statement in Support of Appeal

FINDINGS OF FACT

The record shows, and I so find:

1. Appellant was 27 years old in 2019 and filed a 2019 Massachusetts tax return as single, with no dependents claimed (Exhibit 2).
2. Appellant lived in Norfolk County, MA in 2019 (Exhibit 2).
3. Appellant's Adjusted Gross Income for 2019 was \$19,228 (Exhibit 2).
4. Appellant lived outside of the country from August 2017 to July 2019 (Testimony of Appellant).
5. Appellant moved to Massachusetts in July 2019 (Exhibit 4 and Testimony of Appellant).
6. Appellant began employer sponsored health insurance in August 2019 (Exhibits 2, 4 and Testimony of Appellant).
7. Appellant filed an appeal on March 10, 2020 (Exhibit 3).

ANALYSIS AND CONCLUSIONS OF LAW

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

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

Appellant lived outside the country until July 2019. Appellant began a job in Massachusetts in July, 2019. Appellant was enrolled in employer sponsored health insurance that began in August 2019. Appellant’s obligation to obtain health insurance began in July, and Appellant had a three month grace period to obtain the insurance so that Appellant is not subject to a penalty for the one month that Appellant resided in Massachusetts without health insurance coverage. See Exhibits 2, 3, and 4 and Testimony of Appellant which I find credible.

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

PENALTY ASSESSED

Number of Months Appealed: 4

Number of Months Assessed: 0

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

OR

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

NOTIFICATION OF YOUR RIGHT TO APPEAL TO COURT

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

Massachusetts Health Connector Appeals Unit

FINAL APPEAL DECISION: PA19-143

Appeal Decision: Appeal Approved
Hearing Issue: Appeal of the 2019 Tax Year Penalty
Hearing Date: June 4, 2020
Decision Date: July 17, 2020

AUTHORITY

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

JURISDICTION

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

HEARING RECORD

Appellant appeared at the hearing, which was held by telephone, on June 4, 2020. The procedures to be followed during the hearing were reviewed with Appellant. Appellant was sworn in. Exhibits were marked and admitted in evidence with no objection from Appellant. Appellant testified.

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

Exhibit 1: Notice of Hearing sent to Appellant dated May 5, 2020
Exhibit 2: Appeal Case Information Sheet from Schedule HC 2019
Exhibit 3: Notice of Appeal, dated March 8, 2020
Exhibit 4: Statement in Support of Appeal

FINDINGS OF FACT

The record shows, and I so find:

1. Appellant was 37 years old in 2019 and filed a 2019 Massachusetts tax return as single, with no dependents claimed (Exhibit 2).
2. Appellant lived in Massachusetts from January through June 2020 (Exhibit 2 and Testimony of Appellant).
3. Appellant's Adjusted Gross Income for 2019 was \$42,300 (Exhibit 2).
4. Employer sponsored health insurance was not available to Appellant in 2019 (Testimony of Appellant).
- 5 Appellant was homeless and lived in a hotel from January through June 2019 (Exhibit 4 and Testimony of Appellant)
6. Appellant struggled to pay for basic expenses in 2019 (Testimony of Appellant).
7. Appellant was assessed a penalty for three months for 2019 (Exhibit 2).
8. Appellant filed a hardship appeal on March 8, 2020, claiming that Appellant was homeless during 2019 (Exhibit 3).

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

10. According to Table 3 of Schedule HC for 2019 a person filing as single, with no dependents claimed and with a Federal Adjusted Gross Income of \$42,500 could afford to pay \$268 per month for health insurance. According to Table 4, Appellant, age 37 and living in Essex County, could have purchased private insurance for \$286 per month. Private insurance was not considered affordable for Appellant in 2019.

11. According to Table 2 of Schedule HC for 2019, Appellant, earning more than \$36,420 would not have met the income eligibility guidelines for government subsidized insurance.

ANALYSIS AND CONCLUSIONS OF LAW

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

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

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

During 2019, employer sponsored health insurance was not available to Appellant. Private insurance was not considered affordable for Appellant. Appellant was not income eligible for government subsidized health insurance. See Schedule HC for Healthcare, Table 2, 3, 4 and Testimony of Appellant, which I find to be credible.

Affordable insurance was not available to Appellant in 2019. See 956 CMR 6.00.

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

PENALTY ASSESSED

Number of Months Appealed: 3

Number of Months Assessed: 0

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

OR

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

NOTIFICATION OF YOUR RIGHT TO APPEAL TO COURT

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

Massachusetts Health Connector Appeals Unit

FINAL APPEAL DECISION: PA19-144

Appeal Decision: Appeal Approved
Hearing Issue: Appeal of the 2019 Tax Year Penalty
Hearing Date: June 4, 2020
Decision Date: July 24, 2020

AUTHORITY

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

JURISDICTION

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

HEARING RECORD

The Appellant appeared at the hearing, which was held by telephone, on June 4, 2020. Appellant also appeared for Appellant Spouse. The procedures to be followed during the hearing were reviewed with Appellant. Appellant was sworn in. Exhibits were marked and admitted in evidence with no objection from Appellant. Appellant testified.

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

Exhibit 1: Notice of Hearing sent to Appellant dated May 5, 2020
Exhibit 2: Appeal Case Information Sheet from Schedule HC 2019
Exhibit 3: Notice of Appeal dated March 12, 2020
Exhibit 4: Statement in Support of Appeal

FINDINGS OF FACT

The record shows, and I so find:

1. Appellants were 32 and 29 years old in 2019 and filed a 2019 Massachusetts tax return as married filing jointly, with no dependents claimed (Exhibit 2).
2. Appellants lived in Middlesex County, MA in 2019 (Exhibit 2).
3. Appellants' Adjusted Gross Income for 2019 was \$154,092 (Exhibit 2).
Appellant had been insured through employer sponsored health insurance for three years prior to 2019 (Testimony of Appellant).
4. In April 2019, Appellant learned that Appellant was no longer insured by employer sponsored health insurance (Testimony of Appellant).
5. Appellant was unable to get back on the employer sponsored health insurance (Testimony of Appellant).
6. Appellant applied to the Health Connector in 2019, but could not enroll because it was not during the open enrollment period (Testimony of Appellant).

7. Appellant applied for a waiver and was given a special enrollment period. Appellant enrolled in private health insurance through the Health Connector from July through December 2019 (Testimony of Appellant and Exhibits 2 and 4).
8. Appellant spouse was covered by employer sponsored health insurance during January through June 2019 (Testimony of Appellant and Exhibit 2).
9. Appellant spouse's employment and employer sponsored health insurance ended in June 2019 due to a delay in receiving immigration documents (Testimony of Appellant and Exhibits 2 and 4).
10. Appellant spouse was re-hired in September 2019, and Appellant was in a waiting period until employer sponsored health insurance could begin again (Testimony of Appellant and Exhibit 4).
11. Appellant was covered by employer sponsored health insurance in December 2019 (Testimony of Appellant and Exhibits 2 and 4).
12. Each Appellant was assessed a penalty for three months for 2019 (Exhibit 2).
13. Appellants filed an appeal on March 2, 2020 claiming that other circumstances prevented them from obtaining health insurance (Exhibit 3).

ANALYSIS AND CONCLUSIONS OF LAW

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

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

Appellant learned that Appellant was unable to re-enroll in employer sponsored health insurance in 2019. Appellant then took the necessary steps to enroll in private health insurance in July 2019. Appellant spouse lost employment and employer sponsored health insurance in June 2019 due to an immigration issue. Appellant spouse took steps to enroll in health insurance and was able to enroll in insurance beginning in December 2019. See Exhibits 2, 3 and 4 and Testimony of Appellant, which I find to be credible.

I waive the penalties for both appellants.

PENALTY ASSESSED

Number of Months Appealed: 3/3

Number of Months Assessed: 0/0

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

OR

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

NOTIFICATION OF YOUR RIGHT TO APPEAL TO COURT

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

Massachusetts Health Connector Appeals Unit

FINAL APPEAL DECISION: PA19-145

Appeal Decision: Penalty Overturned in Full
Hearing Issue: Appeal of the 2019 Tax Year Penalty
Hearing Date: June 4, 2020
Decision Date: July 21, 2020

AUTHORITY

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

JURISDICTION

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

HEARING RECORD

Appellant appeared at the hearing, which was held by telephone, on June 4, 2020. The procedures to be followed during the hearing were reviewed with Appellant. Appellant was sworn in. Exhibits were marked and admitted in evidence with no objection from Appellant. Appellant testified.

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

- Exhibit 1: Correspondence from the Health Connector, dated May 5, 2020
- Exhibit 2: Appeal Case Information from Schedule HC 2019
- Exhibit 3: Notice of Appeal
- Exhibit 4: Statement in support of Appeal
- Exhibit 5: Tax Penalty Appeal for 2018, which was heard on January 10, 2020

FINDINGS OF FACT

The record shows, and I so find:

1. Appellant was 24 years old in 2019. Appellant filed a Massachusetts 2019 tax return as single with no dependents claimed (Exhibit 2).
2. Appellant resided in Norfolk County, MA in 2019 (Exhibit 2).
3. Appellant had an Adjusted Gross Income for 2019 of \$45,207 (Exhibit 2).
4. Appellant worked at several jobs. Employer sponsored health insurance was available from one job for a cost of \$50 per week (Testimony of Appellant).

Appellant did not sign up for the employer sponsored health insurance due to the cost (Testimony of Appellant).

5. During 2019, Appellant had the following expenses for basic necessities: rent \$1,400; utilities \$700; food \$650; clothing \$333; car payment \$217; car insurance \$165; gasoline \$260; car maintenance \$58; providing family support \$1,000. Appellant's expenses for necessities were \$4,783.

6. I take administrative notice of the financial information set forth in Tables 1 through 6 in the DOR 2019 Massachusetts Schedule HC Health Care Instructions and Worksheets. Tables 3 and 4 incorporate affordability and premium schedules adopted by the Board of Directors for the Commonwealth Health Insurance Connector

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

7. According to Table 3 of Schedule HC for 2019 a person filing as single with no dependents with an adjusted gross income of \$45,207 could afford to pay \$286 per month for private insurance. According to Table 4, Appellant, aged 24 and living in Norfolk County could have purchased private insurance for \$257 per month.

8. Private insurance was considered to be affordable for Appellant in 2019 (Schedule HC for 2019).

9. Appellant, earning more than \$36,420 would not have been eligible for government subsidized health insurance (Schedule HC for 2019).

10. Appellant did not have health insurance for the entire year of 2019 (Testimony of Appellant and Exhibit 2).

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

12. Appellant filed a hardship appeal in March, 2020 (Exhibit 3).

13. Appellant began coverage under a Health Connector plan in early 2020 (Testimony of Appellant).

ANALYSIS AND CONCLUSIONS OF LAW

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

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

Appellant had access to employer sponsored health insurance at a cost of \$50 per week. According to Tables 3 and 4 of Massachusetts Schedule HC 2019, Appellant was deemed to be able to afford \$286 per month for health insurance. Appellant would have been able to afford the employer sponsored health insurance or private insurance. Since Appellant potentially had access to affordable insurance, we need to consider whether Appellant experienced a financial hardship as defined by 956 CMR 6.08.

During 2019, Appellant’s monthly expenses were \$4,783. Appellant’s monthly income before taxes was \$3,767.25. Since Appellant’s expenses were more than income, I find that the purchase of health insurance would have caused Appellant to experience a serious deprivation of food, shelter, clothing or other necessities. See Testimony of Appellant, which I find to be credible and 956 CMR 6.08 (1) (e).

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

PENALTY ASSESSED

Number of Months Appealed: 12

Number of Months Assessed: 0

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

OR

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

NOTIFICATION OF YOUR RIGHT TO APPEAL TO COURT

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

Massachusetts Health Connector Appeals Unit

FINAL APPEAL DECISION: PA19-164

Appeal Decision Appeal Approved.

Hearing Issue: Appeal of the 2019 Tax Year Penalty

Hearing Date: June 10, 2020

Decision Date: July 20, 2020

AUTHORITY

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

JURISDICTION

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

HEARING RECORD

Appellants appeared at the hearing, which was held by telephone, on June 10, 2020. The hearing record consists of the Appellants' testimony, and the following documents which were admitted into evidence without objection by Appellant:

- Exhibit 1: Notice of Hearing (5-19-20) (3 pages);
- Exhibit 2: Information from Schedule HC TY 2019 (1 page); and
- Exhibit 3: Statement of Grounds for Appeal (3-15-20) (with letter) (5 pages).

FINDINGS OF FACT

The record shows, and I so find:

1. Appellants, ages 64 and 59 during 2019, from Hampden County, filed married filing jointly on the tax return with a family size of 2) (Exhibit 2).
2. Appellants did not have health insurance for 2019. (Appellant's testimony, Exhibits 2, and 3).
3. Appellants' Federal Adjusted Gross Income for 2019 was \$80,963.00 (Exhibit 2).
4. One of Appellants had complex medical needs that Appellant dealt with by having treatments and medications that were not covered by traditional health insurance. Appellants believed that paying both for the treatments and medications that they believed were best for the Appellant as well as paying for traditional health insurance was not affordable for them. (Appellants' testimony, Exhibit 3).

5. Appellants' expenses for food, shelter, clothing, and the treatments and medications for one of Appellants used all of the income (Appellants' Testimony). The monthly expenses for food, shelter, clothing, and the treatments and medications, totaled approximately \$7,040.00 per month averaged out, or \$84,480.00 for the year (Appellants' Testimony).
6. One of Appellants now has health insurance through Medicare (Appellants' Testimony).
7. I take administrative notice of the financial information set forth in Tables 1 through 6 in the DOR 2019 Massachusetts Schedule HC Health Care Instructions and Worksheets. Tables 3 and 4 incorporate affordability and premium schedules adopted by the Board of Directors for the Commonwealth Health Insurance Connector Authority for 2019. Table 2 sets forth income at 300% of the Federal poverty level and Tables 5 and 6 set forth tax penalties in effect for 2019.
8. Appellants could not afford health insurance based on the tables in Schedule HC. According to Table 4, the health insurance would cost \$836.00 for family coverage. According to Table 3, Appellants were deemed to afford \$539.00.
9. Private insurance was not affordable for the Appellants in 2019 (Schedule HC for 2019).
10. Appellants' AGI was over 300% of the Federal Poverty Level, and Appellants therefore would not have qualified for subsidized health insurance through the Health Connector. (Schedule HC for 2019).
11. Appellants claimed that they should be granted a waiver based on the grounds that paying for health insurance would have caused a serious deprivation of food, shelter, clothing and other necessities during 2019. (Testimony of Appellants, Exhibit 3).
12. Appellants did not incur significant and unexpected increases in essential expenses as a result of domestic violence; due to the death of a spouse, family member, or partner who shared household expenses; the sudden responsibility for providing full care for an aging parent or other family member; or fire, flood, or other natural or man-made disaster in 2019 (Exhibit 3).
13. Appellants were not homeless, were not thirty days or more behind in rent in 2019, and Appellants did not receive a shut-off notice for basic utilities. (Appellants' Testimony, Exhibit 3).

ANALYSIS AND CONCLUSIONS OF LAW

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

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

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

Private insurance was not affordable for the Appellants during 2019. According to Tables 3 and 4 of the HC Schedule for 2019, Appellants, with an adjusted gross income of \$80,963.00 were deemed not to have been able to afford health insurance on the private market. According to Table 3, Appellants could have afforded to pay \$539.00 per month; according to Table 4, Appellants, who were 64 and 59 years old in 2019, from Hampden County, and filed the 2019 Massachusetts taxes as married filing jointly with a family size of 2, would have had to pay \$836.00 for family coverage per month for insurance on the private market. See CMR 6.05 (1)(2), Schedule HC Tables 3 and 4, and Exhibit 2.

With regard to the hardship waiver of the penalty, Appellants claimed that paying for health insurance would have caused a serious deprivation of food, shelter and other necessities. Appellants' expenses for food, shelter, clothing, and treatments and medications not covered by traditional health insurance used all of the income. For these reasons, the waiver of the penalty is approved.

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

PENALTY ASSESSED

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

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

NOTIFICATION OF YOUR RIGHT TO APPEAL TO COURT

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

Hearing Officer

Cc: Connector Appeals Unit

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

Massachusetts Health Connector Appeals Unit

FINAL APPEAL DECISION: PA19-166

Appeal Decision Appeal Approved.

Hearing Issue: Appeal of the 2019 Tax Year Penalty

Hearing Date: June 10, 2020

Decision Date: July 20, 2020

AUTHORITY

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

JURISDICTION

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

HEARING RECORD

Appellant appeared at the hearing, which was held by telephone, on June 10, 2020. 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 (5-19-20) (3 pages);
- Exhibit 2: Information from Schedule HC TY 2019 (1 page); and
- Exhibit 3: Statement of Grounds for Appeal (3-12-20) (4 pages).

FINDINGS OF FACT

The record shows, and I so find:

1. Appellant, age 61 during 2019, from Barnstable County, filed head of household on the tax return with a family size of 2) (Exhibit 2).
2. Appellant did not have health insurance for 2019. (Appellant's testimony, Exhibits 2, and 3).
3. Appellant previously had health insurance through MassHealth, but was switched to Health Connector and believed it was not affordable. Appellant works as a per diem CAN and health insurance was not offered through the employer. (Appellant testimony).
4. Appellant's Federal Adjusted Gross Income for 2019 was \$34,047.00 (Exhibit 2).
5. Appellant received a shut off notice for utilities in October 2019. (Appellant testimony, Exhibit 3).

6. Appellant's expenses for food, shelter, clothing, and other necessities used a significant amount of the income (Appellant's Testimony). The monthly expenses for food, shelter, clothing, and other necessities, totaled approximately \$2,000.00 per month averaged out, or \$24,000.00 for the year (Appellant's Testimony).
7. I take administrative notice of the financial information set forth in Tables 1 through 6 in the DOR 2019 Massachusetts Schedule HC Health Care Instructions and Worksheets. Tables 3 and 4 incorporate affordability and premium schedules adopted by the Board of Directors for the Commonwealth Health Insurance Connector Authority for 2019. Table 2 sets forth income at 300% of the Federal poverty level and Tables 5 and 6 set forth tax penalties in effect for 2019.
8. Appellant could not afford health insurance based on the tables in Schedule HC. According to Table 4, the health insurance would cost \$992.00 for individual coverage. According to Table 3, Appellant was deemed to afford \$175.00.
9. Private insurance was not affordable for the Appellant in 2019 (Schedule HC for 2019).
10. Appellant's AGI was under 300% of the Federal Poverty Level, and Appellant therefore may have qualified for subsidized health insurance through the Health Connector. (Schedule HC for 2019).
11. Appellant claimed that they should be granted a waiver based on the grounds that they had received a shut-off notice, and that paying for health insurance would have caused a serious deprivation of food, shelter, clothing and other necessities during 2019. (Testimony of Appellant, Exhibit 3).
12. Appellant did not incur significant and unexpected increases in essential expenses as a result of domestic violence; due to the death of a spouse, family member, or partner who shared household expenses; the sudden responsibility for providing full care for an aging parent or other family member; or fire, flood, or other natural or man-made disaster in 2019 (Exhibit 3).
13. Appellant was not homeless, was not thirty days or more behind in rent in 2019, however Appellant did receive a shut-off notice for basic utilities. (Appellant Testimony, Exhibit 3).

ANALYSIS AND CONCLUSIONS OF LAW

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

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

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

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

Private insurance was not affordable for the Appellant during 2019. According to Tables 3 and 4 of the HC Schedule for 2019, Appellant, with an adjusted gross income of \$34,047.00 was deemed not to have been able to afford health insurance on the private market. According to Table 3, Appellant could have afforded to pay \$175.00 per month; according to Table 4, Appellant, who was 61 years old in 2019, from Barnstable County, and filed the 2019 Massachusetts taxes as head of household with a family size of 2, would have had to pay \$992.00 for family coverage per month for insurance on the private market. See CMR 6.05 (1)(2), Schedule HC Tables 3 and 4, and Exhibit 2.

With regard to the hardship waiver of the penalty, Appellant claimed that they received a shut-off notice, and that paying for health insurance would have caused a serious deprivation of food, shelter and other necessities. Appellant's expenses for food, shelter, clothing, and other necessities used a significant amount of the income. For these reasons, the waiver of the penalty is approved.

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

PENALTY ASSESSED

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

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

NOTIFICATION OF YOUR RIGHT TO APPEAL TO COURT

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

Hearing Officer

Cc: Connector Appeals Unit

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

Massachusetts Health Connector Appeals Unit

FINAL APPEAL DECISION: PA19-170

Appeal Decision: Appeal Denied.

Hearing Issue: Appeal of the 2019 Tax Year Penalty

Hearing Date: June 12, 2020

Decision Date: July 1, 2020

AUTHORITY

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

JURISDICTION

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

HEARING RECORD

The Appellant appeared at the hearing, which was held by telephone, on June 12, 2020. 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 May 20, 2020.
- Exhibit 2: Appeal Case Information from Schedule HC 2019.
- Exhibit 3: Statement of Grounds for Appeal with annotations, signed by the Appellant on March 10, 2020.
- Exhibit 4: Health Connector Appeals Unit Open Record Form dated June 12, 2020.

FINDINGS OF FACT

The record shows, and I so find:

1. The Appellant turned 25 years old in May 2019. The Appellant filed their Federal Income Tax return as a single person with no dependents claimed (Exhibit 2).
2. The Appellant lived in Hampden County, MA in 2019 (Exhibit 2).
3. The Appellant's Federal Adjusted Gross Income for 2019 was \$21,088 (Exhibit 2).
4. The Appellant had health insurance for the period of January through May but did not have health insurance for the period of June through December in tax year 2019 (Exhibit 2).
5. The Appellant has been assessed a four-month tax penalty for 2019 (Exhibit 2).
6. The Appellant filed an appeal of the assessment in March 2020. The Appellant did not allege financial hardship on the Statement of Grounds for Appeal. The Appellant wrote that they had

health insurance through their employer for a period of time and for the rest of the year had coverage under a parent's plan (Exhibit 3).

7. I take administrative notice of the financial information set forth in Tables 1 through 6 in the DOR 2019 Massachusetts Schedule HC Health Care Instructions and Worksheets. Tables 3 and 4 incorporate affordability and premium schedules adopted by the Board of Directors for the Commonwealth Health Insurance Connector Authority for 2019. Table 2 sets forth income at 300% of the Federal poverty level and Tables 5 and 6 set forth tax penalties in effect for 2019.
8. In accordance with Table 3 of Schedule HC for 2019, the Appellant filing the Federal tax return as a single person, with no dependents claimed, with an annual adjusted gross income of \$21,088 could afford to pay \$51 per month for health insurance. In accordance with Table 4, the Appellant, age 25, living in Hampden County, could have purchased private insurance for \$257 per month for a single plan (Schedule HC for 2019). Private insurance was not affordable for the Appellant.
9. The Appellant testified that they were insured through their employer for a period of time but had to leave their job abruptly. The Appellant explained that they were placed back on their parent's health insurance plan. The Appellant said that their parent did their taxes and has the forms needed to verify the Appellant's coverage. The Appellant did not allege financial hardship as a basis for their appeal (Exhibit 2 and Appellant Testimony).
10. The Appellant would have been eligible for ConnectorCare coverage after losing their employer sponsored health insurance in 2019 because the Appellant's income was less than 300% of the federal poverty level, which was \$36,420 in 2019. (See Table 2 of Schedule HC-2018 and 956 CMR 12.04).
11. After the hearing concluded, the record was left open until June 26, 2020 to allow the Appellant to submit proof of their health insurance coverage for the period of June through December in tax year 2019 (Exhibit 4).
12. The Appellant did not submit any additional information during the record open period.

ANALYSIS AND CONCLUSIONS OF LAW

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

The Appellant did not have health insurance for the months of June through December in tax year 2019 and has consequently been assessed a four-month penalty. The Appellant submitted a statement of grounds for this appeal citing "other" as the basis for the Appeal. The Appellant wrote that they had health insurance through

their employer and were covered under a parent’s health insurance plan for the remainder of the months in tax year 2019.

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

In accordance with Table 3 of Schedule HC for 2019, the Appellant filing the Federal tax return as a single person with no dependents claimed, with an adjusted gross income of \$21,088 could afford to pay \$51 per month for health insurance. In accordance with Table 4, the Appellant, age 25, living in Hampden County, could have purchased private insurance for \$257 per month for a plan (Schedule HC for 2019). Private insurance was not affordable for the Appellant in 2019.

The Appellant had employer sponsored health insurance for several months but indicated that they had to leave their job abruptly. The Appellant would have been eligible for ConnectorCare coverage during the period of June through December in 2019 because the Appellant’s income was less than 300% of the federal poverty level, which was \$36,420 in 2019. (See Table 2 of Schedule HC-2018 and 956 CMR 12.04). Since affordable insurance was available to the Appellant in 2019, it must be determined whether the Appellant experienced a financial hardship pursuant to 956 CMR 6.08 (1).

As noted above, the Appellant maintains that they had health insurance for all months of tax year 2019. After the June 12, 2020 hearing concluded, the record was left open until June 26, 2020 to allow the Appellant to contact their parent and submit proof of coverage under the parent’s plan. The Appellant did not submit any additional information. Since the Appellant failed to verify their claim of coverage for 2019 and did not offer any evidence or testimony to indicate that the cost of purchasing health insurance for 2019 would have caused the Appellant to experience a serious financial hardship, the Appellant’s four month penalty is upheld. See 956 CMR 6.08.

PENALTY ASSESSED

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

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

NOTIFICATION OF YOUR RIGHT TO APPEAL TO COURT

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

Cc: Connector Appeals Unit

Massachusetts Health Connector Appeals Unit

FINAL APPEAL DECISION: PA19-182

Appeal Decision: Appeal Granted

Hearing Issue: Appeal of the 2019 Tax Year Penalty

Hearing Date: June 16, 2020

Decision Date: July 7, 2020

AUTHORITY

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

JURISDICTION

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

HEARING RECORD

The Appellant appeared at the hearing, which was held by telephone, on June 16, 2020. The Appellant offered testimony under oath or affirmation. At the end of the hearing, the record was closed.

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

- Exhibit 1: Appeal Case Information from 2019 Schedule HC (1 page)
- Exhibit 2: 3/3/20 Appeal (4 pages)
- Exhibit 3: 5/21/20 Hearing Notice (2 pages)

FINDINGS OF FACT

The record shows, and I so find:

1. The Appellant's filing status for 2019 was Single with no dependents. The Appellant's federal AGI in 2019 was \$27,247. The Appellant resided in Worcester County in 2019. The Appellant turned fifty-five years old in 2019. (Exhibit 1)
2. The Appellant appealed from the assessment of a seven-month penalty on her 2019 income tax return, checking off "During 2019, the expense of purchasing health insurance would have caused a serious deprivation of food, shelter, clothing or other necessities." (Exhibit 2)
3. The Appellant had health insurance coverage in 2019 only in the months of November and December. (Appellant's testimony)
4. The Appellant worked as a part-time school bus driver for the same employer during all of 2019. Her work was not steady, and her hours varied from week to week, depending on school vacations, weather conditions, and demand for her services. The Appellant's income was highest in 2019 during the months following the start of school in September 2019. (Appellant's testimony)

5. The Appellant's employer offered health insurance coverage only to office staff. As a bus driver, the Appellant was not eligible for the coverage. (Appellant's testimony)
6. The Appellant had health insurance coverage through the Health Connector in all of 2018. During the fall of 2018, the Appellant became homeless for a period of time and was unable to keep up with her monthly premium payment of \$87. (Appellant's testimony)
7. At the start of 2019, the Appellant contacted the Health Connector about 2019 coverage and was told that she could not get coverage for 2019 until she paid the \$178 that she owed for her coverage in 2018. The Appellant asked if she could use a payment plan to pay off the \$178 in installments and was told that she had to pay the \$178 as a lump sum. The Appellant was unable to pay the \$178 in a single payment at that time. (Appellant's testimony)
8. By March 2019, the Appellant was prepared to pay the \$178 in a single payment and get 2019 coverage. When she attempted to do, she was told that it was too late to get coverage because open enrollment for 2019 coverage had ended. (Appellant's testimony)
9. The Appellant applied to the Health Connector for coverage again in the fall of 2019 and obtained health insurance coverage for November and December 2019. (Appellant's testimony)
10. The Appellant is nearly \$90,000 in debt from credit cards and from student loans for her children that she signed off on years ago. (Appellant's testimony)
11. The Appellant's 2019 monthly expenses for basic necessities included: rent, \$775; electricity (heat and lights), \$155; phone, \$90; transportation (no car), \$18; groceries, \$350; clothing, \$200; household supplies, \$75; laundry, \$25; Internet, \$88; student loan payments (for children), \$264; and, credit card payments, \$125, for a total of \$1,865 monthly and \$25,980, for the year. (Exhibit 2; Appellant's testimony)
12. According to Table 2 of the 2019 Schedule HC, the Appellant was eligible for government-subsidized insurance in 2019, since her AGI for 2019 was less than \$36,420 for a family of one.
13. According to Table 3, Affordability, of the Schedule HC 2018, based on her 2019 AGI and Single tax-filing status, the Appellant could have afforded to pay up to 4.2 percent of her income for health insurance in 2018, which calculates to a monthly premium of up to \$95 for coverage.
14. According to Table 4, Premiums, the Appellant could have purchased health insurance coverage in the private market in 2018 for \$418/monthly, based on her age and county of residence in 2019.

ANALYSIS AND CONCLUSIONS OF LAW

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

As the Appellant had health insurance coverage through December 2018, the Appellant had a grace period through March 2019 to obtain new coverage. At issue here is the Appellant's failure to have coverage during the seven months from April 2019 through October 2019.

With total expenses of \$25,980 for basic necessities in 2019, the Appellant's 2019 AGI of \$27,247 left the Appellant with a small amount of money left over to afford health insurance coverage from April to October 2019. Moreover, the Appellant's monthly income was highest during the last few months of 2019, after she resumed her bus-driving duties at the start of the school year in September and obtained health insurance coverage for the last two months of the year. Even at a monthly cost of \$95, the additional cost of health insurance coverage during the months from April to October would have exhausted her ability to pay for her basic necessities during that period.

Therefore, I conclude that the Appellant has established that health insurance that provided minimum creditable coverage was not affordable for her from April to October 2019, under 956 CMR 6.08(1)(e).

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

PENALTY ASSESSED

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

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

OR

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

NOTIFICATION OF YOUR RIGHT TO APPEAL TO COURT

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

Hearing Officer

Cc: Connector Appeals Unit

Massachusetts Health Connector Appeals Unit

FINAL APPEAL DECISION: PA19-183

Appeal Decision: Appeal Granted

Hearing Issue: Appeal of the 2019 Tax Year Penalty

Hearing Date: June 16, 2020

Decision Date: July 27, 2020

AUTHORITY

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

JURISDICTION

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

HEARING RECORD

The Appellant appeared at the hearing, which was held by telephone, on June 16, 2020. The Appellant offered testimony under oath or affirmation. At the end of the hearing, the record was left open until June 30, 2020, for the Appellant to submit additional evidence. On June 30, 2020, the Appellant submitted additional evidence, and the record was closed.

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

Exhibit 1: Appeal Case Information from 2019 Schedule HC (1 page)

Exhibit 2: 3/10/20 Appeal (3 pages)

Exhibit 3: 2019 Form 1095-B (2 pages)

Exhibit 4: 2019 Form W-2 (1 page)

Exhibit 5: 5/21/20 Hearing Notice (2 pages)

FINDINGS OF FACT

The record shows, and I so find:

1. The Appellant's filing status for 2019 was Head of Household with no dependents and a family size of three. The Appellant's federal AGI in 2019 was \$49,428. The Appellant resided in Middlesex County in 2019. The Appellant turned thirty-one years old in 2019. (Exhibit 1)
2. The Appellant has two young children. (Appellant's testimony)
3. The Appellant appealed from the assessment of a three-month penalty on his 2019 income tax return, checking off on his appeal form that purchasing health insurance coverage in 2019 would have caused a serious deprivation of basic necessities. (Exhibit 2)

4. The Appellant had health insurance coverage that met Minimum Creditable Coverage standards (MCC) through his employer, a restaurant, from January 2019 through June 2019. Over \$28,000 of the Appellant's 2019 income was earned from this employer. (Appellant's testimony; Exhibit 3)
5. In July 2020, the Appellant began working for a new employer at another restaurant. He took the job because it was located closer to home. His new employer offered health insurance coverage after a thirty-day waiting period. The Appellant did not enroll in the coverage because it cost \$200/bi-weekly, and the Appellant felt that he could not afford to pay that much. (Appellant's testimony; Exhibit 2)
6. The Appellant's monthly expenses in 2019 included: rent, \$900; utilities, \$80; transportation, \$400; food, \$450; clothing (including for his children), \$300; phone, \$122; Internet, \$40; credit card payment, \$351; and, student loan payment, \$547, for a total of \$3,190/monthly. (Appellant's testimony)
7. According to Table 2 of the Schedule HC 2019, the Appellant was eligible for government-subsidized insurance in 2019, since his AGI for 2019 was more than \$36,420 for a family of one.
8. According to Table 3, Affordability, of the Schedule HC 2098, based on his 2019 AGI and Single with no dependents tax filing status, the Appellant could have afforded to pay up to 8.05 percent of income for health insurance, which calculates to a monthly premium of up to \$322, for health insurance coverage in 2018.
9. According to Table 4, Premiums, of the Schedule HC 2019, the Appellant could have purchased health insurance in the private market for a monthly premium of \$279.

ANALYSIS AND CONCLUSIONS OF LAW

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

As the Appellant had health insurance coverage that met MCC standards during the first six months of 2019, the Appellant had a three-month grace period after June 2019 to obtain new coverage. The issue here then is the Appellant's failure to have coverage during the last three months of 2019.

Based on his AGI for the full year of 2019, the Appellant could have afforded to pay up \$322/monthly for coverage. However, as the Appellant earned nearly sixty percent of his 2019 income during the first six months of the year, he earned significantly less income during the last half of 2019. Health insurance from his new employer at a cost of \$200/bi-weekly was clearly beyond the Appellant's means during those months. While coverage was available to the Appellant in the private market in 2019 for \$279/month, I find that the Appellant could not have afforded health insurance coverage during the last three months of 2019, even at this cost, without depriving himself of basic necessities.

Therefore, I conclude that the Appellant experienced financial circumstances such that the expense of purchasing health insurance in 2019 would have caused him to experience a serious deprivation of basic necessities, 956 CMR 6.08(1)(e).

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

PENALTY ASSESSED

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

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

OR

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

NOTIFICATION OF YOUR RIGHT TO APPEAL TO COURT

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

Hearing Officer

Cc: Connector Appeals Unit

Massachusetts Health Connector Appeals Unit

FINAL APPEAL DECISION: PA19-184

Appeal Decision: Appeal Granted

Hearing Issue: Appeal of the 2019 Tax Year Penalty

Hearing Date: June 16, 2020

Decision Date: July 7, 2020

AUTHORITY

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

JURISDICTION

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

HEARING RECORD

The Appellant appeared at the hearing, which was held by telephone, on June 16, 2020. The Appellant offered testimony under oath or affirmation. At the end of the hearing, the record was left open until June 30, 2020, for the Appellant to submit additional evidence. On June 30, 2020, the Appellant submitted additional evidence, and the record was closed.

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

- Exhibit 1: Appeal Case Information from 2019 Schedule HC (1 page)
- Exhibit 2: 3/2/20 Appeal (9 pages)
- Exhibit 3: 5/21/20 Hearing Notice (2 pages)
- Exhibit 4: 2019 Form 1095-A

FINDINGS OF FACT

The record shows, and I so find:

1. The Appellant's filing status for 2019 was Head of Household with two dependents. The Appellant's federal AGI in 2019 was \$51,289. The Appellant resided in Suffolk County in 2019. The Appellant turned twenty-six years old in 2019. (Exhibit 1)
2. The Appellant appealed from the assessment of a four-month penalty on her 2019 income tax return, stating that she had health insurance coverage during all of 2019. (Exhibit 2)
3. The Appellant had health insurance coverage that met Minimum Creditable Coverage standards (MCC) from April 2019 through May 2019. (Exhibit 4)
4. The Appellant had different health insurance coverage that met MCC standards from June 2019 through December 2019. (Exhibit 2)

ANALYSIS AND CONCLUSIONS OF LAW

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

As the Appellant had a three-month grace period at the start of 2019 to obtain coverage and the Appellant had health insurance coverage from August 2019 through December 2019, at issue here are the four months from April 2019 through July 2019. The Appellant has presented proof to substantiate that she had health insurance coverage that met MCC standards throughout the four months at issue.

Therefore, I conclude that the Appellant maintained health insurance that provided minimum creditable coverage in 2019, in compliance with M.G.L c. 111M, § 2.

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

PENALTY ASSESSED

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

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

OR

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

NOTIFICATION OF YOUR RIGHT TO APPEAL TO COURT

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

Hearing Officer

Cc: Connector Appeals Unit

Massachusetts Health Connector Appeals Unit

FINAL APPEAL DECISION: PA19199

Appeal Decision: The penalty is overturned in full

Hearing Issue: Appeal of the 2019 Tax Year Penalty

Hearing Date: June 19, 2020

Decision Date: July 6, 2020

AUTHORITY

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

JURISDICTION

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

HEARING RECORD

The appellant appeared at the hearing which was held by telephone on June 19, 2020. The procedures to be followed during the hearing were reviewed with Appellant. The appellant was then sworn in. Exhibits were marked and admitted in evidence with no objection from the appellant. Appellant testified.

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

Exhibit 1: Statement of Grounds for Appeal 2019 signed and dated by Appellant on March 5, 2020 with letter in support attached

Exhibit 2: Appeal Case Information from Schedule HC 2019

Exhibit 3: Notice of Hearing sent to Appellant dated May 22, 2020 for June 19, 2020 hearing

FINDINGS OF FACT

The record shows, and I so find:

1. Appellant, who filed a 2019 Massachusetts tax return as a single individual with no dependents claimed, was 29 years old in 2019 (Exhibit 2, Testimony of Appellant).
2. Appellant lived in Essex County in 2019 (Exhibit 2, Testimony of Appellant).
3. Appellant had a Federal adjusted gross income for 2019 of \$49,270 (Exhibit 2 and Testimony of Appellant).
4. Appellant started a new job in the fall, 2018 at a medical center. She had this job for all of 2019. Through her prior job she had health insurance until November 1, 2018 (Testimony of Appellant).
5. Appellant was offered health insurance at the job she started late in 2018. She missed the open enrollment period and was not able to enroll until the following fall. She obtained coverage as of January 1, 2020 (Testimony of Appellant).

6. Appellant missed the open enrollment period for insurance because shortly before she changed jobs there were natural gas explosions and gas leaks in the town where she lived. She had to vacate her residency. She had to move in September, 2018 and was out of her home for about six months. She lived in a hotel an hour away from her home during this period and did not have access to her mail. She received information about signing up for health insurance at her home, but she had no access to the information until she was able to move back into her home. Her parents who lived with her were placed in another location (Testimony of Appellant).
7. Appellant tried to get health insurance through the Connector in February, 2019, but she was not eligible for coverage (Testimony of Appellant).
8. The appellant has been assessed a tax penalty for all of 2019. The appellant has appealed the assessment (Exhibits 1, 2).
9. I take administrative notice of the financial information set forth in Tables 1 through 6 in the DOR 2019 Massachusetts Schedule HC Health Care Instructions and Worksheets. Tables 3 and 4 incorporate affordability and premium schedules adopted by the Board of Directors for the Commonwealth Health Insurance Connector Authority for 2019. Table 2 sets forth income at 300% of the Federal poverty level and Tables 5 and 6 set forth tax penalties in effect for 2019.
10. According to Table 3 of Schedule HC for 2019, the appellant with no dependents claimed with an adjusted gross income of \$49,270 could afford to pay \$328 per month for health insurance. According to Table 4, Appellant, 29 years old and living in Essex County, could have purchased insurance for \$257 per month for a plan for an individual. Insurance on the individual market was affordable for her (Schedule HC for 2019, Tables 3 and 4, Exhibit 2).
11. According to Table 2 of Schedule HC for 2019, Appellant earning more than \$36,420 per year, would have been ineligible for the ConnectorCare program based upon income (Table 2 of Schedule HC-2019 and Exhibit 2).
12. Appellant did not incur significant and unexpected increases in essential expenses as a result of domestic violence; the death of a spouse, family member, or partner who shared household expenses; or the sudden responsibility for providing full care for an aging parent or other family member in 2019 (Testimony of Appellant).
13. Appellant did not fall more than thirty days behind in rent payments in 2019 (Testimony of Appellant).
14. Appellant did not receive any shut-off notices for basic utilities in 2019 (Testimony of Appellant).
15. Appellant did incur significant and unexpected increases in essential expenses as a result of a human-caused accident in 2018 and 2019 which caused household and personal damage. The accident, natural gas explosions and leaks occurred in 2018, but the appellant suffered consequences well into 2019. She and her parents had to move from their residence and were placed in separate quarters from September, 2018 through the end of January, 2019. They lost all of the food that had been in their residence and appellant had significant unexpected transportation costs while living out of her home (Testimony of Appellant).
16. Appellant had the following monthly expenses for basic necessities in 2019: rent-\$800; electricity- \$130; heat-\$0.00; food-\$300; clothing-\$150; car payment-\$324; car insurance-\$360; gas-\$80; telephone and internet-\$150; commuter rail (January through July)-\$350. She also had to pay \$85 a month for her student loans (Testimony of Appellant).

ANALYSIS AND CONCLUSIONS OF LAW

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

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

45 CFR 155.410 and 420 provide for open enrollment periods during which individuals may enroll in health care plans and for special open enrollment periods when individuals may enroll outside of the open enrollment period if they have had a qualifying life event within the past 60 days. Examples of a qualifying event include the loss of health insurance from a job, moving to the Commonwealth, moving outside of a health insurer’s service area, loss of MassHealth, getting married, a change in household dependents, among other things. If an individual has a qualifying event, the individual may apply for coverage through the Connector within 60 days of the event, even outside of an open enrollment period. There is an exceptional circumstances exception. Examples of exceptional circumstances are given in the Centers for Medicare and Medicaid Services and for Consumer Information and Insurance Oversight Affordable Exchanges Guidance dated March 26, 2014. Examples listed are a natural disaster, or medical emergency.

Appellant has been assessed a twelve-month tax penalty. Appellant has appealed this assessment. See Exhibits 1 and 2. Appellant obtained coverage as of January 1, 2020. Since Appellant is entitled to a three-month grace period prior to obtaining coverage, the penalty for October through December is waived. See Massachusetts General Laws, Chapter 111M, Section 2, and the testimony of the appellant which I find to be credible.

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

According to Table 3 of Schedule HC for 2019, the appellant with no dependents claimed with an adjusted gross income of \$49,270 could afford to pay \$328 per month for health insurance. According to Table 4, Appellant, 29 years old and living in Essex County, could have purchased insurance for \$257 per month for a plan for an individual. Insurance on the individual market was affordable for the appellant. See Schedule HC for 2019, Tables 3 and 4, Exhibit 2.

Appellant could have purchased health insurance through the Connector during the open enrollment period. See 45 CFR 155.410 and 420. This coverage was affordable and available. See above. Since the appellant could have obtained affordable health insurance through the individual market, we need to determine if Appellant had a financial hardship such that the cost of purchasing health insurance would have caused her to experience a serious deprivation of basic necessities or some other financial hardship as defined in 956 CMR 6.08 (a), (b), (d), and or (e), and 6.08(3). We do not need to consider whether affordable health insurance was available through employment or a government-sponsored program.

Appellant had the following expenses for basic necessities in 2019: rent-\$800; electricity- \$130; heat-\$0.00; food-\$300; clothing-\$150; car payment-\$324; car insurance-\$360; gas-\$80; telephone and internet-\$150; commuter rail

(January through July)-\$350. She also had to pay \$85 a month for her student loans. See the testimony of Appellant, which I find to be credible. Given her adjusted gross income of about \$4,000 a month and her essential expenses of about \$2,800, Appellant could have purchased health insurance without suffering a serious deprivation of basic necessities. See 956 CMR 6.08(1)(e). However, Appellant did incur a significant, unexpected increase in essential expenses resulting directly from the consequences of a human-caused event which caused substantial household and personal damage. See 9546 CMR 6.08 (1)(d)(4).

Though the events, natural gas explosions and leaks, occurred in 2018, the consequences to the appellant continued into 2019. After the explosions and leaks, Appellant had to vacate her residence and move to a hotel. She was not able to move home until the end of January, 2019. While the household damage, particularly the loss of all food-stuffs, occurred in 2018, the additional expenses Appellant incurred continued into 2019. Appellant had significant transportation expenses because of her placement in a hotel away from her parents and an hour away from her home. I also note that she was unable to obtain her mail and because of this, she was unaware of the open enrollment period for health insurance through her job and missed the opportunity to sign up for coverage.

Based upon these facts, I determine that the appellant had a financial hardship such that health insurance was unaffordable for her. See 956 CMR 6.08(1)(d)(4). I also note that the appellant tried to obtain health insurance through the Connector in February, 2019 after she realized she had missed the open enrollment period at work, and that she obtained health insurance in 2020, effective January 1, through her job. See the testimony of the appellant which I find credible.

Appellant's penalty is waived in its entirety.

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

PENALTY ASSESSED

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

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

NOTIFICATION OF YOUR RIGHT TO APPEAL TO COURT

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

Hearing Officer

Cc: Connector Appeals Unit

Massachusetts Health Connector Appeals Unit

FINAL APPEAL DECISION: PA19201

Appeal Decision: The penalty is overturned in full.

Hearing Issue: Appeal of the 2019 Tax Year Penalty

Hearing Date: June 19, 2020

Decision Date: July 1, 2020

AUTHORITY

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

JURISDICTION

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

HEARING RECORD

The appellant appeared at the hearing which was held by telephone on June 19, 2020. The procedures to be followed during the hearing were reviewed with Appellant who was then sworn in. Exhibits were marked and admitted in evidence with no objection from the appellant. Appellant testified.

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

- Exhibit 1: Statement of Grounds for Appeal 2019 signed and dated March 2, 2020 with letter in support, telephone bill and car insurance bill attached
- Exhibit 2: Appeal Case Information from Schedule HC 2019
- Exhibit 3: Notice of Hearing sent to Appellant dated May 22, 20120 for June 19, 2020 hearing

FINDINGS OF FACT

The record shows, and I so find:

1. Appellant, who filed a 2019 Massachusetts tax return as a single person with no dependents claimed, was 34 years old in 2019 (Exhibit 2, Testimony of Appellant).
2. Appellant moved to Massachusetts in May, 2019. After moving to the Commonwealth, Appellant lived in Worcester County (Exhibit 2, Testimony of Appellant).
3. Appellant had a Federal adjusted gross income for 2019 of \$24,256 (Exhibit 2, and Testimony of Appellant).
4. Appellant worked for a temp agency in 2019 before he moved to Massachusetts. After he moved, he kept the same job. Some time later in the year, he found a new temp job. He earned \$12 an hour and worked between 40 and 45 hours a week (Testimony of Appellant).
5. Appellant had no health insurance all of 2019. He was not offered coverage at either temp job he had. He did not realize that he was required to have health insurance once he moved to the Commonwealth (Testimony of Appellant, Exhibit 2).

6. Appellant has been assessed a penalty for five months of 2019, August through December. Appellant has appealed the assessment, claiming that the expense of purchasing health insurance would have caused him to have a serious deprivation of basic necessities (Testimony of Appellant, Exhibits 1, 2).

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

8. According to Table 3 of Schedule HC for 2019, the appellant who filed his Massachusetts taxes as an individual with no dependents claimed with a Federal adjusted gross income of \$24,256 could afford to pay \$58 per month for health insurance. According to Table 4, Appellant, 34 years old and living in Worcester County, could have purchased insurance for \$279 per month for a plan for an individual. Insurance on the individual market was not affordable to the appellant (Schedule HC for 2019, Tables 3 and 4, Exhibit 1).

9. According to Table 2 of Schedule HC for 2019, Appellant earning less than \$36,420 per year, would have been eligible for the ConnectorCare program based upon income. Appellant would also have been eligible because he had no access to employer-sponsored health insurance (Table 2 of Schedule HC-2019, Exhibit 2, 956 CMR 12.04).

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

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

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

13. Appellant had the following monthly expenses for basic necessities in 2019: rent, electricity, heat-\$100; food-\$400; telephone and internet-\$65; clothing-\$25; car insurance-\$165; gas-\$240; car repairs-\$25. Appellant lived with family in Massachusetts (Testimony of Appellant).

ANALYSIS AND CONCLUSIONS OF LAW

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

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

The appellant was assessed for a penalty for five months of 2019, August through December. Appellant moved to the Commonwealth in May. He was entitled to a three-month grace period after arriving in the Commonwealth, so he was not assessed a penalty for May through July. The appellant has appealed the assessment, claiming that the cost of purchasing health insurance would have caused him to experience a serious deprivation of basic necessities. See Exhibits 1, 2.

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

According to Table 3 of Schedule HC for 2019, the appellant who filed his Massachusetts taxes as an individual with no dependents claimed with a Federal adjusted gross income of \$24,256 could afford to pay \$58 per month for health insurance. According to Table 4, Appellant, 34 years old and living in Worcester County, could have purchased insurance for \$279 per month for a plan for an individual. Insurance on the individual market would not have been affordable to the appellant. See Schedule HC for 2019, Tables 3 and 4, Exhibit 2.

Appellant had employment through temp agencies all of 2019. He was not offered health insurance by the agencies he worked for. See the testimony of the appellant which I find to be credible.

Appellant was income-eligible for ConnectorCare coverage, earning less than \$36,420, the income limit for an individual. He was also eligible because he was not offered health insurance through his employment. See the testimony of the appellant which I find to be credible, Table 2 of Schedule HC for 2019 and 956 CMR 12.00 et.seq.

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

Appellant lived with his family after he moved to Massachusetts. Appellant had the following monthly expenses for basic necessities in 2019: rent, electricity, heat-\$100; food-\$400; telephone and internet-\$65; clothing-\$25; car insurance-\$165; gas-\$240; car repairs-\$25. See the testimony of the appellant which I find credible.

Given Appellant's adjusted gross income, he had income of about \$2,000 a month before taxes. His monthly expenses amounted to approximately \$900. At first, it appears that, had he applied for ConnectorCare coverage, he could have afforded cost of the premium. But, taking into account that he worked for a temp agency and had no job security, and that the number of hours he worked varied from week to week, I determine that Appellant could not count on a steady income, month after month. See the testimony of the appellant which I find to be credible.

Based upon the facts, summarized above, I determine that Appellant had a financial hardship such that the cost of purchasing health insurance was unaffordable for him. See 956 CMR 6.08(3) which allows the consideration of financial issues raised by the appellant.

Appellant's penalty is fully waived because of financial hardship.

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

PENALTY ASSESSED

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

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

NOTIFICATION OF YOUR RIGHT TO APPEAL TO COURT

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

CC. Connector Appeals Unit

Hearing Officer

Addendum: If Appellant still does not have health insurance, he may wish to contact the Connector by telephone at 1-877-623-6765 or on line at MAhealthconnector.org to see if he might be eligible for ConnectorCare coverage.

Massachusetts Health Connector Appeals Unit

FINAL APPEAL DECISION: PA19-223

Appeal Decision Appeal Allowed

Hearing Issue: Appeal of the 2019 Tax Year Penalty

Hearing Date: May 11, 2020

Decision Date: July 17, 2020

AUTHORITY

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

JURISDICTION

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

HEARING RECORD

The Appellant appeared at the hearing, which was held by telephone, on June 25, 2020.

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

- Exhibit 1: Notice of Hearing dated May 26, 2020
- Exhibit 2: Appeal Case Information from form Schedule HC
- Exhibit 3: Statement of Grounds for Appeal Dated February 27, 2020
- Exhibit 4: Written Statement of Appeal
- Exhibit 5: Open Record Documents

FINDINGS OF FACT

The record shows, and I so find:

1. The appellant is twenty-eight years old and is single. He lives in Worcester County, Massachusetts.
2. Appellant quit his job in April 2019 but maintained health insurance through June 2019. Appellant applied for health insurance through the health Connector but was unable to obtain health insurance. Appellant was out of the country from April 2020 through October 2020. I credit Appellant's testimony in that regard. Appellant also sent in his credit card bills that document that he was out of the country during that time.
3. Appellant does have health insurance in 2020.
4. The Appellant did submit a Statement of Grounds for Appeal-2019 "Other. During 2019 other circumstance, such as applying the Affordability Tables in Schedule HC is inequitable or that you didn't reside in Massachusetts during your period of uninsurance."
5. I take administrative notice of the information set forth in tables 1 through 6 in the Department of Revenue Schedule HC Health Care Instructions and Worksheets (Schedule HC Instructions). Tables 3 & 4 incorporate the affordability schedules adopted by the board of directors of the Commonwealth Health Insurance Connector Authority for 2019. Table 1 sets forth the income eligibility standards for various family sizes at 150% of the federal poverty level and Table 2 sets forth the income eligibility standards for various family sizes at 300 per cent of the federal poverty level, which is the income eligibility standard for the government-subsidized health insurance program. See Mass. G.L. c. 118H, s.3(a)(1). Tables 5 and 6 set forth the tax penalties for 2019.

ANALYSIS AND CONCLUSIONS OF LAW

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

The Appellant did submit a Statement of Grounds for Appeal-2019 "Other. During 2019 other circumstance, such as applying the Affordability Tables in Schedule HC is inequitable or that you didn't reside in Massachusetts during your period of uninsurance."

Appellant quit his job in April 2019 but maintained health insurance through June 2019. Appellant applied for health insurance through the health Connector but was unable to obtain health insurance. Appellant was out of the country from April 2020 through October 2020. I credit Appellant's testimony in that regard.

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

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

Appellant was out of the country during his period of uninsurance. On these facts, I find that Appellant has shown that he was precluded from purchasing affordable health insurance during 2019. 956 Mass. Code Regs. 6.08(3) (2008). Accordingly, I conclude that he is exempt from a tax penalty for his non-compliance with the individual mandate.

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

PENALTY ASSESSED

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

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

OR

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

NOTIFICATION OF YOUR RIGHT TO APPEAL TO COURT

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

Hearing Officer

Cc: Connector Appeals Unit

Massachusetts Health Connector Appeals Unit

FINAL APPEAL DECISION: PA19-229

Appeal Decision: Appeal Approved.

Hearing Issue: Appeal of the 2019 Tax Year Penalty

Hearing Date: June 29, 2020

Decision Date: July 13, 2020

AUTHORITY

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

JURISDICTION

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

HEARING RECORD

The Appellant appeared at the hearing, which was held telephonically on June 29, 2020. 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 4, 2020.
- Exhibit 2: Appeal Case Information from Schedule HC 2019.
- Exhibit 3: Statement of Grounds for Appeal signed by the Appellant on March 6, 2020, with attachments.
- Exhibit 4: Health Connector Appeals Unit Open Record form dated June 29, 2020.
- Exhibit 5: Additional information submitted by the Appellant on July 1, 2020.

FINDINGS OF FACT

The record shows, and I so find:

1. The Appellant age 22, filed their 2019 Federal Income Tax return as a single person with no dependents claimed (Exhibit 2).
2. The Appellant was a resident of Suffolk county in 2019 (Exhibit 2).
3. According to the information on the Appellant's Schedule HC 2019, the Appellant did not have health insurance that met Massachusetts Minimum Creditable Coverage (MCC) standards during the period of January through July in tax year 2019 (Exhibit 2).
4. The Appellant has been assessed a four-month tax penalty. The Appellant filed an appeal of the assessment in March 2020 (Exhibits 2, 3).

5. The Appellant's Federal Adjusted Gross Income for 2019 was \$35,117 (Exhibit 2 and Appellant Testimony).
6. The Appellant testified that for the period of January through May they attended school and had health insurance through their parent's out of state health insurance policy. The Appellant said that after graduation, they began working and had had employer sponsored health insurance during the period of July through December in tax year 2019.
7. The Appellant submitted a copy of their 1099-HC verifying their employer sponsored health insurance coverage for the period of July through December in tax year 2019 (Exhibit 3).
8. The record was left open until July 20,2020 to allow the Appellant to submit documentation verifying that they had health insurance through their parent during the period of January through May in tax year 2019 (Exhibit 4).
9. The Appellant submitted a copy of their parent's Form 1095-B 2019 verifying that the Appellant had health insurance coverage during the period of January through May in tax year 2019 (Exhibit 5).
10. The Appellant had health insurance coverage for eleven months of tax year 2019 with a gap in coverage for the month of June while making the transition from student to employment (Exhibits 3, 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.

According to the information in the Appellant's Schedule HC 2019, the Appellant did not have health insurance during the period of January through July in tax year 2019. Consequently, the Appellant was assessed a four-month penalty.

The Appellant filed an appeal of the penalty and submitted a copy of their form 1099-HC 2019 verifying that the Appellant had employer sponsored health insurance for the period of July through December in tax year 2019. The Appellant testified credibly that they attended school for the first half of tax year 2019 and had health insurance coverage under their parent's policy through graduation. The record was left open to allow the Appellant to contact their parent and obtain proof of insurance coverage. The Appellant submitted a copy of their parent's Form 1095-B 2019 verifying that the Appellant did have health insurance coverage for the months of January through May in tax year 2019. The Appellant was uninsured for the month of June while transitioning from school to work. Given the three-month grace period noted in the regulations above, the Appellant's four-month tax penalty is waived in full.

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

PENALTY ASSESSED

Appellant: Number of Months Appealed: ____4____ Number of Months Assessed: __0____

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

NOTIFICATION OF YOUR RIGHT TO APPEAL TO COURT

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

Cc: Connector Appeals Unit

Massachusetts Health Connector Appeals Unit

FINAL APPEAL DECISION: PA19-232

Appeal Decision: Appeal Approved.

Hearing Issue: Appeal of the 2019 Tax Year Penalty

Hearing Date: June 29, 2020

Decision Date: July 13, 2020

AUTHORITY

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

JURISDICTION

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

HEARING RECORD

The Appellant appeared at the hearing, which was held by telephone, on June 29, 2020. 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 4, 2020.
- Exhibit 2: Appeal Case Information from Schedule HC 2019.
- Exhibit 3: The Statement of Grounds for Appeal signed by the Appellant (undated).
- Exhibit 4: The Appellant's letter in support of this appeal, with attachments.

FINDINGS OF FACT

The record shows, and I so find:

1. The Appellant turned 28 years old in September 2019. The Appellant filed their Federal Income Tax return as a single person with no dependents claimed (Exhibit 2).
2. The Appellant lived in Barnstable County, MA in 2019 (Exhibit 2).
3. The Appellant's Federal Adjusted Gross Income for 2019 was \$22,668 (Exhibit 2 and Appellant Testimony).
4. The Appellant did not have insurance for any months in tax year 2019 (Exhibit 2 and Appellant Testimony).
5. The Appellant has been assessed a twelve-month tax penalty for 2019. The Appellant filed an appeal of the assessment (Exhibits 2, 3, 4 and Appellant Testimony).

6. I take administrative notice of the financial information set forth in Tables 1 through 6 in the DOR 2019 Massachusetts Schedule HC Health Care Instructions and Worksheets. Tables 3 and 4 incorporate affordability and premium schedules adopted by the Board of Directors for the Commonwealth Health Insurance Connector Authority for 2019. Table 2 sets forth income at 300% of the Federal poverty level and Tables 5 and 6 set forth tax penalties in effect for 2019.
7. In accordance with Table 3 of Schedule HC for 2019, the Appellant filing the Federal tax return as a single person, with no dependents claimed, with an annual adjusted gross income of \$22,668 could afford to pay \$55 per month for health insurance. In accordance with Table 4, the Appellant, age 28, living in Barnstable County, could have purchased private insurance for \$257 per month for a plan (Schedule HC for 2019). Private insurance was not affordable for the Appellant in 2019.
8. The Appellant testified credibly that they did not have access to employer sponsored health insurance in 2019 (Appellant Testimony).
9. The Appellant would have been eligible for ConnectorCare coverage in 2019 because the Appellant's income was less than 300% of the federal poverty level, which was \$36,420 in 2019. (See Table 2 of Schedule HC-2019 and 956 CMR 12.04).
10. The Appellant testified that the annual income figure does not accurately reflect their month to month financial circumstances. The Appellant explained that they live in an area where most of the jobs are seasonal and for eight months of the year the Appellant is employed only about ten hours weekly. The Appellant said that for most of the year their expenses exceed their income (Appellant Testimony).
11. The Appellant lives in shared housing. The Appellant's 2019 monthly expenses included: room and board- \$630; telephone- \$100; motorcycle insurance-\$150; gasoline-\$217; and a student loan payment of 150. The Appellant said that they share food with their partner. The Appellant testified credibly that they struggled to meet these expenses, especially during the off season. I found the Appellant to be credible (Exhibits 3, 4 and Appellant Testimony).

ANALYSIS AND CONCLUSIONS OF LAW

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

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

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

In accordance with Table 3 of Schedule HC for 2019, the Appellant filing the Federal tax return as a single person with no dependents claimed with an adjusted gross income of \$22,668 could afford to pay \$55 per month for health insurance. According to Table 4, the Appellant, age 28, living in Barnstable County, could have purchased a private insurance plan for \$257 per month. See Schedule HC for 2019. Private insurance was not affordable for the Appellant in tax year 2019.

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

The Appellant testified credibly that they live in an area where most of the businesses are seasonal. The Appellant explained that for eight months of the year they work very few weekly hours and their living expenses exceed their income. The Appellant lives with their partner and shares expenses. The Appellant verified substantial monthly expenses and testified credibly that due to their limited income they struggled to meet these expenses. The Appellant has demonstrated that the cost of purchasing health insurance would have caused the Appellant to experience a significant financial hardship. The Appellant's twelve-month penalty is waived. See 956 CMR 6.08(1)(e).

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

PENALTY ASSESSED

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

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

NOTIFICATION OF YOUR RIGHT TO APPEAL TO COURT

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

Cc: Connector Appeals Unit

Massachusetts Health Connector Appeals Unit

FINAL APPEAL DECISION: PA19-234

Appeal Decision: Appeal Granted

Hearing Issue: Appeal of the 2019 Tax Year Penalty

Hearing Date: July 13, 2020

Decision Date: July 28, 2020

AUTHORITY

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

JURISDICTION

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

HEARING RECORD

The Appellant appeared at the hearing, which was held by telephone, on July 13, 2020. The Appellant offered testimony under oath or affirmation. At the end of the hearing, the record was closed.

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

- Exhibit 1: Appeal Case Information from 2019 Schedule HC (1 page)
- Exhibit 2: 3/7/20 Appeal (3 pages)
- Exhibit 3: 6/9/20 Hearing Notice (2 pages)

FINDINGS OF FACT

The record shows, and I so find:

1. The Appellant's filing status for 2019 was Single with no dependents and a family size of one. The Appellant's federal AGI in 2019 was \$22,455. The Appellant resided in Bristol County in 2019. The Appellant turned fifty-four years old in 2019. (Exhibit 1)
2. The Appellant appealed from the assessment of a twelve-month penalty on his 2019 income tax return, checking off on his appeal form that purchasing health insurance coverage in 2019 would have caused a serious deprivation of basic necessities. (Exhibit 2)
3. The Appellant had no health insurance coverage in 2019. The Appellant does not recall when he last had health insurance coverage but that it had been over a decade. (Appellant's testimony)
4. The Appellant was employed by the same employer throughout 2019. His employer was a flower supplier. The Appellant worked part time on an on-call basis. His hours varied from week-to-week. The Appellant averaged about thirty hours of work per week. (Appellant's testimony)
5. The Appellant's employer offered health insurance coverage. The Appellant understood that the coverage cost \$80/monthly for the premium. The Appellant was eligible for the coverage. The Appellant did not

purchase the coverage because he could not afford to pay the \$80 monthly premium. (Appellant's testimony)

6. The Appellant was unaware in 2019 that he qualified for government-subsidized insurance. (Appellant's testimony)
7. The Appellant's monthly expenses in 2019 included: \$700, rent; \$35, phone; \$550, food; \$75 public transport; \$50, clothing; \$30, laundry; \$50, miscellaneous household; and, \$23, air conditioning, for total of \$1,513 monthly, and \$18,156 for the year. Appellant's testimony)
8. According to Table 2 of the Schedule HC 2019, the Appellant was eligible for government-subsidized insurance in 2019, since his AGI for 2019 was less than \$36,420 for a family of one.
9. According to Table 3, Affordability, of the Schedule HC 2019, based on his 2019 AGI and Single with no dependents tax filing status, the Appellant could have afforded to pay up to 2.9 percent of income for health insurance, which calculates to a monthly premium of up to \$54, for health insurance coverage in 2019.
10. The Appellant did not know in 2019 that health insurance coverage was available to him for a monthly premium of \$54. If he had known that, he would have purchased the 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. Individuals have a three-month grace period to obtain new coverage, after their coverage has terminated.

I credit the Appellant's testimony that he did not obtain health insurance coverage in 2019 because he could not afford the low-cost coverage offered by his employer. While his employer's coverage cost \$80/monthly, this was \$26 more than the Appellant could afford to pay under the Affordability Table. Although affordable government-subsidized coverage was available to him in 2019 for \$54/monthly, the Appellant was genuinely surprised at hearing to learn this and said that he would have applied in 2019 had he known this.

As the Appellant acted in good faith, and it was reasonable for the Appellant to conclude that his low-cost, employer-sponsored coverage was the lowest cost coverage available to him in 2019, I conclude that the Appellant experienced financial circumstances such that the expense of purchasing health insurance in 2019 would have caused him a serious deprivation of basic necessities, under 956 CMR 6.08(1)(e).

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

PENALTY ASSESSED

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

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

OR

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

NOTIFICATION OF YOUR RIGHT TO APPEAL TO COURT

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

Hearing Officer

Cc: Connector Appeals Unit

Massachusetts Health Connector Appeals Unit

FINAL APPEAL DECISION: PA19-235

Appeal Decision: Appeal Denied

Hearing Issue: Appeal of the 2019 Tax Year Penalty

Hearing Date: July 13, 2020

Decision Date: July 28, 2020

AUTHORITY

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

JURISDICTION

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

HEARING RECORD

The Appellant appeared at the hearing, which was held by telephone, on July 13, 2020. The Appellant offered testimony under oath or affirmation. At the end of the hearing, the record was closed.

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

- Exhibit 1: Appeal Case Information from 2019 Schedule HC (1 page)
- Exhibit 2: 3/2/20 Appeal (6 pages)
- Exhibit 3: 6/9/20 Hearing Notice (2 pages)

FINDINGS OF FACT

The record shows, and I so find:

1. The Appellant's filing status for 2019 was Single with no dependents and a family size of one. The Appellant's federal AGI in 2019 was \$42,648. The Appellant resided in Bristol County in 2019. The Appellant turned twenty-eight years old in 2019. (Exhibit 1)
2. The Appellant appealed from the assessment of a twelve-month penalty on his 2019 income tax return, checking off "Other" on the appeal form and stating that, while his employer during all of 2019 represented in their handbook that the company offer health insurance coverage, the company did not offer health insurance during 2019. (Exhibit 2)
3. The Appellant had no health insurance coverage in 2019. (Appellant's testimony; Exhibit 1)
4. The Appellant was employed by the same employer throughout 2018 and 2019. In the employee handbook, the employer stated that health insurance coverage was offered to employees, after a 90-day waiting period. However, when the Appellant inquired about enrolling in the coverage at the end of March 2018, his employer told him that they did not currently offer coverage, were shopping around for a

more affordable health insurer, and would let him know when they would start offering health insurance coverage again. (Appellant's testimony; Exhibit 2)

5. The Appellant's employer did not offer health insurance coverage for the remainder of 2018 and for all of 2019. (Appellant's testimony)
6. The Appellant checked online for health insurance coverage in 2019. The coverages he found had a monthly cost in the range of \$80 to \$150. He did not find these prices to be affordable. (Appellant's testimony)
7. The Appellant's monthly expenses in 2019 included: \$730, rent; \$125, utilities; \$420, car insurance/payments/gas; \$30, phone; \$20, Internet; \$350, food; \$90, federal student loan payment; and, \$50, clothing, for a total of \$1,820 monthly and \$21,840 for the year. (Appellant's testimony)
8. According to Table 2 of the Schedule HC 2019, the Appellant was not eligible for government-subsidized insurance in 2019, since his AGI for 2019 was more than \$36,420 for a family of one.
9. According to Table 3, Affordability, of the Schedule HC 2019, based on his 2019 AGI and Single with no dependents tax filing status, the Appellant could have afforded to pay up to 7.6 percent of his income for health insurance, which calculates to a monthly premium of up to \$270, for health insurance coverage in 2019.
10. According to Table 4 of the Schedule HC 2019, the Appellant could have purchased health insurance coverage in the private market in 2019 for a monthly premium of \$257, based on his age and county of residence.

ANALYSIS AND CONCLUSIONS OF LAW

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

Although the Appellant's employer in 2019 continued to renege on their commitment in the employee handbook to offer health insurance coverage to their employees, the Appellant had other options for coverage in 2019, including the private market. The Affordability Tables indicate that the Appellant could have afforded to pay as much as \$270 monthly for health insurance and that coverage was available to him in the private market for \$257. Moreover, the Appellant testified that he had found health insurance coverage for 2019 in the private market for even less--a monthly premium in the range of \$80 to \$150.

There is nothing in the record to support the conclusion that the Appellant could not have afforded to pay \$270/monthly for health insurance in 2019. To the contrary, the Appellant's expenses for basic necessities in 2019 were only a little more than half of his 2019 AGI.

Therefore, I conclude that the Appellant has not established that health insurance that provided minimum creditable coverage was not affordable for him in 2019, under 956 CMR 6.08(1).

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

PENALTY ASSESSED

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

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

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

OR

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

NOTIFICATION OF YOUR RIGHT TO APPEAL TO COURT

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

Hearing Officer

Cc: Connector Appeals Unit

Massachusetts Health Connector Appeals Unit

FINAL APPEAL DECISION: PA19-236

Appeal Decision: Appeal Denied

Hearing Issue: Appeal of the 2019 Tax Year Penalty

Hearing Date: July 13, 2020

Decision Date: July 28, 2020

AUTHORITY

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

JURISDICTION

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

HEARING RECORD

The Appellant appeared at the hearing, which was held by telephone, on July 13, 2020. The Appellant offered testimony under oath or affirmation. At the end of the hearing, the record was closed.

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

- Exhibit 1: Appeal Case Information from 2019 Schedule HC (1 page)
- Exhibit 2: 3/7/20 Appeal (3pages)
- Exhibit 3: 2019 1095-C
- Exhibit 4: 6/9/20 Hearing Notice (2 pages)

FINDINGS OF FACT

The record shows, and I so find:

1. The Appellant's filing status for 2019 was Single with no dependents and a family size of one. The Appellant's federal AGI in 2019 was \$36,212. The Appellant resided in Plymouth County in 2019. The Appellant turned thirty-six years old in 2019. (Exhibit 1)
2. The Appellant appealed from the assessment of a twelve-month penalty on his 2019 income tax return, checking off, "During 2019, you purchased health insurance that didn't meet minimum creditable coverage standards because that is what your employer offered, and you felt that your circumstances prevented you from buying other insurance that met the requirements," as the basis for his appeal. (Exhibit 2)
3. The Appellant did not purchase health insurance coverage from any employer during 2019. (Appellant's testimony)
4. The Appellant worked at a supermarket during the first four months of 2019. His employer offered employer-sponsored health insurance coverage to employees. The coverage would have cost the

Appellant a monthly premium of \$99.10. The Appellant did not enroll in the coverage during his employment with this company. (Appellant’s testimony; Exhibit 3)

5. In April 2019, the Appellant changed jobs. The Appellant does not recall if his new employer offered health insurance and, if the employer did offer health insurance coverage, he did not sign up for it. The Appellant worked for this employer for the rest of 2019. (Appellant’s testimony)
6. The Appellant does not see the need for health insurance coverage because “I never get sick.” (Appellant’s testimony)
7. According to Table 2 of the Schedule HC 2019, the Appellant was eligible for government-subsidized insurance in 2019, since his AGI for 2019 was less than \$36,420 for a family of one.
8. According to Table 3, Affordability, of the Schedule HC 2019, based on his 2019 AGI and Single with no dependents tax filing status, the Appellant could have afforded to pay up to 5.0 percent of his income for health insurance, which calculates to a monthly premium of up to \$150, for health insurance coverage in 2019.
9. According to Table 4 of the Schedule HC 2019, the Appellant could have purchased health insurance coverage in the private market in 2019 for a monthly premium of \$286, based on his age and county of residence.

ANALYSIS AND CONCLUSIONS OF LAW

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

The Appellant offered no evidence that he had health insurance coverage of any kind during 2019. The IRS Form 1095-C that the Appellant offered as evidence shows only that his employer during the first four months of 2019 offered the Appellant coverage. The Appellant acknowledged that he never enrolled in the coverage. As the Appellant could have afforded to pay up to \$150/monthly for health insurance coverage and the monthly premium was \$99.10 for his employer’s coverage, the Appellant could have afforded the coverage during the first four months of 2019. Instead, he failed to enroll. Consistent with the Appellant’s statement that he was not interested in getting health insurance because he never gets sick, the Appellant could not recall whether his next employer, for the remainder of 2019, offered health insurance coverage. The Appellant underscored that, if this employer had offered health insurance coverage, he would not have signed up for it.

Therefore, I conclude that the Appellant has not established that health insurance that provided minimum creditable coverage was not affordable for him in 2019, under 956 CMR 6.08(1).

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

PENALTY ASSESSED

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

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

OR

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

NOTIFICATION OF YOUR RIGHT TO APPEAL TO COURT

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

Hearing Officer

Cc: Connector Appeals Unit

Massachusetts Health Connector Appeals Unit

FINAL APPEAL DECISION: PA19-238

Appeal Decision: Appeal Granted

Hearing Issue: Appeal of the 2019 Tax Year Penalty

Hearing Date: July 13, 2020

Decision Date: July 30, 2020

AUTHORITY

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

JURISDICTION

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

HEARING RECORD

The Appellant appeared at the hearing, which was held by telephone, on July 13, 2020. The Appellant offered testimony under oath or affirmation. At the end of the hearing, the record was closed.

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

- Exhibit 1: Appeal Case Information from 2019 Schedule HC (1 page)
- Exhibit 2: 3/4/20 Appeal (39pages)
- Exhibit 3: 6/9/20 Hearing Notice (2 pages)
- Exhibit 4: 9/16/19 Apartment Rental Agreement (4 pages)

FINDINGS OF FACT

The record shows, and I so find:

1. The Appellant's filing status for 2019 was Single with no dependents and a family size of one. The Appellant's federal AGI in 2019 was \$63,114. The Appellant resided in Middlesex County in 2019. The Appellant turned thirty-nine years old in 2019. (Exhibit 1)
2. The Appellant appealed from the assessment of a seven-month penalty on his 2019 income tax return, checking off on his appeal form that purchasing health insurance coverage in 2019 would have caused a serious deprivation of basic necessities; and, that during 2019 he had purchased health insurance coverage that did not meet MCC standards because that is what his employer offered and his circumstances prevented him from buying other insurance that met the standard. (Exhibit 2)
3. On January 17, 2019, the Appellant was laid off from his job as a graphic designer. The Appellant had health insurance coverage through this employer and this coverage continued through in February 2019. (Appellant's testimony; Exhibit 2)

4. In February 2019, the Appellant began working for another employer, on a part-time basis. (Appellant's testimony)
5. In May 2019, his employer converted his position to full time. While he now qualified for his employer's health insurance coverage, the employer informed him that he would have to wait until open enrollment in November 2019 to enroll in the coverage. (Appellant's testimony; Exhibit 2)
6. In September 2019, the Appellant moved to California. On September 16, 2019, the Appellant signed a one-year lease for an apartment in California, effective September 18, 2019. (Exhibit 4; Appellant's testimony)
7. The Appellant's monthly expenses while living in Massachusetts in 2019 included: \$1,000, rent; \$60, utilities; \$140, car; \$100, Internet; \$460, food; \$80, phone; and, \$100, clothing, for total of \$1,940 monthly. (Appellant's testimony)
8. According to Table 2 of the Schedule HC 2019, the Appellant was not eligible for government-subsidized insurance in 2019, since his AGI for 2019 was more than \$36,420 for a family of one.
9. According to Table 3, Affordability, of the Schedule HC 2019, based on his 2019 AGI and Single with no dependents tax filing status, the Appellant could have afforded to pay up to 8.0 percent of income for health insurance in 2019, which calculates to a monthly premium of up to \$420.
10. According to Table 4, Premiums, the Appellant could have purchased health insurance coverage in the private market in 2019 for a monthly premium of \$286, based on his age and county of residence.
11. The Appellant stated that he does not get sick a lot, was trying to save money, and was waiting for his employer's open enrollment period in November 2019 to get 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. Individuals have a three-month grace period to obtain new coverage, after their coverage has terminated.

As the Appellant's health insurance coverage through his former employer continued through February 2019, the Appellant had a three-month grace period through May 2019 to obtain new coverage. At issue here then are the last seven months of 2019 when the Appellant did not have coverage.

The Individual mandate applies only to Massachusetts residents. In support of his testimony at hearing that he had moved out of Massachusetts in September 2019, the Appellant submitted persuasive documentary evidence following the hearing that he had moved to California in mid-September 2019. As the individual mandate applies to people who move out of Massachusetts during the year only through the last full month of their residency in Massachusetts, the individual mandate applied to the Appellant in 2019 only through August 2019. Therefore, the issue here is reduced to the three months of June, July, and August, when the Appellant was a resident of Massachusetts and failed to obtain health insurance coverage.

There is no evidence in the record in support of the Appellant's contention that during 2019 he had purchased health insurance coverage that did not meet MCC standards because that is what his employer offered and his circumstances prevented him from buying other insurance that met the standard.

With respect to the Appellant's contention that purchasing health insurance coverage in 2019 would have caused a serious deprivation of basic necessities, the record shows that the Appellant could have afforded to pay a monthly premium of up to \$420.76 and that he could have purchased coverage on the private market for a monthly premium of \$286 had he looked for it. Instead of making any effort to obtain new coverage after

February 2019, the Appellant decided to wait until his employer's open enrollment in November 2019, because he does not get sick a lot and was trying to save some money.

Therefore, I conclude that the Appellant has not established that health insurance that provided minimum creditable coverage was not affordable for him in June, July, and August 2019, under M.G.L c. 111M, § 2.

Accordingly, the Appellant's seven-month penalty for 2019 shall be reduced to a three-month penalty.

PENALTY ASSESSED

Number of Months Appealed: 7 Number of Months Assessed: 3

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

OR

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

NOTIFICATION OF YOUR RIGHT TO APPEAL TO COURT

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

Hearing Officer

Cc: Connector Appeals Unit

Massachusetts Health Connector Appeals Unit

FINAL APPEAL DECISION: PA19252

Appeal Decision : Penalty waived in full

Hearing Issue: Appeal of the 2019 Tax Year Penalty

Hearing Date: July 16, 2020

Decision Date: July 22, 2020

AUTHORITY

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

JURISDICTION

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

HEARING RECORD

The appellant appeared at the hearing which was held by telephone on July 16, 2020. The procedures to be followed during the hearing were reviewed with Appellant who was then sworn in. Exhibits were marked and admitted in evidence with no objection from the appellant. The appellant testified.

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

Exhibit 1: Statement of Grounds for Appeal 2019 signed and dated by Appellant on March 8, 2020 with letter in support and 2019 health insurance bills attached

Exhibit 2: Appeal Case Information from Schedule HC 2019

Exhibit 3: Notice of Hearing sent to Appellant dated June 10, 2020 for hearing on July 16, 2020

FINDINGS OF FACT:

The record shows, and I so find

1. Appellant was 31 years old in 2019. Appellant, who was married, filed a 2019 Massachusetts tax return jointly with no dependents claimed. Appellant filed as a resident of Worcester County, Massachusetts where his parents resided. Appellant and his spouse actually resided in Brazil all of 2019. His spouse was and still is a citizen of Brazil. She had applied for a permanent resident card from immigration services in the United States and was awaiting its issuance. As of the date of this hearing, she was still waiting for the card (Exhibit 1 attachments, Exhibit 2, Testimony of Appellant).
2. Appellant was out of the Commonwealth for all of 2019 except for two brief visits, one for a wedding, and one because of a family emergency. Appellant moved to Brazil in June, 2017 and has resided there since. He has been in Massachusetts for short visits only. He and his spouse intend to move to the United States once the spouse obtains a permanent resident card (Testimony of Appellant, Exhibit 1 attachments).
3. Appellant and his spouse had health insurance all year in Brazil. Their coverage included visits to doctors and emergency rooms, diagnostic tests, and maternity services among other provisions. Benefits were paid in full except for a 10% co-payment (Exhibit 1 attachment, Testimony of Appellant).

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

ANALYSIS AND CONCLUSIONS OF LAW

The appellant has been assessed a tax penalty for twelve months, all of 2019. The appellant has appealed the penalty. See Exhibits 1 and 2. The issue on appeal is whether the tax penalty assessed should be waived, either in whole or in part.

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

Appellant and his spouse resided out of the Commonwealth all of 2019. Appellant has been living out of the United States since June, 2017 shortly after he and his spouse were married. His spouse is a citizen of Brazil. They intend to move to the United States once the spouse obtains a permanent resident card. Appellant and his spouse had health insurance in Brazil all of the 2019. See the testimony of the appellant which I find to be credible and Exhibit 1 attachments.

Under Massachusetts law, only residents of the Commonwealth are required to have health insurance which meets the state’s minimum creditable coverage standards. See Massachusetts General Laws, Chapter 111M, Section 2. Based upon the testimony of the appellant and Exhibit 1, I determine that the appellant did not reside in Massachusetts in 2019 and was, therefore, not subject to the requirements of Chapter 111M during this period. The penalty is waived in full. I also note that the appellant had comprehensive health insurance all year in Brazil.

Appellant should note that this waiver of the penalty is based upon the facts that I have determined to be true for this 2019 appeal. Appellant should not assume that a similar determination will be made in the future should Appellant again be assessed a penalty for failure to have health insurance.

PENALTY ASSESSED

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

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

NOTIFICATION OF YOUR RIGHT TO APPEAL TO COURT

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

CC. Connector Appeals Unit

Hearing Officer

Massachusetts Health Connector Appeals Unit

FINAL APPEAL DECISION: PA19256

Appeal Decision: The penalty is overturned in full.

Hearing Issue: Appeal of the 2019 Tax Year Penalty

Hearing Date: July 16, 2020

Decision Date: July 22, 2020

AUTHORITY

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

JURISDICTION

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

HEARING RECORD

The appellants appeared at the hearing which was held by telephone on July 16, 2020. The procedures to be followed during the hearing were reviewed with Appellants who were then sworn in. Exhibits were marked and admitted in evidence with no objection from the appellants. Appellants testified.

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

Exhibit 1: Statement of Grounds for Appeal 2019 signed and dated by Appellants on March 8, 2020 with letter in support, mortgage bill for February, 2020, payment agreement with utility, and fuel assistance for 2020 notice attached

Exhibit 2: Appeal Case Information from Schedule HC 2019

Exhibit 3: Notice of Hearing sent to Appellant dated June 10, 2020 for July 16, 2020 hearing

FINDINGS OF FACT

The record shows, and I so find:

1. Appellants, who filed a 2019 Massachusetts tax return jointly with two dependents, their minor children, claimed, were 29 and 30 years old in 2019 (Exhibit 2, Testimony of Appellant).
2. Appellants lived in Worcester County in 2019 (Exhibit 2, Testimony of Appellant).
3. Appellants' Federal Adjusted Gross Income for 2019 was \$55,146 (Exhibit 2, Testimony of Appellant).
4. One of the appellants was an independent contractor with a food delivery service all year. He earned about \$13,000. He was paid an amount for each delivery and tips. His income varied from week to week. The other appellant was employed all year in a doctor's office. This appellant earned about \$42,000 (Testimony of Appellant, Exhibit 2).
5. Neither appellant had health insurance all of 2019. The appellant who worked in a doctor's office was offered health insurance, but only for an individual, not for a couple or family. The offered coverage cost \$430 a month.

The other appellant, being self-employed, had no access to employer-sponsored coverage. One appellant had had coverage through the Connector all of 2018; the other had coverage from July through December, 2018. As of April, 2020, both appellants had coverage (Testimony of Appellant, Exhibit 2).

6. Both appellants have been assessed a penalty for all of 2019. They have appealed the assessment (Exhibits 1, 2, Testimony of Appellant).

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

8. According to Table 3 of Schedule HC for 2019, the appellants with two dependents claimed with an adjusted gross income of \$55,146 could afford to pay \$268 per month for health insurance. According to Table 4, Appellants, ages 29 and 30 and living in Worcester County, could have purchased insurance for \$665 per month for a plan for a family. Coverage through the individual market was unaffordable for the appellants in 2019 (Schedule HC for 2019, Exhibit 2).

9. According to Table 2 of Schedule HC for 2019, Appellants, with two dependents, earning less than \$75,300, the income limit for a family of four, would have been eligible for the ConnectorCare program based upon income (Exhibit 2, Table 2 of Schedule HC-2019, 956 CMR 12.00 et. seq.).

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

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

12. Appellants did not receive any shut-off notices for basic utilities during 2019, though they did fall behind in their payments to National Grid (Testimony of Appellant).

13. Appellants had the following monthly expenses for basic necessities in 2019: mortgage, including property taxes and home owner's insurance- \$2,058; water-\$100; electricity, heat, and hot water-\$475 on average; telephone and internet-\$130; food and household and personal items-\$1,500; car insurance-\$270; gas-\$160; car payment-\$370; clothing-\$110. In addition, Appellants paid \$150 a month for old credit card debt and \$65 for car repairs. From July through December, they paid \$400 monthly for their home equity loan (Testimony of Appellant).

14. Appellants had rental property. In 2019, they had no tenants because both units needed major repairs. The appellants could not afford to make the needed repairs (Testimony of Appellant).

ANALYSIS AND CONCLUSIONS OF LAW

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

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

a tax penalty for “each of the months” that the individual did not have health insurance as required by the individual mandate. There is a three-month grace period to allow the taxpayer to obtain health insurance coverage or to make the transition between health insurance policies. See G. L. c. 111M, sec. 2(b) and for Tax Year 2010, Administrative Bulletin 03-10: Guidance Regarding M.G.L. c. 111M and M.G.L. c. 176Q, as implemented by 956 CMR 6.00, which interprets the 63-day gap in coverage to be three months. The Connector’s regulations provide for a waiver of the tax penalty in the case of a financial hardship. See 956 CMR 6.08. 45 CFR Section 155.305 and 26 CFR Section 1.36B-2 provide eligibility requirements for advance premium tax credits.

One of the appellants had coverage through the Connector all of 2018. The other had coverage from July through December. Because of this, the penalties for each for January through March, 2019 are waived. See Massachusetts General Laws Chapter 111M, Section 2 which provides a three-month grace period after an individual loses coverage. See the testimony of the appellants which I find to be credible.

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

According to Table 3 of Schedule HC for 2019, the appellants, with two dependents claimed with an adjusted gross income of \$55,146, could afford to pay \$268 per month for health insurance. According to Table 4, Appellants, ages 29 and 30 and living in Worcester County, could have purchased insurance for \$665 per month for a plan for a family. Coverage through the individual market was unaffordable for the appellants in 2019. See Schedule HC for 2019, and Exhibit 2.

One of the appellants was self-employed. He was an independent contractor with a food delivery service. He had no access to health insurance through employment. The other appellant was offered health insurance through her job. The coverage would have cost the appellants \$430 a month. Under Massachusetts standards set out in Table 3 of the 2019 Schedule HC, the appellants were deemed able to afford \$268 a month, so the coverage offered was unaffordable for the appellants. See the testimony of the appellants which I find to be credible.

Appellants were income-eligible for ConnectorCare coverage. They earned less the income limit for a four-person household (\$75,300) for 2019. See the testimony of the appellant which I find to be credible, Exhibit 2, Table 2 of Schedule HC for 2019 and 956 CMR 12.00 et.seq. However, the coverage, which is subsidized in part by an advance premium tax credit, is available to individuals who have access to insurance through employment only if the offered insurance is unaffordable. Pursuant to the Affordable Care Act, if employer-sponsored health insurance is offered and if the cost to the employee in 2019 is less than 9.86% of the employee’s modified adjusted gross income, then the coverage is deemed affordable and the employee is not eligible for an advance premium tax credit. See 45 CFR Section 155.305(f) and 26 CFR Section 1.36B-2. 9.86% of the appellants’ modified adjusted gross income of \$55,146 equals \$5,477. This amount divided by twelve equals \$453, the amount the appellants are deemed able to afford according to the Affordable Care Act. Coverage through employment cost \$430 per month. The coverage was deemed affordable pursuant to the Affordable Care Act. The appellants were therefore, ineligible for ConnectorCare coverage because they were ineligible for any advance premium tax credit. See Exhibit 2.

There is no evidence in the record that appellants were eligible for any other government-sponsored health insurance coverage.

Since affordable coverage was unavailable to the appellants through employment, the individual market, and any government-sponsored program, the penalty assessed must be waived.

I also note that the appellants’ penalty would be waived under a hardship exception pursuant to 956 CMR 6.08 (1).

The appellants had gross income of about \$4,600 a month. Their expenses for basic necessities, however, amounted to over \$5,300 a month. Their mortgage alone was over \$2,000. Food, household items, and personal care items cost the appellants and their two children \$1,500 a month. Expenses for transportation, heating and electricity, telephone, internet, clothing, and old credit card debt came to another \$1800. Appellants ran a deficit and had no disposable income each month.

Based upon these facts, I determine that the cost of purchasing health insurance would have caused the appellants and their children to experience a serious deprivation of basic necessities. See the testimony of the appellants and 956 CMR 6.08(1)(e).

Appellants' penalty is waived because because there was no affordable health insurance available to them and because of financial hardship.

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

PENALTY ASSESSED

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

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

NOTIFICATION OF YOUR RIGHT TO APPEAL TO COURT

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

Cc: Connector Appeals Unit

Hearing Officer

Massachusetts Health Connector Appeals Unit

FINAL APPEAL DECISION: PA19-265

Appeal Decision Appeal Approved

Hearing Issue: Appeal of the 2019 Tax Year Penalty

Hearing Date: July 20, 2020

Decision Date: July 30, 2020

AUTHORITY

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

JURISDICTION

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

HEARING RECORD

The Appellant appeared at the hearing, which was held by telephone, on July 20, 2020. The procedures to be followed during the hearing were reviewed with the Appellant who was then sworn in. Exhibits were marked and admitted into evidence with no objection from the Appellant.

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

Exhibit 1: Notice of Hearing dated June 11, 2020

Exhibit 2: Appeal Case Information from form Schedule HC

Exhibit 3: Statement of Grounds for Appeal

Exhibit 4: Open Record Documents

FINDINGS OF FACT

The record shows, and I so find:

1. The appellant is forty years old and is single. She lives in Norfolk County, Massachusetts.
2. Appellant was out of the country for the whole year of 2019. She maintains an address in Massachusetts but did not reside there in 2019. Appellant provided documents that proved that she was out of the country in her open record documents.
3. Appellant is out of the country in 2020 .
4. Appellant does not have health insurance in 2020.
5. The Appellant did submit a Statement of Grounds for Appeal-2019 under the grounds for Appeal , “ Other. During 2019 other circumstances, that you did not reside in Massachusetts during your period of uninsurance”
6. I take administrative notice of the information set forth in tables 1 through 6 in the Department of Revenue Schedule HC Health Care Instructions and Worksheets (Schedule HC Instructions). Tables 3 & 4 incorporate the affordability schedules adopted by the board of directors of the Commonwealth Health Insurance Connector Authority for 2019. Table 1 sets forth the income eligibility standards for various family sizes at 150% of the federal poverty level and Table 2 sets forth the income eligibility standards for various family sizes at 300 per cent of the federal poverty level, which is the income eligibility standard for the government-subsidized health insurance program. See Mass. G.L. c. 118H, s.3(a)(1). Tables 5 and 6 set forth the tax penalties for 2019.

ANALYSIS AND CONCLUSIONS OF LAW

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

The Appellant did submit a Statement of Grounds for Appeal-2019 under the grounds for Appeal , “ Other. During 2019 other circumstances, that you did not 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 2019, 150 percent of the FPL was \$18,210.00 for a single person with zero dependents. *Id.* In addition, a lapse in coverage of 63 days or less is not subject to the section 2(b) penalty. See Administrative Bulletin 03-10 (Dec. 7, 2010), available at <https://www.mahealthconnector.org/portal/binary/com.epicentric.contentmanagement.servlet.ContentDeliveryServlet/Health%2520Care%2520Reform/Regulations/documents/Administrative%20Information%20Bulletin%2003-10.pdf>; see also 830 Mass. Code Regs. 111M.2.1(5)(c) (2008). Thus, no penalty is imposed for lapses in coverage consisting of three or fewer consecutive calendar months. *Id.*

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 was out of the country in 2019.

On these facts, I find that Appellant has shown that she was precluded from purchasing affordable health insurance during 2019. 956 Mass. Code Regs. 6.08(3) (2008). Accordingly, I conclude that she is exempt from a tax penalty for her non-compliance with the individual mandate.

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

PENALTY ASSESSED

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

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

OR

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

NOTIFICATION OF YOUR RIGHT TO APPEAL TO COURT

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

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

Hearing Officer

Cc: Connector Appeals Unit

Massachusetts Health Connector Appeals Unit

FINAL APPEAL DECISION: PA19-269

Appeal Decision Appeal Allowed

Hearing Issue: Appeal of the 2019 Tax Year Penalty

Hearing Date: July 20, 2020

Decision Date: July 30, 2020

AUTHORITY

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

JURISDICTION

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

HEARING RECORD

The Appellant appeared at the hearing, which was held by telephone, on July 30, 2020. The procedures to be followed during the hearing were reviewed with the Appellant who was then sworn in. Exhibits were marked and admitted into evidence with no objection from the Appellant

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

Exhibit 1: Notice of Hearing dated June 11, 2020

Exhibit 2: Appeal Case Information from form Schedule HC

Exhibit 3: Statement of Grounds for Appeal dated February 29, 2020

Exhibit 4: Written Statement of Appeal

FINDINGS OF FACT

The record shows, and I so find:

1. The appellant is sixty-one years old and is single. She lives in Franklin County, Massachusetts. Appellant works in a travel business.
2. Appellant could not afford health insurance in 2019. The company she works for does not offer health insurance. Appellant would like health insurance but couldn't find a way to pay for it.
3. Appellant does have health insurance in 2020.
4. The Appellant's monthly expenses totaled \$2,172.00, consisting of rent \$700.00, heat & light \$150.00, internet & cable \$62.00 cell phone \$37.00, food \$300.00, car payment \$251.00 car insurance \$83.00, car gas \$120.00, credit card \$150.00, clothing \$50.00, toiletries \$60.00, entertainment \$40.00, pet expense \$70.00, oil change \$1500, trash sticker \$9.00, significant expense \$75.00.
5. The Appellant did submit a Statement of Grounds for Appeal-2019 "During 2019, the expense of purchasing health insurance would have caused a serious deprivation of food, shelter, clothing or other necessities" .
6. I take administrative notice of the information set forth in tables 1 through 6 in the Department of Revenue Schedule HC Health Care Instructions and Worksheets (Schedule HC Instructions). Tables 3 & 4 incorporate the affordability schedules adopted by the board of directors of the Commonwealth Health Insurance Connector Authority for 2019. Table 1 sets forth the income eligibility standards for various family sizes at 150% of the federal poverty level and Table 2 sets forth the income eligibility standards for various family sizes at 300 per cent of the federal poverty level, which is the income eligibility standard for the government-subsidized health insurance program. See Mass. G.L. c. 118H, s.3(a)(1). Tables 5 and 6 set forth the tax penalties for 2019.
7. Based on the appellant's federal adjusted gross income and the above referenced tables, I find the appellant would not have been eligible for subsidized health insurance, since Appellant's income of \$40,811.00 was more than \$36,420.00. The monthly premium for health insurance available on the private market in Franklin County for a 60 year old single person was \$375.00. The tables reflect that Appellant could afford \$253.36. This is more than what the appellant is deemed to afford. (Tables 2, 3 & 4 of the Schedule HC Instructions)

ANALYSIS AND CONCLUSIONS OF LAW

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

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

Appellant’s employer did not offer health insurance. Appellant could not afford health insurance in 2019.

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

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

Appellant reported a federal AGI of \$40,811.00 in 2019, and Appellant’s filing status was single . EX 2. According to the Affordability Schedule established by the Connector’s board and included in the Instructions and Worksheets of the 2019 Massachusetts Schedule HC, Appellant could afford to pay \$253.36 monthly for health insurance. See 2019 Schedule HC Instructions and Worksheets, *supra* at Table 3. Private insurance would have been available to her from the Premium Tables, at a cost of \$375.00 monthly for coverage. *Id.* at Table 4.

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

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

Appellant is deemed to afford \$253.36 for health insurance coverage because of her income. Private insurance in the market place was \$375.00 per month, which is more than she could afford. On these facts, I find that Appellant has shown that she was precluded from purchasing affordable health insurance during 2018. 956 Mass. Code Regs. 6.08(3) (2008). Accordingly, I conclude that she is exempt from a tax penalty for her non-compliance with the individual mandate.

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

PENALTY ASSESSED

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

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

OR

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

NOTIFICATION OF YOUR RIGHT TO APPEAL TO COURT

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

Hearing Officer

Cc: Connector Appeals Unit

Massachusetts Health Connector Appeals Unit

FINAL APPEAL DECISION: PA19-270

Appeal Decision Appeal Approved

Hearing Issue: Appeal of the 2019 Tax Year Penalty

Hearing Date: July 20, 2020

Decision Date: July 29, 2020

AUTHORITY

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

JURISDICTION

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

HEARING RECORD

The Appellant appeared at the hearing, which was held by telephone, on July 20, 2020. The procedures to be followed during the hearing were reviewed with the Appellant who was then sworn in. Exhibits were marked and admitted into evidence with no objection from the Appellant.

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

- Exhibit 1: Notice of Hearing dated June 11, 2020
- Exhibit 2: Appeal Case Information from form Schedule HC
- Exhibit 3: Statement of Grounds for Appeal dated March 14, 2020
- 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 work in the automobile business. The company he worked for did not offer health insurance..
3. Appellant did not know he did not have health insurance in 2019 as he was previously covered under his parents health insurance. He did not find out he was not covered until the end of the year 2019 because his parents moved to Florida.
4. Appellant does have health insurance in 2020.
5. The Appellant's monthly expenses totaled \$2,695.00, consisting of rent \$1,000.00, cell phone \$100.00, car payment \$175.00, car insurance \$170.00, car gas \$300.00 food \$250.00, entertainment \$100.00, toiletries \$100.00 clothing \$50.00, auto repair \$500.00.
6. The Appellant did not submit a Statement of Grounds for Appeal-2019 under the grounds for Appeal , " During 2018, the expense of purchasing health insurance would have caused a serious deprivation of food, shelter, clothing or other necessities." I will hear his appeal under this ground.
7. I take administrative notice of the information set forth in tables 1 through 6 in the Department of Revenue Schedule HC Health Care Instructions and Worksheets (Schedule HC Instructions). Tables 3 & 4 incorporate the affordability schedules adopted by the board of directors of the Commonwealth Health Insurance Connector Authority for 2019. Table 1 sets forth the income eligibility standards for various family sizes at 150% of the federal poverty level and Table 2 sets forth the income eligibility standards for various family sizes at 300 per cent of the federal poverty level, which is the income eligibility standard for the government-subsidized health insurance program. See Mass. G.L. c. 118H, s.3(a)(1). Tables 5 and 6 set forth the tax penalties for 2019.
8. Based on the appellant's federal adjusted gross income and the above referenced tables, I find the appellant would not have been eligible for subsidized health insurance,because Appellant's income of 41,508.00 was more than \$36,420.00. The monthly premium for health insurance available on the private market in Norfolk County for a 21 year old single person was \$231.00. The tables reflect that Appellant could afford \$257.69. 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 not submit a Statement of Grounds for Appeal-2019 under the grounds for Appeal, “During 2018, the expense of purchasing health insurance would have caused a serious deprivation of food, shelter, clothing or other necessities.” I will hear his appeal under this ground.

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

Appellant did not know he did not have health insurance in 2019 as he was previously covered under his parents health insurance. He did not find out he was not covered until the end of the year 2019 because his parents moved to Florida.

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

Appellant reported a federal AGI of \$41,508.00 in 2019, and Appellant’s filing status was single. EX 2. According to the Affordability Schedule established by the Connector’s board and included in the

Instructions and Worksheets of the 2019 Massachusetts Schedule HC, Appellant could afford to pay \$257.69 monthly for health insurance. See 2019 Schedule HC Instructions and Worksheets, *supra* at Table 3. Private insurance would have been available to him from the Premium Tables, at a cost of \$231.00 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 did not know he did not have health insurance in 2019 as he was previously covered under his parents health insurance. He did not find out he was not covered until the end of the year 2019 because his parents moved to Florida.

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

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

PENALTY ASSESSED

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

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

OR

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

NOTIFICATION OF YOUR RIGHT TO APPEAL TO COURT

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

Hearing Officer

Cc: Connector Appeals Unit

Massachusetts Health Connector Appeals Unit

FINAL APPEAL DECISION: PA19-271

Appeal Decision Appeal Approved

Hearing Issue: Appeal of the 2019 Tax Year Penalty

Hearing Date: July 20, 2020

Decision Date: July 27, 2020

AUTHORITY

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

JURISDICTION

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

HEARING RECORD

The Appellant appeared at the hearing, which was held by telephone, on July 20, 2020. The procedures to be followed during the hearing were reviewed with the Appellant who was then sworn in. Exhibits were marked and admitted into evidence with no objection from the Appellant.

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

- Exhibit 1: Notice of Hearing dated June 11, 2020
- Exhibit 2: Appeal Case Information from form Schedule HC
- Exhibit 3: Statement of Grounds for Appeal dated March 17, 2020
- Exhibit 4: Written Statement of Appeal

FINDINGS OF FACT

The record shows, and I so find:

1. The appellant is thirty-three years old and is single. He lives in Plymouth County, Massachusetts.
2. Appellant work in the restaurantl business. The company he worked for did not offer health insurance..
3. Appellant is not now working due to the pandemic. He knew about the Health Connector generally but did not know enough about it in 2019 to apply.
4. Appellant does have health insurance in 2020.
5. The Appellant's monthly expenses totaled \$2,329.00, consisting of rent \$430.00, heat & light \$100.00, internet and cable \$100.00, car payment \$300.00, car insurance \$134.00, car gas \$60.00 food \$400.00, credit card \$150.00, entertainment \$200.00, toiletries \$75.00 clothing \$40.00, student loan \$290.00.
6. The Appellant did submit a Statement of Grounds for Appeal-2019 under the grounds for Appeal , " During 2018, the expense of purchasing health insurance would have caused a serious deprivation of food, shelter, clothing or other necessities."
7. I take administrative notice of the information set forth in tables 1 through 6 in the Department of Revenue Schedule HC Health Care Instructions and Worksheets (Schedule HC Instructions). Tables 3 & 4 incorporate the affordability schedules adopted by the board of directors of the Commonwealth Health Insurance Connector Authority for 2019. Table 1 sets forth the income eligibility standards for various family sizes at 150% of the federal poverty level and Table 2 sets forth the income eligibility standards for various family sizes at 300 per cent of the federal poverty level, which is the income eligibility standard for the government-subsidized health insurance program. See Mass. G.L. c. 118H, s.3(a)(1). Tables 5 and 6 set forth the tax penalties for 2019.
8. Based on the appellant's federal adjusted gross income and the above referenced tables, I find the appellant may have been eligible for subsidized health insurance,because Appellant's income of \$33,795.00 was less than \$36,420.00. The monthly premium for health insurance available on the private market in Plymouthl County for a 32 year old single person was \$279.00. The tables reflect that Appellant could afford \$140.81. This is more than what the appellant is deemed to afford. (Tables 2, 3 & 4 of the Schedule HC Instructions)

ANALYSIS AND CONCLUSIONS OF LAW

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

The Appellant did submit a Statement of Grounds for Appeal-2019 under the grounds for Appeal, “During 2018, the expense of purchasing health insurance would have caused a serious deprivation of food, shelter, clothing or other necessities.”

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

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

Appellant reported a federal AGI of \$33,795.00 in 2019, and Appellant’s filing status was single. EX 2. According to the Affordability Schedule established by the Connector’s board and included in the Instructions and Worksheets of the 2019 Massachusetts Schedule HC, Appellant could afford to pay \$140.81 monthly for health insurance. See 2019 Schedule HC Instructions and Worksheets, *supra* at Table 3. Private insurance would have been available to him from the Premium Tables, at a cost of \$279.00 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 worked for a restaurant firm. He was not offered health insurance from his company. Private insurance would have cost \$279.00, which he could not afford.

Appellant is deemed to afford \$140.81 for health insurance coverage because of his income. Private insurance in the market place was \$279.00 per month, which is more than he could afford. Appellant knew generally about the Health connector but did not have enough information to apply. Appellant has health insurance for 2020.

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

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

PENALTY ASSESSED

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

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

OR

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

NOTIFICATION OF YOUR RIGHT TO APPEAL TO COURT

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

Hearing Officer

Cc: Connector Appeals Unit

Massachusetts Health Connector Appeals Unit

FINAL APPEAL DECISION: PA19-278

Appeal Decision: Appeal Denied

Hearing Issue: Appeal of the 2019 Tax Year Penalty

Hearing Date: July 21, 2020

Decision Date: July 30, 2020

AUTHORITY

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

JURISDICTION

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

HEARING RECORD

The Appellant appeared at the hearing, which was held by telephone, on July 21, 2020. The Appellant offered testimony under oath or affirmation. At the end of the hearing, the record was closed.

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

- Exhibit 1: Appeal Case Information from 2018 Schedule HC (1 page)
- Exhibit 2: 3/20/20 Appeal (3 pages)
- Exhibit 3: 2/22/18-2/22/20 DOT Medical Exam Certificate (2 pages)
- Exhibit 4: 6/11/20 Hearing Notice (2 pages)

FINDINGS OF FACT

The record shows, and I so find:

1. The Appellant checked off "Other" as the basis for his appeal without adding any explanation. (Exhibit 1)
2. The Appellant's filing status for 2019 was Single with no dependents. The Appellant's federal AGI in 2018 was \$52,315. The Appellants turned twenty-three years old in 2018. The Appellant resided in Massachusetts in 2019 only from July 28 to December 31. He resided in Plymouth County during that time. The Appellant was assessed a three-month tax penalty for not having health insurance coverage while residing in Massachusetts in 2019. (Exhibit 1)
3. Prior to moving to Massachusetts on July 28, 2019, the Appellant had resided in New Hampshire where his parents live. The Appellant had health insurance coverage in New Hampshire at the time he moved to Massachusetts. (Appellant's testimony)
4. The Appellant moved to Massachusetts in late July to take a seasonal job involving golf course construction. The job involved the use of heavy machinery for which the Appellant was trained and certified to operate. His employer did not offer health insurance coverage. This was the Appellant's first

seasonal job. He expected that the work would end before the end of year, when the ground froze. The Appellant was laid off just before Thanksgiving 2019. His employer did not offer health insurance coverage. (Appellant's testimony)

5. In September 2019, as a result of the Appellant's move to Massachusetts, New Hampshire "kicked him off" his New Hampshire health insurance coverage. (Appellant's testimony)
6. The Appellant was not aware of the individual mandate when he moved to Massachusetts. He did not become aware of it until he did his taxes for 2019. (Appellant's testimony)
7. At the end of September 2019, the Appellant began looking for health insurance coverage in Massachusetts. He became very busy at work due to the approaching end of the season and never found the time obtain health insurance. (Appellant's testimony)
8. According to Table 2 of the 2019 Schedule HC, the Appellant was not eligible for government-subsidized insurance in 2019, since his AGI for 2019 was more than \$36,420 for a family of one.
9. According to Table 3, Affordability, of the Schedule HC 2018, based on his 2019 AGI and Single with no dependents tax-filing status, the Appellant could have afforded to pay up to 8.0 percent of his income for health insurance in 2019, which calculates to a monthly premium of up to \$348 for coverage.
10. According to Table 4, Premiums, health insurance coverage in the private market was available to the Appellant in 2019 for a monthly premium of \$257, based on his age and county of residence in 2019.

ANALYSIS AND CONCLUSIONS OF LAW

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

The Appellant had a three-month grace period to obtain health insurance coverage after he began residing in Massachusetts on July 28, 2019. Affordable coverage was available to the Appellant. While the Appellant states that he was not aware of the individual mandate, he knew by September that he no longer had any health insurance coverage through New Hampshire. Moreover, he certainly should have realized that health insurance coverage was especially important for someone working heavy construction, no matter how busy the Appellant was performing that work and whether or not he was aware of the individual mandate in Massachusetts.

Therefore, I conclude that the Appellant has failed to establish any grounds for hardship under 956 CMR 6.08. However, as the Appellant had a three-month grace period, through October 2019, to obtain health insurance coverage after moving to Massachusetts at the end of July 2019, the tax penalty shall be reduced by one month.

Accordingly, the Appellant's three-month penalty for 2019 shall be reduced to a two-month penalty.

PENALTY ASSESSED

Number of Months Appealed: 3 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 2019 for the amount equal to one half of the lowest cost health insurance plan available to you for each month you have been assessed the penalty, as listed above, plus applicable interest back to the due date of the return without regard to extension.

OR

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

NOTIFICATION OF YOUR RIGHT TO APPEAL TO COURT

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

Hearing Officer

Cc: Connector Appeals Unit

Massachusetts Health Connector Appeals Unit

FINAL APPEAL DECISION: PA19286

Appeal Decision: The penalty is overturned in full.

Hearing Issue: Appeal of the 2019 Tax Year Penalty

Hearing Date: July 23, 2020

Decision Date: July 29, 2020

AUTHORITY

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

JURISDICTION

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

HEARING RECORD

The appellant, his representative and his mother appeared at the hearing which was held by telephone on July 23, 2020. Appellant gave permission for his parent to be present, as well as his representative. The procedures to be followed during the hearing were reviewed with those present. They were then sworn in. Exhibits were marked and admitted in evidence with no objection from the appellant. Appellant and his mother testified.

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

- Exhibit 1: Statement of Grounds for Appeal 2019 signed and dated March 21, 2020 with letter and excerpt from his parents' petition for divorce and divorce agreement
- Exhibit 2: Appeal Case Information from Schedule HC 2019
- Exhibit 3: Notice of Hearing sent to Appellant dated June 12, 2020 for July 23, 2020 hearing
- Exhibit 4: Connector letter to the appellant dated July 21, 2020
- Exhibit 5: Representative form signed by Appellant on July 14, 2020

FINDINGS OF FACT

The record shows, and I so find:

1. Appellant, who filed a 2019 Massachusetts tax return as a single person with no dependents claimed, was 23 years old in 2019 (Exhibit 2, Testimony of Appellant).
2. Appellant lived in Hampden County in 2019. He resided with his mother until August, 2019 (Exhibit 2, Testimony of Appellant).
3. Appellant had a Federal adjusted gross income for 2019 of \$20,994 (Exhibit 2, and Testimony of Appellant).
4. Appellant's parents were divorced after filing a joint petition for divorce with a divorce agreement some time after they separated in January, 2016. As part of the agreement, the appellant's father was obligated to provide and pay for health insurance for the appellant until the appellant could no longer legally be covered by the father's health insurance plan (Testimony of Appellant, Exhibit 1 attachment).

5. Appellant had health insurance all of 2018 under his father's plan. In 2019, Appellant assumed that his father continued to provide coverage, as agreed to in the divorce agreement (Testimony of Appellant, Exhibit 1 attachment).
6. Appellant did not receive any medical care in 2019 (Testimony of Appellant).
7. Appellant learned that he had no health insurance during 2019 in 2020 when he went to do his 2019 Massachusetts taxes. He contacted his father and asked for proof of coverage. His father informed him that he, the father, had lost his job and health coverage. Both were uncovered all of 2019 (Testimony of Appellant, Exhibit 1 attachment).
8. As soon as Appellant learned that he had no health insurance, his mother added him to her plan. He has had coverage since March, 2020 (Testimony of Appellant and Mother).
9. Appellant has been assessed a penalty for all of 2019. He has appealed the assessment (Exhibits 1 and 2).

ANALYSIS AND CONCLUSIONS OF LAW

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

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

The appellant was assessed for a penalty for all of 2019. The appellant has appealed the assessment. Exhibits 1, 2. Appellant had health insurance all of 2018, so he is entitled to a three-month grace period after losing his coverage. The penalty for January through March is waived. See cite above.

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

In this case, however, we need not go through those steps. Appellant was supposed to be covered under his father's health insurance plan all of 2019 according to the terms of the parents' divorce agreement. Appellant was covered in 2018 by his father and he assumed because of the divorce agreement that he would be covered again in 2019. In fact, his father had lost his job and his health insurance plan with it. The father did not inform his son of the loss of coverage. Appellant, 23 years old, did not need to seek any medical care during the year, so unless his father had informed him of the loss of coverage, there was no way for the appellant to know that he had lost his coverage. He first learned of the loss when he went to do his 2019 taxes and reached out to his father for proof of coverage. It was then that he learned that he had had no coverage all of 2019. As soon as Appellant and his mother learned

about the loss, Appellant was added to his mother's plan. He had coverage as of March 1, 2020. See the testimony of the appellant and his mother which I find to be credible and Exhibit 1.

Given these circumstances, I determine that Appellant's penalty should be waived in full. Even if affordable coverage had been available to the appellant, through no fault of his own, he did not realize he needed to obtain such coverage.

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

PENALTY ASSESSED

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

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

NOTIFICATION OF YOUR RIGHT TO APPEAL TO COURT

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

CC. Connector Appeals Unit

Hearing Officer

Massachusetts Health Connector Appeals Unit

FINAL APPEAL DECISION: PA19-314

Appeal Decision: Appeal Denied.

Hearing Issue: Appeal of the 2019 Tax Year Penalty

Hearing Date: July 17, 2020

Decision Date: July 23, 2020

AUTHORITY

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

JURISDICTION

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

HEARING RECORD

The Appellant appeared at the hearing, which was held by telephone, on July 17, 2020. 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 15, 2020.
- Exhibit 2: Appeal Case Information from Schedule HC 2019.
- Exhibit 3: Statement of Grounds for Appeal signed by the Appellant on March 27, 2020.
- Exhibit 4: The Appellant's letter in support of this appeal.

FINDINGS OF FACT

The record shows, and I so find:

1. The Appellant turned 24 years old in June 2019. The Appellant filed their Federal Income Tax return as a single person with no dependents claimed (Exhibit 2).
2. The Appellant lived in Essex County, MA in 2019 (Exhibit 2).
3. The Appellant's Federal Adjusted Gross Income for 2019 was \$30,999 (Exhibit 2).
4. The Appellant did not have health insurance for the period of January through October in tax year 2019 (Exhibit 2 and Appellant Testimony).
5. The Appellant has been assessed a seven-month tax penalty for 2019. The Appellant filed an appeal of the assessment in March 2020 (Exhibits 2, 3, 4).

6. I take administrative notice of the financial information set forth in Tables 1 through 6 in the DOR 2019 Massachusetts Schedule HC Health Care Instructions and Worksheets. Tables 3 and 4 incorporate affordability and premium schedules adopted by the Board of Directors for the Commonwealth Health Insurance Connector Authority for 2019. Table 2 sets forth income at 300% of the Federal poverty level and Tables 5 and 6 set forth tax penalties in effect for 2019.
7. In accordance with Table 3 of Schedule HC for 2019, the Appellant filing the Federal tax return as a single person, with no dependents claimed, with an annual adjusted gross income of \$30,999 could afford to pay \$129 per month for health insurance. In accordance with Table 4, the Appellant, age 24, living in Essex County, could have purchased private insurance for \$257 per month for a single plan (Schedule HC for 2019). Private insurance was not affordable for the Appellant.
8. The Appellant signed the Statement of Grounds for Appeal on March 27, 2020. The Appellant did not check any of the stated grounds as the basis for the appeal and did allege any circumstances related to financial hardship (Exhibit 3).
9. The Appellant submitted a letter with the Statement of Grounds for Appeal. In this letter, the Appellant cites the negligence of their employer as grounds for Appeal (Exhibit 4).
10. The Appellant testified that they began working for this employer in February 2019 and was informed at the time of hire that the company offered benefits, including health insurance. The Appellant did not have insurance through their prior employer for the month of January 2019. The Appellant testified that they kept waiting for information from their new employer, but none was forthcoming. The Appellant said that eventually they found some written documentation left under some papers at their workstation but when they tried to sign up for health insurance was told they missed the sixty-day window to enroll. The Appellant said that they were told about the Health Connector when they tried to sign up for employer sponsored insurance and the Appellant enrolled in ConnectorCare in November 2019). When asked how often the Appellant asked their employer about the health insurance promised in February, the Appellant responded that they asked the management team every few weeks. The Appellant was unsure of when the written material was left at their workstation. I did not find this testimony to be credible. If the Appellant had been discussing health insurance with their employer every few weeks beginning in February, they would not have waited until November to enroll in alternative insurance (Exhibit 4 and Appellant Testimony).
11. If the Appellant were ineligible for employer sponsored health insurance in 2019, they would have been eligible for ConnectorCare coverage in 2019 because the Appellant's income was less than 300% of the federal poverty level, which was \$36,420 in 2019. The Appellant enrolled in ConnectorCare for the months of November and December 2019 (See Table 2 of Schedule HC-2019 and 956 CMR 12.04).
12. The Appellant's 2019 monthly expenses included: rent-\$500; heat and electricity-\$100; telephone-\$115; transportation-\$50-\$100; school loans-\$500 and food-\$260-\$347. The Appellant was employed throughout tax year 2019. The Appellant did not submit any evidence or testimony to indicate that they faced eviction, received any utility shut off notices or experienced any family or other emergency resulting in an unexpected increase in expenses in 2019 (Exhibits 3, 4 and Appellant Testimony).

ANALYSIS AND CONCLUSIONS OF LAW

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

The Appellant did not have health insurance for the months of January through October in tax year 2019 and consequently has been assessed a seven-month penalty. The Appellant submitted a statement of grounds for this appeal with a letter citing circumstances other than financial hardship as the reason for their failure to obtain health insurance until November in tax year 2019.

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

In accordance with Table 3 of Schedule HC for 2019, the Appellant filing the Federal tax return as a single person with no dependents claimed, with an adjusted gross income of \$30,999 could afford to pay \$129 per month for health insurance. In accordance with Table 4, the Appellant, age 24, living in Essex County, could have purchased private insurance for \$257 per month for a plan (Schedule HC for 2014). Private insurance was not affordable for the Appellant in 2019.

If employer sponsored health insurance was not available to the Appellant, they would have been eligible for ConnectorCare coverage in 2019 because their income of \$30,999 was less than 300% of the federal poverty level of \$36,420 (See Table 2 of Schedule HC-2019 and 956 CMR 12.04).

The Appellant did not allege financial hardship as the reason for their failure to obtain health insurance. The Appellant argues that they failed to have health insurance due to the negligence of their employer. The Appellant said that they were promised health insurance when they started working in February 2019 but information about enrollment was not forthcoming. The Appellant maintains that they inquired about health insurance every few weeks but was not given information. The Appellant also said that they found written information about the company insurance under some other papers at their workstation, but when they tried to enroll were told they had missed the sixty-day window to sign up. I did not find this testimony to be credible given the fact that the Appellant was promised health insurance at the time of hire in February but did not enroll in ConnectorCare until November. The Appellant was unable to say when the written information about the company health insurance was left at their workstation. Had the Appellant been asking about health insurance every few weeks beginning in February, they would have been informed of the company policy prior to November. The Appellant’s allegation of employer negligence is not a valid ground for appeal of the tax penalty. 956 CMR 6.08.

The Appellant was employed in tax year 2019. The Appellant had access to affordable insurance. The Appellant enrolled in ConnectorCare in November 2019. The Appellant did not offer any evidence or testimony that they

fell behind in their rent, received utility shut off notices or had a family or other emergency that resulted in an unexpected increase in living expenses. The Appellant did not demonstrate that purchasing health insurance would have caused the Appellant to experience a serious financial hardship. See 956 CMR 6.08. The Appellant's seven-month penalty is upheld.

PENALTY ASSESSED

Number of Months Appealed: ____7____ Number of Months Assessed: __7____

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

NOTIFICATION OF YOUR RIGHT TO APPEAL TO COURT

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

Cc: Connector Appeals Unit

Massachusetts Health Connector Appeals Unit

FINAL APPEAL DECISION: PA19-320

Appeal Decision: Penalty Overturned in Full

Hearing Issue: Appeal of the 2019 Tax Year Penalty

Hearing Date: July 20, 2020

Decision Date: July 29, 2020

AUTHORITY

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

JURISDICTION

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

HEARING RECORD

The appellant appeared at the hearing which was held by telephone on July 20, 2020, and testified under oath. The hearing record consists of the appellant's testimony and the following documents which were admitted into evidence without his objection:

Ex. 1—Statement of Grounds for Appeal—2019

Ex. 2—Appeal Case Information from Schedule HC ¹

Ex. 3—Final Appeal Decision in PA13-339 dated 6/27/2014

Ex.4--Notice of Hearing

FINDINGS OF FACT

The record shows, and I so find:

1. The appellant is 53-years-old, is divorced and has one child. In 2019, he resided in Bristol County. He had health insurance only for the month of January in 2019. (Testimony, Ex. 2)
2. The appellant has been employed off and on by the same employer since 2005. He had employer health insurance from 2005-2009 at which point the employer went out of business. Approximately three years later, the company reorganized and the appellant returned to work, but the employer no longer offered health insurance. He purchased private health insurance for a few years and the last time he was fully insured was in 2018 when he paid \$98.00/month for a plan through the Health Connector. (Testimony)

1

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

3. The appellant investigated health insurance options for 2019 on the Health Connector website and determined that the monthly cost for a premium was approximately \$350.00/month which he could not afford. (Testimony)
4. The appellant was assessed a 12-month penalty for failure to obtain health insurance for the 2013 tax year. He appealed the penalty and following a hearing, the hearing officer waived the penalty in full and concluded that the expense of purchasing health insurance would have caused a serious deprivation of necessities pursuant to 956 CMR 6.08(1)(e). (Testimony, Ex. 3)
5. The appellant has not obtained health insurance in 2020. (Testimony)
6. The appellant reported an adjusted gross income of \$45,850.00 on his 2019 federal tax return, and reported that he was single with no dependents. (Ex. 2)
7. In 2019, the appellant had regular monthly expenses of approximately \$1404.00 for rent (\$525.00), electricity (\$68.00), gas service (\$43.00), internet service (\$45.00), car insurance (\$110.00), cell phone (\$53.00), gasoline (\$160.00), and food (\$400.00). In addition, he paid approximately \$604.00/month for child support. (Testimony)

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

ANALYSIS AND CONCLUSIONS OF LAW

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

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

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

The appellant testified credibly that he has worked off and on for the same employer for many years. He testified that for several years early on he had employer health insurance, but that was no longer an option since 2013. He testified that he subsequently purchased insurance through the Health Connector until 2019 when he could no longer afford the premium. He testified that his monthly premium in 2018 was \$98.00, but that it jumped to approximately \$350.00 for 2019. He testified that he was assessed a penalty for the 2013 tax year, and following an appeal and hearing, the penalty was waived. Finally he testified that he has not obtained insurance for 2020.

The evidence provided by the appellant established that his income for 2019, \$45,850.00, was greater than 300% of the federal poverty level (FPL), which for 2019 was \$36,420.00 for an individual. Table 3 of the Affordability Schedule indicates that an individual filing separately with no dependents with a federal adjusted gross income between \$42,491.00 and \$48,560.00 is deemed to be able to afford a monthly premium of \$290.38 (7.60% of \$45,850.00/12). Table 4 of the Premium Schedule indicates that a 52-year-old individual (the age of the appellant in 2019) in Bristol County (where the appellant resided in 2019) could have purchased private health insurance for \$406.00 per month, more than the monthly amount deemed affordable from Table 3. Thus, according to the foregoing analysis, the appellant could not have purchased affordable private health insurance in 2019.

Based on the totality of the evidence, it is concluded that 1) the appellant would not have been eligible for subsidized insurance because his income exceeded 300% of the federal poverty level ; 2) health insurance was not available through employment; and 3) he could not have purchased affordable insurance on the private market. Accordingly, his request for a waiver from the penalty is **granted** for the months for which he was assessed. The determination that the appellant is eligible for a waiver is with respect to 2019 only and is based upon the extent of information submitted in this appeal.

PENALTY ASSESSED

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

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

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

NOTIFICATION OF YOUR RIGHT TO APPEAL TO COURT

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

Hearing Officer

Cc: Connector Appeals Unit

Massachusetts Health Connector Appeals Unit

FINAL APPEAL DECISION: PA19-339

Appeal Decision: Appeal Granted

Hearing Issue: Appeal of the 2019 Tax Year Penalty

Hearing Date: July 13, 2020

Decision Date: July 29, 2020

AUTHORITY

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

JURISDICTION

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

HEARING RECORD

The Appellant and the Appellant's wife appeared at the hearing, which was held by telephone on July 13, 2020. The Appellant offered testimony under oath or affirmation. At the end of the hearing, the record was closed.

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

Exhibit 1: Appeal Case Information from 2019 Schedule HC (1 page)

Exhibit 2: 3/8/20 Appeal (12 pages)

Exhibit 3: 6/18/20 Hearing Notice (2 pages)

FINDINGS OF FACT

The record shows, and I so find:

1. The Appellant's filing status for 2019 was Married Filing Joint with one dependent. The Appellant's federal AGI in 2019 was \$36,673. The Appellant resided in Hampshire County in 2019. The Appellant turned thirty-seven years old in 2019. (Exhibit 1)
2. The Appellant appealed from the assessment of a twelve-month penalty on his 2019 income tax return, checking off "other" and stating that his family was heavily in debt and struggling to pay their bills through most of 2019. (Exhibit 2)
3. The Appellant had no health insurance coverage in 2019. (Appellant's testimony)
4. At the start of 2018, the Appellant was unemployed and had health insurance coverage through the Health Connector. In June 2018, the Appellant started a new job and put their daughter in childcare, so both the Appellant and his wife could work. The Appellant canceled his insurance coverage at that time because he could not afford the \$100 premium with the added cost of childcare. (Appellant's testimony; Exhibit)

5. In February 2019, the Appellant was forced out of his job, when his employer told to quit or be fired. (Appellant’s testimony)
6. At that the time, the Appellant’s family had nearly \$69,000 in student and consumer debt, and were falling further behind in payments. In March 2019, they began exploring their options for dealing with the debt, including debt consolidation and bankruptcy. They decided to work with a lawyer to file for bankruptcy, at a cost of \$1,800, and began saving for this. (Appellant’s testimony; Exhibit 2)
7. In July 2019, after saving the money to do so, they filed for bankruptcy. In November 2019, their debt was discharged as a result of the bankruptcy proceeding. (Appellant’s testimony)
8. Following the discharge of their debt, the Appellants began saving and budgeting for health insurance beginning in 2020. The Appellant applied for coverage in November 2019 and paid his first month of health insurance in advance. (Appellant’s testimony)
9. The Appellant’s basic monthly expenses in 2019 included: rent, \$900; utilities, \$175; car (gas, insurance, maintenance), \$200; phone/Internet, \$191; food, \$600; clothing, \$35; and, student loan, \$85, for a total of \$2,186 monthly and \$26,232 for the year. In addition, the Appellant made a monthly credit card payment of \$550 for the first three months of 2019 (and stopped paying thereafter to conserve funds for lawyer fees for the bankruptcy filing). (Appellant’s testimony)
10. According to Table 2 of the Schedule HC 2019, the Appellant was eligible for government-subsidized insurance in 2019, since his AGI for 2019 was less than \$62,340 for a family of three.
11. According to Table 3, Affordability, of the Schedule HC 2019, based on his 2019 AGI and Married Filing Jointly with one dependent tax filing status, the Appellant could have afforded to pay up to 3.4 percent of income for health insurance, which calculates to a monthly premium of up to \$103, for health insurance coverage in 2019.

ANALYSIS AND CONCLUSIONS OF LAW

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

In this case, the Appellant and his family were under severe financial stress throughout the year, while they dealt with the Appellant’s loss of his job at the start of the year and the overhang of significant student loan and consumer debt. Their efforts during most of the remainder of the year were concentrated on saving money to pay for their bankruptcy filing and getting their finances in order. It was not until November 2019, when their debt was discharged, that their financial stress was relieved and that the Appellant could pursue health insurance coverage. He immediately applied for coverage, beginning January 1, 2020.

Under these circumstances, I conclude that the Appellant experienced financial hardship such that the expense of purchasing health insurance in 2019 would have caused his family a serious deprivation of basic necessities, under 956 CMR 6.08(1)(e).

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

PENALTY ASSESSED

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

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

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

OR

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

NOTIFICATION OF YOUR RIGHT TO APPEAL TO COURT

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

Hearing Officer

Cc: Connector Appeals Unit

Massachusetts Health Connector Appeals Unit

FINAL APPEAL DECISION: PA19-348

Appeal Decision Appeal Allowed

Hearing Issue: Appeal of the 2019 Tax Year Penalty

Hearing Date: July 28, 2020

Decision Date: July 31, 2020

AUTHORITY

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

JURISDICTION

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

HEARING RECORD

The Appellant appeared at the hearing, which was held by telephone, on July 28, 2020. The procedures to be followed during the hearing were reviewed with the Appellant who was then sworn in. Exhibits were marked and admitted into evidence with no objection from the Appellant

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

- Exhibit 1: Notice of Hearing dated June 22, 2020
- Exhibit 2: Appeal Case Information from form Schedule HC
- Exhibit 3: Statement of Grounds for Appeal dated March 11, 2020
- Exhibit 4: Written Statement of Appeal Dated March 11, 2020

FINDINGS OF FACT

The record shows, and I so find:

1. The appellant is twenty-six years old and is single. She lives in Worcester County, Massachusetts. Appellant works in a health services business.
2. Appellant worked in 2019 as a behavioral therapist. Appellant had to leave that job because her mother became ill. Appellant worked three jobs part time in 2019 thereafter but none offered health insurance. Appellant also had to care for her mother. She had to provide financial support to her mother. Appellant could not afford health insurance in 2019.
3. Appellant does have health insurance in 2020.
4. The Appellant's monthly expenses totaled \$2,915.00, consisting of rent \$1,100.00, heat & light \$200.00, internet & cable \$150.00, food \$400.00, car payment \$251.00 car insurance \$83.00, car gas \$120.00, credit card \$100.00, clothing \$100.00, toiletries \$200.00, student loans \$100.00 entertainment \$50.00,.
5. The Appellant did submit a Statement of Grounds for Appeal-2019 "During 2019, the expense of purchasing health insurance would have caused a serious deprivation of food, shelter, clothing or other necessities" .
6. I take administrative notice of the information set forth in tables 1 through 6 in the Department of Revenue Schedule HC Health Care Instructions and Worksheets (Schedule HC Instructions). Tables 3 & 4 incorporate the affordability schedules adopted by the board of directors of the Commonwealth Health Insurance Connector Authority for 2019. Table 1 sets forth the income eligibility standards for various family sizes at 150% of the federal poverty level and Table 2 sets forth the income eligibility standards for various family sizes at 300 per cent of the federal poverty level, which is the income eligibility standard for the government-subsidized health insurance program. See Mass. G.L. c. 118H, s.3(a)(1). Tables 5 and 6 set forth the tax penalties for 2019.
7. Based on the appellant's federal adjusted gross income and the above referenced tables, I find the appellant may have been eligible for subsidized health insurance, since Appellant's income of \$35,409.00 was less than \$49,380.00. The monthly premium for health insurance available on the private market in Worcester County for a 25 year old single person with one dependent was \$665.00. The tables reflect that Appellant could afford \$182.94. This is more than what the appellant is deemed to afford. (Tables 2, 3 & 4 of the Schedule HC Instructions)

ANALYSIS AND CONCLUSIONS OF LAW

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

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

Appellant worked in 2019 as a behavioral therapist. Appellant had to leave that job because her mother became ill. Appellant worked three jobs part time in 2019 thereafter but none offered health insurance. Appellant also had to care for her mother. She had to provide financial support to her mother. Appellant could not afford health insurance in 2019.

The Health Care Reform Act of 2006 requires every adult resident of Massachusetts to obtain and maintain creditable insurance coverage “so long as it is deemed affordable” under the schedule established by the board of the Connector. Mass. Gen. Laws ch. 111M, § 2(a). Massachusetts residents who fail to indicate on their state tax returns that they obtained the mandated creditable coverage are subject to a tax penalty for each month in which that the individual did not have creditable health insurance. *Id.* at § 2(b). However, individuals with incomes up to 150 percent of the Federal Poverty Level (“FPL”) are not subject to any penalty for non-compliance with the individual mandate. See Massachusetts Department of Revenue Technical Information Release (“TIR”) 13-1, available at <http://www.mass.gov/dor/businesses/help-and-resources/legal-library/tirs/tirs-by-years/2013-releases/tir-13-1.html>. For 2019, 150 percent of the FPL was \$24,690.00 for a single person with one dependent . *Id.* In addition, a lapse in coverage of 63 days or less is not subject to the section 2(b) penalty. See Administrative Bulletin 03-10 (Dec. 7, 2010), available at <https://www.mahealthconnector.org/portal/binary/com.epicentric.contentmanagement.servlet.ContentDeliveryServlet/Health%2520Care%2520Reform/Regulations/documents/Administrative%20Information%20Bulletin%2003-10.pdf>; see also 830 Mass. Code Regs. 111M.2.1(5)(c) (2008). Thus, no penalty is imposed for lapses in coverage consisting of three or fewer consecutive calendar months. *Id.*

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

Appellant reported a federal AGI of \$35,409.00 in 2019, and Appellant’s filing status was single with one dependent. EX 2. According to the Affordability Schedule established by the Connector’s board and included in the Instructions and Worksheets of the 2019 Massachusetts Schedule HC, Appellant could afford to pay \$182.94 monthly for health insurance. See 2019 Schedule HC Instructions and Worksheets, *supra* at Table 3. Private insurance would have been available to her from the Premium Tables, at a cost of \$665.00 monthly for coverage. *Id.* at Table 4.

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

Appellant is deemed to afford \$182.94 for health insurance coverage because of her income. Private insurance in the market place was \$665.00 per month, which is more than she could afford. On these facts, I find that Appellant has shown that she was precluded from purchasing affordable health insurance during 2018. 956 Mass. Code Regs. 6.08(3) (2008). Accordingly, I conclude that she is exempt from a tax penalty for her non-compliance with the individual mandate.

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

PENALTY ASSESSED

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

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

OR

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

NOTIFICATION OF YOUR RIGHT TO APPEAL TO COURT

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

Hearing Officer

Cc: Connector Appeals Unit

Massachusetts Health Connector Appeals Unit

FINAL APPEAL DECISION: PA19-349

Appeal Decision Appeal Approved

Hearing Issue: Appeal of the 2019 Tax Year Penalty

Hearing Date: July 28, 2020

Decision Date: July 31, 2020

AUTHORITY

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

JURISDICTION

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

HEARING RECORD

The Appellant appeared at the hearing, which was held by telephone, on July 28, 2020. The procedures to be followed during the hearing were reviewed with the Appellant who was then sworn in. Exhibits were marked and admitted into evidence with no objection from the Appellant.

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

Exhibit 1: Notice of Hearing dated June 22, 2020

Exhibit 2: Appeal Case Information from form Schedule HC

Exhibit 3: Statement of Grounds for Appeal

Exhibit 4: Written Statement of Appeal

FINDINGS OF FACT

The record shows, and I so find:

1. The appellant is twenty-five years old and is single. He lives in Bristol County, Massachusetts.
2. Appellant work in the automotive business. The company he worked for did not offer health insurance..
3. Appellant applied to the Health Connector but was denied in 2018. He did not apply in 2019 because his economic circumstances were the same. He applied in 2020 and was accepted because of his former status in a foster home. Appellant did not know of this provision for care in 2019.
4. Appellant does have health insurance in 2020.
5. The Appellant's monthly expenses totaled \$1,300.00, consisting of rent \$300.00, heat & light \$100.00, car insurance \$80.00, car gas \$80.00 food \$250.00, credit card \$220.00, entertainment \$30.00, toiletries \$30.00 clothing \$40.00, student loan \$30.00, truck repair \$160.00.
6. The Appellant did submit a Statement of Grounds for Appeal-2019 under the grounds for Appeal , " During 2019, the expense of purchasing health insurance would have caused a serious deprivation of food, shelter, clothing or other necessities."
7. I take administrative notice of the information set forth in tables 1 through 6 in the Department of Revenue Schedule HC Health Care Instructions and Worksheets (Schedule HC Instructions). Tables 3 & 4 incorporate the affordability schedules adopted by the board of directors of the Commonwealth Health Insurance Connector Authority for 2019. Table 1 sets forth the income eligibility standards for various family sizes at 150% of the federal poverty level and Table 2 sets forth the income eligibility standards for various family sizes at 300 per cent of the federal poverty level, which is the income eligibility standard for the government-subsidized health insurance program. See Mass. G.L. c. 118H, s.3(a)(1). Tables 5 and 6 set forth the tax penalties for 2019.
8. Based on the appellant's federal adjusted gross income and the above referenced tables, I find the appellant may have been eligible for subsidized health insurance,because Appellant's income of \$34,658.00 was less than \$36,420.00. The monthly premium for health insurance available on the private market in Bristol County for a 24 year old single person was \$257.00. The tables reflect that Appellant could afford \$144.40. This is more

than what the appellant is deemed to afford. (Tables 2, 3 & 4 of the Schedule HC Instructions)

ANALYSIS AND CONCLUSIONS OF LAW

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

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

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

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

Appellant reported a federal AGI of \$34,658.00 in 2019, and Appellant’s filing status was single. EX 2. According to the Affordability Schedule established by the Connector’s board and included in the Instructions and Worksheets of the 2019 Massachusetts Schedule HC, Appellant could afford to pay \$144.40 monthly for health insurance. See 2019 Schedule HC Instructions and Worksheets, *supra* at

Table 3. Private insurance would have been available to him from the Premium Tables, at a cost of \$257.00 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 applied for health insurance with the Health Connector in 2018 but was denied. He did not apply in 2019 because his circumstances had not changed. Appellant found out in 2020 after going to a Health Connector assistance facility that he was eligible for a program that assists former foster children. He was not aware of this program before or he would have applied under this program for health insurance. He was not offered health insurance from his company. Private insurance would have cost \$257.00, which he could not afford.

Appellant is deemed to afford \$144.40 for health insurance coverage because of his income. Private insurance in the market place was \$257.00 per month, which is more than he could afford. Appellant has health insurance for 2020.

On these facts, I find that Appellant has shown that he was precluded from purchasing affordable health insurance during 2019. 956 Mass. Code Regs. 6.08(3) (2008). Accordingly, I conclude that he is exempt from a tax penalty for his non-compliance with the individual mandate.

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

PENALTY ASSESSED

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

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

OR

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

NOTIFICATION OF YOUR RIGHT TO APPEAL TO COURT

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

Hearing Officer

Cc: Connector Appeals Unit

Massachusetts Health Connector Appeals Unit

FINAL APPEAL DECISION: PA19-351

Appeal Decision Appeal Approved

Hearing Issue: Appeal of the 2019 Tax Year Penalty

Hearing Date: July 28, 2020

Decision Date: July 31, 2020

AUTHORITY

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

JURISDICTION

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

HEARING RECORD

The Appellant appeared at the hearing, which was held by telephone, on July 28, 2020. The procedures to be followed during the hearing were reviewed with the Appellant who was then sworn in. Exhibits were marked and admitted into evidence with no objection from the Appellant.

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

- Exhibit 1: Notice of Hearing dated June 22, 2020
- Exhibit 2: Appeal Case Information from form Schedule HC
- Exhibit 3: Statement of Grounds for Appeal
- Exhibit 4: Written Statement of Appeal Dated March 5, 2020

FINDINGS OF FACT

The record shows, and I so find:

1. The appellant is forty years old and is single. He lives in Middlesex County, Massachusetts.
2. Appellant work in the food business. The company he worked for did not offer health insurance..
3. Appellant knew he could apply in 2019 to the Health Connector for subsidized health insurance but did not apply. Appellant was given credit for the months he did not reside in Massachusetts.
4. Appellant does not have health insurance in 2020 and did not apply to the Health Connector in 2020 for subsidized health insurance.
5. The Appellant's monthly expenses totaled \$1,785.00, consisting of rent \$900.00, heat & light \$90.00, internet & cable \$50.00, cell phone \$150.00 car insurance \$50.00, car gas \$40.00 food \$200.00, credit card \$60.00, entertainment \$100.00, toiletries \$50.00 clothing \$50.00,
6. The Appellant did submit a Statement of Grounds for Appeal-2019 under the grounds for Appeal , " During 2019, the expense of purchasing health insurance would have caused a serious deprivation of food, shelter, clothing or other necessities." And "Other. You didn't reside in Massachusetts during your period of uninsurance."
7. I take administrative notice of the information set forth in tables 1 through 6 in the Department of Revenue Schedule HC Health Care Instructions and Worksheets (Schedule HC Instructions). Tables 3 & 4 incorporate the affordability schedules adopted by the board of directors of the Commonwealth Health Insurance Connector Authority for 2019. Table 1 sets forth the income eligibility standards for various family sizes at 150% of the federal poverty level and Table 2 sets forth the income eligibility standards for various family sizes at 300 per cent of the federal poverty level, which is the income eligibility standard for the government-subsidized health insurance program. See Mass. G.L. c. 118H, s.3(a)(1). Tables 5 and 6 set forth the tax penalties for 2019.
8. Based on the appellant's federal adjusted gross income and the above referenced tables, I find the appellant may have been eligible for subsidized health insurance,because Appellant's income of \$31,748.00 was less than \$36,420.00. The monthly premium for health insurance available on the private market in Middlesex County for a 39 year old single person was \$286.00. The tables reflect that Appellant could afford \$132.28. This is more than what the appellant is deemed to afford. (Tables 2, 3 & 4 of the Schedule HC Instructions)

ANALYSIS AND CONCLUSIONS OF LAW

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

The Appellant did submit a Statement of Grounds for Appeal-2019 under the grounds for Appeal, “During 2019, the expense of purchasing health insurance would have caused a serious deprivation of food, shelter, clothing or other necessities.” And “Other. 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 2019, 150 percent of the FPL was \$18,210.00 for a single person with zero dependents. *Id.* In addition, a lapse in coverage of 63 days or less is not subject to the section 2(b) penalty. See Administrative Bulletin 03-10 (Dec. 7, 2010), available at <https://www.mahealthconnector.org/portal/binary/com.epicentric.contentmanagement.servlet.ContentDeliveryServlet/Health%2520Care%2520Reform/Regulations/documents/Administrative%20Information%20Bulletin%2003-10.pdf>; see also 830 Mass. Code Regs. 111M.2.1(5)(c) (2008). Thus, no penalty is imposed for lapses in coverage consisting of three or fewer consecutive calendar months. *Id.*

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

Appellant reported a federal AGI of \$31,748.00 in 2019, and Appellant’s filing status was single. EX 2. According to the Affordability Schedule established by the Connector’s board and included in the Instructions and Worksheets of the 2019 Massachusetts Schedule HC, Appellant could afford to pay \$132.28 monthly for health insurance. See 2019 Schedule HC Instructions and Worksheets, *supra* at

Table 3. Private insurance would have been available to him from the Premium Tables, at a cost of \$286.00 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 knew he could apply in 2019 to the Health Connector for subsidized health insurance but chose to not apply for subsidized health insurance. Appellant knew he could apply to the Health Connecto for subsidized health insurance in 2020 but chose not to apply. Appellant was given full credit for the period of time he did not reside in Massachsuetts

Appellant is deemed to afford \$132.28 for health insurance coverage because of his income. Private insurance in the market place was \$286.00 per month, which is more than he could afford.

On these facts, I find that Appellant has shown that he was not precluded from purchasing affordable health insurance during 2019. 956 Mass. Code Regs. 6.08(3) (2008). Accordingly, I conclude that he is not exempt from a tax penalty for his non-compliance with the individual mandate.

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

PENALTY ASSESSED

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

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

OR

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

NOTIFICATION OF YOUR RIGHT TO APPEAL TO COURT

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

Hearing Officer

Cc: Connector Appeals Unit