

Massachusetts Health Connector Appeals Unit

FINAL APPEAL DECISION: PA 20-241

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

Hearing Issue: Appeal of the 2020 Tax Year Penalty

Hearing Date: June 23, 2021

Decision Date: June 30, 2021

AUTHORITY

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

JURISDICTION

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

HEARING RECORD

Appellant appeared at the hearing, which was held by telephone, on June 23, 2021. The hearing record consists of the testimony of Appellant, and the following documents, which were admitted into evidence:

Exhibit 1: Health Connector Hearing Notice (2 pages)

Exhibit 2: Appeal Case Information sheet¹ (1 page)

Exhibit 3: Statement of Grounds (with attachments including information about Evolve policy) (19 pages)

FINDINGS OF FACT

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

1. Appellant was 42 years old at the end of 2020.
2. During 2020, Appellant lived in Middlesex County.
3. Appellant filed his 2020 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 2020 of \$51,611. See Exhibit 2.

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

5. Appellant reported in the Schedule HC that he filed with his 2020 state income taxes that he had health insurance meeting minimum creditable (MCC) standards in January and February, but he did not have such insurance for the remaining 10 months of 2020. Exhibit 2.
6. At the start of 2020, Appellant worked in a full-time job that provided him with health insurance meeting MCC standards, and he was covered by that insurance.
7. Appellant lost his job in March 2020 because of closures related to the Covid-19 pandemic. As a result, Appellant lost his health insurance.
8. Seeking an alternative, Appellant contacted an agent who sold him a policy with an entity called Evolve. He obtained the Evolve policy for a monthly premium of about \$250.
9. The explanation of the Evolve policy states that the policy consists of “limited medical benefits.” For instance, only two doctor visits are covered in a policy period and the amount of the benefit is limited to \$50 per visit. Other outpatient medical services are covered only in the case of accident (as opposed to another cause of illness) and that benefit is limited to \$2,500 a year. See Exhibit 3, page 10.
10. The explanation of the policy states that it is not comprehensive health insurance and that it does not meet minimum essential coverage standards, which is a reference to the minimum standards for insurance coverage established under the federal Affordable Care Act. See Exhibit 3, page 10.
11. The Evolve policy did not meet MCC standards.
12. During the course of 2020, Appellant sought health care twice and learned that the Evolve policy did not cover the costs of that treatment. As a result, he received bills of about \$1,000.
13. In July of 2020, Appellant obtained a new job. That job offered him health insurance but he did not sign up for it at the time of his employment because, at that point, he still believed that his Evolve policy was sufficient.
14. When he realized that the Evolve policy was not sufficient, he was unable to sign up for his new employer’s health insurance until that employer’s next open enrollment period. He did that in 2021. Thus he was covered at the time of the hearing.

In addition to the foregoing, I take administrative notice of the 2020 Schedule HC Instructions and Worksheets, available at <https://www.mass.gov/doc/2020-schedule-hc-instructions/download>, and in particular, Tables 1-6 which, as discussed below, include the Affordability Schedule and other financial information used in making 2020 individual mandate tax penalty determinations.

ANALYSIS AND CONCLUSIONS OF LAW

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

Further, according to M.G.L. c. 111M, § 2, Massachusetts residents are permitted a 63-day gap in coverage without facing a penalty. The Health Connector’s “Administrative Bulletin 03-10: Guidance Regarding M.G.L. c. 111M and M.G.L. c. 176Q, as implemented by 956 CMR 6.00,” which is available at

<https://betterhealthconnector.com/wp-content/uploads/rules-and-regulations/AdminBulletin03-10.pdf>, interprets the 63-day gap in coverage to be three months. As a result, gaps of three months are not subject to penalty. In Appellant's case, he was without MCC-compliant insurance for 10 months in 2020. Because he is given a three-month grace period, he has been assessed a penalty for only seven months.

During the period from March through December, when he was without MCC compliant coverage, Appellant was paying for a product that did not constitute "creditable coverage" under Massachusetts law. M.G.L. c. 111M, § 2(a). "Creditable coverage" is defined as a plan which meets the definition of "minimum creditable coverage" (or "MCC") under regulations promulgated by the Health Connector's board. M.G.L. c. 111M, § 1. These regulations contain a number of requirements that an insurance plan must meet in order to meet MCC standards. For instance, a plan must cover a range of listed "core" services, which include inpatient and outpatient services, mental health treatment, and prescription drugs. 956 CMR 5.03(1)(a). The product that Appellant purchased did not meet that standard because it did not cover outpatient services (other than two doctor visits a year) for conditions other than those caused by an accident. Similarly, MCC standards require that there be limits on the maximum out-of-pocket expenses that an insured would have to incur during the course of a year. 956 CMR 5.03(1)(d). Further, there cannot be an annual cap on the amount of benefits payable. 956 CMR 5.03(1)(f). The Evolve plan that Appellant purchased did not meet either of these requirements. As a result, the Evolve plan did not constitute creditable coverage.

Because Appellant did not have creditable coverage for the 10 months from March through December, he is subject to the penalty. In order to determine whether Appellant should be penalized for not having purchased creditable coverage in 2020, I must first consider whether Appellant could have obtained affordable creditable insurance from any of the following three sources: (1) employer sponsored insurance; (2) government-subsidized insurance; or (3) unsubsidized insurance purchased on the non-group market. See 2020 Schedule HC instructions at pages HC 6-8.

For part of the time that he was without MCC-compliant insurance in 2020, Appellant was unemployed and so not able to obtain employer sponsored insurance. Starting in July 2020 when he obtained a new job, he could have obtained affordable insurance through that position. However, he did not because he was under the mistaken belief that he already had adequate coverage. When he realized his mistake, it was too late to sign up for the employer-sponsored insurance until the employer's next open enrollment period.

Moreover, given his annual income, Appellant could have afforded unsubsidized insurance purchased on the non-group market using state affordability standards set by the Health Connector board pursuant to M.G.L. c. 111M. Under those standards, a person like Appellant who lived in a household of one person and made \$51,611 a year was deemed able to afford 8 percent of income for health insurance. (I obtain that percentage figure from Table 3 to the instructions for the 2020 Schedule HC.) In Appellant's case, that amounts to \$4,128 or \$344.07 a month. During 2020, a person like Appellant who was 41 and lived in Middlesex County could have obtained MCC-compliant insurance for \$316 a month. (I obtain the premium figure from Table 4 to the instructions for the 2020 Schedule HC). Thus, under state standards, this amount would have been affordable for Appellant.

Although it is not necessary for my decision, I note that Appellant would not have qualified for government-subsidized insurance during 2020. His annual income in 2020 of \$51,611 was above \$37,470, which is 300 percent of the federal poverty limit for a household like Appellant's with one person. (I obtain the figure of \$37,470 from Table 2 to the instructions for the 2020 Schedule HC.) Persons with household incomes over 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.)

Because I have concluded that Appellant could have obtained affordable health insurance in 2020 but did not, I must determine whether he has stated grounds to waive the individual mandate penalty. In reaching that determination, I may consider a range of financial factors, including the cost of insurance that Appellant did actually purchase. See 956 CMR 6.08(2)(b). In this case, Appellant unknowingly purchased insurance that did not meet MCC standards under state law. The cost of that insurance was not insignificant; in fact, it was only \$60 a month less than the cost of the cheapest available MCC-compliant insurance. Further, because Appellant purchased such limited coverage, he was subjected to health care costs of about \$1,000 during the cost of the year, which wiped away whatever economy he achieved by purchasing the less costly but less comprehensive Evolve product. Thus, I conclude that Appellant did not fail to get creditable coverage because he was trying to save money. Rather, I conclude that it was due to confusion and unfamiliarity with the requirements of Massachusetts state law. I also note that, when Appellant realized that he had purchased something less than creditable coverage, he applied for and obtained creditable coverage through his insurer and as a result was insured as of the date of the hearing.

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

PENALTY ASSESSED

Number of Months Appealed: 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 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: PA 20-243

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

Hearing Issue: Appeal of the 2020 Tax Year Penalty

Hearing Date: June 23, 2021

Decision Date: June 23, 2021

AUTHORITY

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

JURISDICTION

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

HEARING RECORD

Appellants were a married couple, who will be referred to herein as Husband and Wife. Both Husband and Wife appeared at the hearing, which was held by telephone, on June 23, 2021. The hearing record consists of the testimony of Wife, and the following documents, which were admitted into evidence:

- Exhibit 1: Health Connector Hearing Notice (2 pages)
- Exhibit 2: Appeal Case Information sheet¹ (1 page)
- Exhibit 3: Statement of Grounds with attachment (5 pages)

FINDINGS OF FACT

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

1. Husband was 49 and Wife was 47 at the end of 2020.
2. During 2020, Appellants lived in Essex County.
3. Appellants filed their 2020 Massachusetts taxes as married, filing jointly, with one dependent.
4. Appellants reported on their Massachusetts tax return and confirmed at the hearing that they had adjusted gross income in 2020 of \$140,333. See Exhibit 2.
5. Appellants reported in the Schedule HC that they filed with their 2020 state income taxes that they had health insurance meeting minimum creditable (MCC) standards from January through

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

June of 2020, but did not have health insurance for the remaining six months of the year. Exhibit 2.

6. At one point, Husband worked at a job that offered health insurance and during that period he was insured. However, he left that job and began working as a union laborer. The union offered insurance, but in order to be eligible for that insurance, it was necessary to have worked a certain number of hours. Husband did not reach that minimum threshold of hours during 2020, and so was not eligible to obtain insurance through his union during that year. He did reach the threshold in 2021 and as a result, he and Wife were enrolled in union-sponsored insurance as of the date of the hearing.
7. Wife worked at a part-time job that did not offer health insurance.

In addition to the foregoing, I take administrative notice of the 2020 Schedule HC Instructions and Worksheets, available at <https://www.mass.gov/doc/2020-schedule-hc-instructions-1/download> and in particular, Tables 1-6, which, as discussed below, include the Affordability Schedule and other financial information used in making 2020 individual mandate tax penalty determinations.

ANALYSIS AND CONCLUSIONS OF LAW

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

Further, according to M.G.L. c. 111M, § 2, residents are permitted a 63-day gap between periods of insurance. The Health Connector’s “Administrative Bulletin 03-10: Guidance Regarding M.G.L. c. 111M and M.G.L. c. 176Q, as implemented by 956 CMR 6.00”, which can be found at <https://betterhealthconnector.com/wp-content/uploads/rules-and-regulations/AdminBulletin03-10.pdf>, interprets the 63-day gap in coverage to be three months. As a result, gaps of three months are not subject to penalty. In Appellants’ case, they reported on their Schedule HC that they were without insurance for six months in 2020. Because they were entitled to a three-month gap without penalty, they have been assessed a penalty for only three months each.

In order to determine whether Appellants should be penalized for not having purchased creditable coverage in 2020, I must first consider whether they could have obtained affordable creditable insurance from any of the following three sources: (1) employment-based insurance; (2) government-subsidized insurance; or (3) unsubsidized insurance purchased on the non-group market. See 2020 Schedule HC instructions at pages HC 6-8.

During the period of time that Appellants were uninsured in 2020, Husband was not yet eligible to obtain insurance through his union because he had not accrued a sufficient number of hours. Wife worked at a part-time job that did not offer insurance. Thus, Appellants did not have access to employment-based insurance during the part of 2020 when they were uninsured.

Further, Appellants would not have qualified for government-subsidized insurance during 2020. Their annual income in 2020 of \$140,333 was above \$63,990, which is 300 percent of the federal poverty limit for a household of three persons like Appellants'. (I obtain the figure of \$63,990 from Table 2 to the instructions for the 2020 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. 956 CMR 12.04 (Connector Care eligibility requirements.)

However, Appellants could have afforded unsubsidized insurance purchased on the non-group market using state affordability standards set by the Health Connector board pursuant to M.G.L. c. 111M. Under those standards, persons like Appellants who lived in a household of three person and made \$140,333 a year were deemed able to afford 8 percent of income for health insurance. (I obtain that percentage figure from Table 3 to the instructions for the 2020 Schedule HC.) In Appellants' case, that amounts to \$11,226 or \$935 a month. During 2020, persons like Appellants who lived in Essex County and were in a household in which the oldest person was 49 years old could have obtained health insurance for a family at a monthly premium of \$883. (I obtain the premium figures from Table 4 to the instructions for the 2020 Schedule HC). Thus, under state standards, this amount would have been affordable for Appellants.

Because Appellants could have afforded to obtain health insurance but didn't, I must determine whether they have met the standards to waive the individual mandate penalty under the Health Connector's regulations. 956 CMR 6.08. In making this determination, I may consider a range of financial factors. Id. Here, I take into account the fact that, during the period when Appellants were waiting for Husband to become eligible for his union-sponsored insurance, they had significant expenses, including mortgage, utilities, food, car insurance, and credit card bills. Further, during this period, Husband's earnings were variable because he was paid only when he worked and he was not guaranteed a set number of hours in a week. Moreover, Appellants were anticipating that they would become eligible for union-sponsored insurance, which would have been affordable and comprehensive. Additionally, I take into account the fact that Appellants were insured whenever they were eligible to obtain insurance through Husband's employment and were insured at the time of the hearing. Based on the foregoing, I exercise my discretion to waive the penalty assessed against Appellants for 2020 in its entirety.

PENALTY ASSESSED

Wife:

Number of Months Appealed: 3

Number of Months Assessed: 0

Husband:

Number of Months Appealed: 3

Number of Months Assessed: 0

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

NOTIFICATION OF YOUR RIGHT TO APPEAL TO COURT

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

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

Hearing Officer

Cc: Connector Appeals Unit

Massachusetts Health Connector Appeals Unit

FINAL APPEAL DECISION: PA 20-280

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

Hearing Issue: Appeal of the 2020 Tax Year Penalty

Hearing Date: July 7, 2021

Decision Date: July 14, 2021

AUTHORITY

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

JURISDICTION

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

HEARING RECORD

Appellant appeared at the hearing, which was held by telephone, on July 7, 2021. The hearing record consists of the testimony of Appellant, and the following documents, which were admitted into evidence:

- Exhibit 1: Health Connector Hearing Notice (2 pages)
- Exhibit 2: Appeal Case Information sheet¹ (1 page)
- Exhibit 3: Statement of Grounds with attachment (33 pages)

FINDINGS OF FACT

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

1. Appellant was 53 years old at the end of 2020.
2. During 2020, Appellant lived in Bristol County.
3. Appellant filed her 2020 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 2020 of \$61,102. See Exhibit 2.

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

5. Appellant reported in the Schedule HC that she filed with her 2020 state income taxes that she did not have health insurance meeting minimum creditable (MCC) standards at any point in 2020. Exhibit 2.
6. At the start of 2020, Appellant was working as a contractor employed by a staffing agency. The agency was headquartered in another state.
7. The staffing agency offered Appellant a choice of three health plans offered through an out-of-state insurance company. Appellant chose the middle tier plan available to her. The plan cost her \$410 a month in premium. Exhibit 3.
8. The plan chosen by Appellant had an annual deductible for medical services of \$3,000, meaning she was responsible for the first \$3,000 in medical costs that she incurred before coverage would occur. Additionally, most of the covered services had a 20 percent co-insurance, meaning that even after paying the deductible, Appellant would still have been responsible for 20 percent of the cost of covered services. The plan had an annual maximum out-of-pocket limit of \$6500. Exhibit 3.
9. In early 2021, the insurance company sent her a form 1099-HC stating that the plan she had been enrolled in did not meet Massachusetts MCC standards. Exhibit 3. Appellant was not aware of this fact until she received that 1099-HC.
10. Appellant has since finished working at the staffing agency. Starting in early 2021, she has been covered through a Massachusetts state government-subsidized plan.

In addition to the foregoing, I take administrative notice of the 2020 Schedule HC Instructions and Worksheets, available at <https://www.mass.gov/doc/2020-schedule-hc-instructions-1/download> and in particular, Tables 1-6, which, as discussed below, include the Affordability Schedule and other financial information used in making 2020 individual mandate tax penalty determinations.

ANALYSIS AND CONCLUSIONS OF LAW

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

Insurance coverage satisfies the individual mandate requirement only if it constitutes “creditable coverage” as defined by the statute. M.G.L. c. 111M, § 2(a). “Creditable coverage” is defined as a plan that meets the standards for “minimum creditable coverage” (or “MCC”) under regulations promulgated by the Health Connector’s board. M.G.L. c. 111M, § 1. These regulations contain a number of requirements that an insurance plan must meet in order to meet MCC standards. Among those requirements is one stating that an annual deductible for an individual cannot exceed \$2,000. 956 CMR 5.01(c)((3)(a). Because the insurance plan that Appellant was enrolled in had an annual medical deductible of \$3,000, it did not meet that standard and thus the insurer reported to Appellant that the coverage did not satisfy MCC standards.

In order to determine whether Appellant should be penalized for not having coverage meeting MCC standards, I must first consider whether she could have obtained affordable creditable insurance from any of the following three sources: (1) employment-based insurance; (2) government-subsidized insurance; or (3) unsubsidized insurance purchased on the non-group market. See 2020 Schedule HC instructions at pages HC 6-8.

Appellant's employer offered her insurance, but that insurance did not meet MCC standards. Thus, she could not have obtained MCC-compliant insurance through her employer.

Further, Appellant would not have qualified for government-subsidized insurance during 2020. Her annual income in 2020 of \$61,103 was above \$37,470, which is 300 percent of the federal poverty limit for a household of one person like Appellant's. (I obtain the figure of \$37,470 from Table 2 to the instructions for the 2020 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. 956 CMR 12.04 (Connector Care eligibility requirements.)

Further, Appellant could not have afforded unsubsidized insurance purchased on the non-group market using state affordability standards set by the Health Connector board pursuant to M.G.L. c. 111M. Under those standards, a person like Appellant who had income of \$61,102 for a household of one person was deemed able to afford 8 percent of income for health insurance. (I obtain that percentage figure from Table 3 to the instructions for the 2020 Schedule HC.) In Appellant's case, that amounts to \$4,888 or \$407 a month. During 2020, persons like Appellant who lived in Bristol County and were 53 years of age would have had to pay a monthly premium of \$420 for insurance. (I obtain the premium figures from Table 4 to the instructions for the 2020 Schedule HC). Thus, under state standards, this amount would not have been affordable for Appellants.

Because Appellant could not have afforded to obtain health insurance, she is not subject to the individual mandate penalty. Therefore, I am not required to determine whether she has met the standards to waive the individual mandate penalty under the Health Connector's regulations. 956 CMR 6.08. Further, I note that, although her insurance plan in 2020 deviated from strict compliance with MCC standards because of the high deductible, it did provide coverage to her. Her maximum out-of-pocket expenditure, which represents the greatest amount of money she would have had to pay for health benefits over the course of a year, was \$6,500. Exhibit 3. This is below the amount of \$8,500, which is the maximum amount permitted by MCC regulations. 956 CMR 223(d)(2-3) (stating that the annual maximum shall be the same as that set by the U.S. Department of Health and Human Services) ; see also Notice of Benefit Payment and Parameters for 2020 (setting annual maximum for 2020 at \$8,500) (available at <https://www.cms.gov/newsroom/fact-sheets/notice-benefit-and-payment-parameters-2022-final-rule-part-two-fact-sheet>). Finally, the amount Appellant actually paid for coverage is about what she was deemed able to afford under state standards, indicating that she was not seeking to avoid expenditure by buying inadequate health insurance coverage. In sum, I conclude that Appellant should not be penalized.

Based on the foregoing, I exercise my discretion to waive the penalty assessed against Appellant for 2020 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 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: PA 20-282

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

Hearing Issue: Appeal of the 2020 Tax Year Penalty

Hearing Date: July 7, 2021

Decision Date: July 14, 2021

AUTHORITY

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

JURISDICTION

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

HEARING RECORD

Appellant appeared at the hearing, which was held by telephone, on July 7, 2021. The hearing record consists of the testimony of Appellant, and the following documents, which were admitted into evidence:

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

FINDINGS OF FACT

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

1. Appellant was 34 years old at the end of 2020.
2. During 2020, Appellant lived in Middlesex County.
3. Appellant filed her 2020 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 2020 of \$48,213. See Exhibit 2.

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

5. Appellant reported in the Schedule HC that she filed with her 2020 state income taxes that she did not have health insurance meeting minimum creditable (MCC) standards at any point in 2020. Exhibit 2.
6. During 2020, Appellant worked as a per diem employee for a health care institution. She was not offered health insurance through her employment.
7. Appellant was the sole support of a household of two persons, because she lived with another individual who was unable to work during 2020 because of physical conditions and limitations created by the Covid-19 epidemic.
8. Appellant experienced several bouts of illness during 2020, and either was unable to obtain health care because of her lack of insurance or incurred out-of-pocket expenses to obtain health care.

In addition to the foregoing, I take administrative notice of the 2020 Schedule HC Instructions and Worksheets, available at <https://www.mass.gov/doc/2020-schedule-hc-instructions-1/download> and in particular, Tables 1-6, which, as discussed below, include the Affordability Schedule and other financial information used in making 2020 individual mandate tax penalty determinations.

ANALYSIS AND CONCLUSIONS OF LAW

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

In order to determine whether Appellant should be penalized for not having coverage meeting MCC standards, I must first consider whether she could have obtained affordable insurance from any of the following three sources: (1) employment-based insurance; (2) government-subsidized insurance; or (3) unsubsidized insurance purchased on the non-group market. See 2020 Schedule HC instructions at pages HC 6-8.

Appellant’s employer did not offer her health benefits because she was a per-diem employee who was not benefits-eligible. Thus, she could not have obtained insurance through her employment.

Further, Appellant would not have qualified for government-subsidized insurance during 2020. Her annual income in 2020 of \$48,213 was above \$37,470, which is 300 percent of the federal poverty limit for a household of one person like Appellant’s. (I obtain the figure of \$37,470 from Table 2 to the instructions for the 2020 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. 956 CMR 12.04 (Connector Care eligibility requirements.)

However, Appellant could have afforded unsubsidized insurance purchased on the non-group market using state affordability standards set by the Health Connector board pursuant to M.G.L. c. 111M. Under those standards, a person like Appellant who had income of \$48,213 for a household of one

person was deemed able to afford 7.6 percent of income for health insurance. (I obtain that percentage figure from Table 3 to the instructions for the 2020 Schedule HC.) In Appellant's case, that amounts to \$3,665 or \$305 a month. During 2020, persons like Appellant who lived in Middlesex County and were 34 years of age could have obtained health insurance for a monthly premium of \$288. (I obtain the premium figures from Table 4 to the instructions for the 2020 Schedule HC). Thus, under state standards, this amount would have been affordable for Appellant.

Because Appellant could have afforded to obtain health insurance, I must determine whether she has met the standards to waive the individual mandate penalty under the Health Connector's regulations. 956 CMR 6.08. In this case, I determine that she has. She was required to support a household of two persons in 2020 because she had a non-marital partner who could not work. Thus, her expenses were closer to those of a person who was in a household of two persons. Such a person, with her income, would have been deemed able to afford only 7.4% of her income for health insurance under Health Connector standards. In this case, that would have translated to only \$297 a month, barely more than the \$288 a month she would have had to pay for health insurance. Further, Appellant's income varied from week to week because she was paid on an hourly basis and did not have a consistent, guaranteed schedule of work. Additionally, Appellant's lack of health insurance contributed to her financial hardship because she either lost work due to untreated sicknesses or because she incurred out-of-pocket costs for health care. Given these factors, I conclude that the cost of purchasing health insurance would have constituted a significant financial burden to Appellant. This constitutes grounds for waiving the individual mandate penalty. 956 CMR 6.08(1)(e).

At the time of the hearing Appellant remained uninsured. Appellant is encouraged to apply for coverage through the Health Connector at www.mahealthconnector.org and, in the application, indicate that she would like to receive financial assistance. Or Appellant could apply by calling the Health Connector at 877-623-6765. Recent legislation passed by the U.S. Congress has provided increased subsidies for individuals who are in Appellant's income bracket, i.e., between 300 and 400% of the federal poverty limit. This could result in her being able to purchase insurance at an affordable premium.

Based on the foregoing, I exercise my discretion to waive the penalty assessed against Appellant for 2020 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 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: PA20-236

Appeal Decision: The penalty is overturned in full.

Hearing Issue: Appeal of the 2020 Tax Year Penalty

Hearing Date: June 22, 2021

Decision Date: June 29, 2021

AUTHORITY

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

JURISDICTION

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

HEARING RECORD

The Appellant appeared at the hearing, which was held by telephone on June 22, 2021. The procedures to be followed during the hearing were reviewed with the Appellant who was then sworn in. Exhibits were marked and admitted in evidence with no objection from the Appellant. The Appellant testified.

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

- Exhibit 1: Appeal Case Information from Schedule HC. (1 page).
- Exhibit 2: Statement of Grounds for Appeal 2020 Signed by Appellant on 3/15/2021. (2 PP).
- Exhibit 3: Health Connector's Notice of Hearing dated 5/21/2021 (2 PP).

FINDINGS OF FACT

The record shows, and I so find:

1. Appellant, who filed a 2020 Massachusetts tax return filed single with a family size of 1, was age 21 in 2020, lived in Plymouth County, and had zero (0) dependents. (Exhibit 1).
2. Appellant's Federal Adjusted Gross Income for 2020 was \$36,992. (Exhibit 1).
3. Appellant had been covered under Mass Health but did not realize that coverage was discontinued until he had a medical emergency in June 2020. (Appellant's Testimony).
4. Appellant missed 3 weeks of work and did not collect Unemployment. (Appellant's Testimony).
5. Appellant's Employer did not offer health insurance. (Appellant Testimony).
6. Appellant did not investigate applying for the Connector and was overwhelmed with Covid and keeping his grandmother safe. (Appellant's Testimony).

7. Appellant has been assessed a tax penalty for twelve (12) months in 2020. The Appellant has appealed this assessment (Exhibits 1, 2).

8. Appellant had the following average monthly living expenses in 2020: Rent: \$200, Gas: \$100, Cell Phone \$80, Car Insurance \$285, Food: \$150, Medical Out of Pocket \$1,933, totaling: \$815 (Appellant's Testimony).

9. According to Table 3 Appellant could have afforded \$154.13 per month for health insurance in 2020. According to Table 4 Appellant could have purchased insurance for \$269.00 per month.

10. The Appellant testified he was able to obtain health insurance coverage in 2021. (Appellant's Testimony)

11. The Appellant would have been eligible for ConnectorCare coverage in 2020 because the Appellant's income was less than 300% of the poverty level, which was \$37,340.00. (See Table 2 of Schedule HC 2020, Appellant's Testimony).

12. In addition to the foregoing, I take administrative notice of the 2020 Schedule HC Instructions and Worksheets, available at <http://www.mass.gov/dor/docs/dor/health-care/2020>, and in particular, Tables 1-6 which, as discussed below, include the Affordability Schedule and other financial information used in making 2020 individual mandate tax penalty determinations.

ANALYSIS AND CONCLUSIONS OF LAW

The issue on appeal is whether the tax penalty assessed by the Massachusetts Department of Revenue for 2020 should be waived, either in whole or in part. Appellant has been assessed a tax penalty for twelve (12) months in 2020. Appellant has appealed the penalty. (See Exhibits 1 and 2).

The Appellant submitted a statement of grounds for appeal (Ex. 2) with the appeal, claiming that the individual mandate did not apply to him during 2020 because: Other circumstances that during 2020 he was unable to obtain government-subsidized insurance even though his income qualified him. The Appellant also adduced testimony and submitted correspondence that he experienced financial circumstances such that the expense of purchasing health insurance would have caused him to experience a serious deprivation of food, shelter, clothing or other necessities and that during 2020. See 956 CMR 6.08. 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 2020, \$36,992.00 was less than 300% of the federal poverty level, which for 2020 was \$37,740.00 for a single person. According to Table 3 of Schedule HC for 2020, the Appellant had an adjusted gross income of \$36,992 in 2020 and could have afforded \$154.13 per month. According to Table 4, Appellant, age 21 and living in Plymouth County during the time he was being penalized for not having insurance, could have purchased insurance for \$269.00 per month. Individual coverage was not affordable through the individual market for the Appellant in 2020 (Schedule HC for 2020).

The next issue to consider is whether the Appellant had access to affordable employer health insurance in 2020. The Appellant credibly testified his Employer did not offer health insurance and thus did not have access to Employer Sponsored Insurance ("ESI"). (Appellant's Testimony).

Where the Appellant did not have access affordable coverage through ESI or the individual market, but would have been eligible for ConnectorCare, 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 2020. 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 2020 could be waived if he experienced financial circumstances such that the expense of purchasing health insurance would have caused her to experience a serious deprivation of food, shelter, clothing or other necessities. See 956 CMR 6.08.

The Appellant had the following average monthly living expenses in 2020: Appellant had the following average monthly living expenses in 2020: Rent: \$200, Gas: \$100, Cell Phone \$80, Car Insurance \$285, Food: \$150, Medical Out of Pocket \$1,933, totaling: \$815. (Appellant's Testimony).

The evidence presented by the Appellant in this case is sufficient to establish that he experienced a financial hardship and other circumstances as defined by law so as to waive his penalty for the months in question. Given the Appellant was only 21 years old, had previously been covered under MassHealth but did not have knowledge that covered had ended until he suffered a substantial injury in June, 2020 for which he has to pay out of pocket (\$1,933), missed 3 weeks of work, and was assisting taking care of his Grandmother during Covid, the Appellant was able to establish a serious hardship. Moreover, he incurred substantial out of pocket medical expenses, and was unable to afford the cost of purchasing private insurance for \$154.13 per month. I find this would have caused the Appellant to experience a serious deprivation of food, shelter clothing, or other necessities, and also raised other financial issues. (Exhibit

2(a), Appellant Testimony). Moreover, the mandate has not been lost on the Appellant as he obtained health insurance coverage in 2021.

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.

Appellant should note that any waiver granted here is for 2020 only and is based upon the specific facts I have found to be true and should not assume that the same determination will be made should Appellant be assessed a penalty in the future.

PENALTY ASSESSED

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

The Connector has notified the Department of Revenue that pursuant to its decision, you should be assessed a penalty for Tax Year 2020 for the amount equal to one half of the lowest cost health insurance plan available to you for each month you have been assessed the penalty, as listed above, plus applicable interest back to the due date of the return without regard to extension.

NOTIFICATION OF YOUR RIGHT TO APPEAL TO COURT

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

Cc: Connector Appeals Unit

Hearing Officer

ADDENDUM

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

Massachusetts Health Connector Appeals Unit

FINAL APPEAL DECISION: PA20-125

Appeal Decision: Appeal Approved
Hearing Issue: Appeal of the 2020 Tax Year Penalty
Hearing Date: May 20, 2021
Decision Date: July 11, 2021

AUTHORITY

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

JURISDICTION

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

HEARING RECORD¹

The Appellant appeared at the hearing, which was held by telephone, on May 20, 2021.

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

Exhibit 1.	Hearing Notice dated April 8, 2021	(2 pages)
Exhibit 2	Appeal Case Info. fr. Sch. HC 2020	(1 page)
Exhibit 3	Statement of Grounds for Appeal with Letter	(3 pages)
Exhibit 4	Robinhood Securities LLC Tax Info 2020	(1 page)

FINDINGS OF FACT

The record shows, and I so find:

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

1. The Appellant turned 35 years old in September 2020. The Appellant filed their Federal Income Tax Return as a single individual, with no dependents claimed. (Exhibit 2).
2. The Appellant lived in Middlesex County, MA in 2020. (Exhibit 2 and Appellant's Testimony).
3. The Appellant's Federal Adjusted Gross Income (AGI) for 2020 was \$20,439.00 as shown on Schedule HC for 2020. (Exhibit 2).
4. The Appellant did not have health insurance that met Minimum Creditable Coverage (MCC) during twelve (12) months of tax year 2020 according to Appeal Case Information from Schedule HC for 2020. (Exhibit 2).
5. The Appellant has been assessed a twelve (12)-month tax penalty for 2020, which they have appealed. (Exhibits 1 and 2).
6. I take administrative notice of the financial information set forth in Tables 1 through 6 of the DOR 2020 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 2020. Table 2 sets forth income at 300% of the Federal poverty level and Tables 5 and 6 set forth tax penalties in effect for 2020.
7. In accordance with Table 3 of Schedule HC for 2020, the Appellant filing the Federal tax return as a single individual, with no dependents claimed, with an annual adjusted gross income of \$20,439.00, could afford to pay \$49.39 per month for government-sponsored health insurance. In accordance with Table 4, the Appellant, age 35, living in Middlesex County, could have purchased private market health insurance for \$298.00 per month. (Table 4, Schedule HC for 2020). Thus, private insurance was not affordable for the Appellant in 2020.
8. The Appellant was unemployed during 2020. Therefore, employer-sponsored insurance was not available to them. (Appellant's Testimony).
9. The Appellant was income-eligible for ConnectorCare coverage in 2020 because their adjusted gross income of \$20,439.00 was less than 300% of the Federal poverty level, which was \$37,470.00 in 2020 (Schedule HC, Table 2).
10. The Appellant was an investor on a securities platform during 2020. On the first day of a national shutdown of the platform, they received margin calls and lost their entire portfolio, in the amount of \$48,785.00. (Appellant's Testimony and Exhibits 3 & 4).
11. Thus, Appellant lost essentially all their savings and income because of the pandemic. (Appellant's Testimony and Exhibits 3 & 4).

12. The Appellant has been training in a new area of employment and is in the process of searching for a new job.²
13. The Appellant's pre-tax monthly expenses of \$1,189.99 during 2020 included: Rent - \$308.33, Phone - \$25.00, Car insurance - \$56.66, Gas - \$100.00, Food - \$500.00, Miscellaneous including clothes - \$200.00.

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.

As the basis for their appeal, the Appellant stated that during 2020, an unforeseen event – the pandemic – caused them substantial personal and financial damage. (Exhibit 3 and Appellant's Testimony).

To determine if the twelve (12)-month penalty should be waived in whole or in part, there must be an evaluation of whether affordable insurance which met minimum creditable coverage standards was available to the Appellant through employment, through private insurance, or through a government-sponsored program. If affordable insurance was available, it must be determined if such insurance was not affordable to the Appellant because the Appellant experienced a hardship as defined in 956 CMR 6.08.

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 2020.

In accordance with Table 3 of Schedule HC for 2020, the Appellant filing the Federal tax return as a single individual, with no dependents claimed, with an annual adjusted gross income of \$20,439.00, could afford to pay \$49.39 per month for government-sponsored health insurance.

² Appellant was advised that the Connector open enrollment period has been further extended until July 23, 2021. Appellant was encouraged to contact a Health Connector Customer Service Representative at 1-877-623-6765 or to apply for health insurance through the Connector website at <https://www.mahealthconnector.org> in order to explore coverage options for 2021.

In accordance with Table 4, the Appellant, age 35, living in Middlesex County, could have purchased private market health insurance for \$298.00 per month. (Table 4, Schedule HC for 2020). Thus, private insurance was not affordable for the Appellant in 2020.

The Appellant was unemployed during 2020. Therefore, employer-sponsored insurance was not available to them. (Appellant's Testimony).

The Appellant was income-eligible for ConnectorCare coverage in 2020 because their adjusted gross income of \$20,439.00 was less than 300% of the Federal poverty level, which was \$37,470.00 in 2020 (Schedule HC, Table 2).

The Appellant, however, was unaware that they were income-eligible for ConnectorCare coverage.³ The Appellant lost their savings and income during 2020 because of the pandemic. They had monthly pre-tax expenses during 2020 of \$1,189.99 or \$14,279.88 annually. Subtracting that amount from their AGI of \$20,439.00 left only \$6,159.12 annually or 128.315 per week. That amount is insufficient to pay the rate of \$298.00 per month according to Table 4 of Schedule HC for 2020. Appellant has re-trained to learn new work skills and is in the process of searching for a full-time job. In the interim, they are now aware of resources the Connector provides.

Based on all the credible evidence contained in this administrative record and the totality of the circumstances, I conclude that paying for insurance in the midst of the pandemic would have caused Appellant hardship within the meaning of 956 CMR 6.08 (3). Accordingly, payment for the twelve (12)-month penalty assessment 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 2020. The Appellant should not assume that a similar determination will be made for subsequent tax years should they again be assessed a tax penalty for failure to have health insurance in Massachusetts, as the individual mandate requires.

PENALTY ASSESSED

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

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

NOTIFICATION OF YOUR RIGHT TO APPEAL TO COURT

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

Hearing Officer

cc: Connector Appeals Unit

³ As stated in the prior footnote, the Appellant was advised about the extended Connector Open Enrollment period and urged to contact the Connector to explore coverage options.

Massachusetts Health Connector Appeals Unit
Final Appeal Decision PA 20-169

Appeal Decision: XX Penalty Upheld ___Penalty Overturned in Full ___Penalty Overturned in Part

Hearing Issue: Whether the 2020 Tax Year Penalty Should Be Waived in Whole or in Part

Hearing Date: May 20, 2021

Decision Date: June 17, 2021

AUTHORITY

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

JURISDICTION

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

HEARING RECORD

Appellant appeared at the hearing, which was held by telephone on May 20, 2021. The procedures to be followed during the hearing were reviewed with Appellant, who was sworn in. Exhibits were marked and admitted into evidence without objection. The hearing record consists of the Appellant's testimony, and the following documents, which were admitted into evidence:

- Exhibit 1: Appeal Case Information from Schedule HC.
- Exhibit 2: Statement of Grounds for the Appeal dated March 5, 2021.
- Exhibit 3: Letter from Appellant in Support of Appeal dated March 5, 2021.
- Exhibit 4: Various Credit Card Statements.
- Exhibit 5: HC Appeals Unit Notice of Hearing dated April 26, 2021.
- Exhibit 6: HC Open Record Request for hearing occurring May 20, 2021.
- Exhibit 7: Documents Received in Response to Open Record Request (ESI Form).

FINDINGS OF FACT

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

1. Appellant turned 25 years old and resided in Suffolk County in 2020. (Exhibit 1).
2. Appellants filed his 2020 Federal Income Tax return as single with no dependents claimed, reporting an Adjusted Gross Income of \$44,235. (Exhibit 1).

3. Appellant worked as an intern for his current employer from January through August of 2020, and was not offered employer sponsored health insurance (“ESI”) during this time period. (Exhibit 3; Appellant Testimony)
4. Upon being hired as a full-time employee in September of 2020, Appellant enrolled into minimum creditable coverage (“MCI”) ESI in September of 2020. (Exhibit 7; Appellant Testimony).
5. Appellant had ESI coverage through December of 2020, paying \$52.00 per week. (Exhibit 7).

In addition to the foregoing facts, I take administrative notice of the 2020 Schedule HC Instructions and Worksheets, and in particular Tables 1-6 which includes the Affordability Schedule and other financial information used in making 2020 individual mandate tax penalty determinations.

ANALYSIS AND CONCLUSIONS OF LAW

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

In support of his appeal, Appellant submitted a statement of grounds and a letter, claiming that the individual mandate did not apply to him because his employer did not offer him health insurance until September of 2020, when he went from an intern to a full-time employee, and he could not afford to purchase health insurance otherwise. (Exhibits 2 and 3; Appellant Testimony). In his letter, Appellant states that he enrolled in ESI in September of 2020, paying \$52.00 per week. (Exhibits 3 and 7; Appellant Testimony).

Pursuant to the Connector’s Administrative Bulletin 03-10, applying M.G.L. c. 111M, §2(b), taxpayers are given a three-month grace period for any lapse in coverage to allow the taxpayer to obtain health insurance coverage or to make the transition between health insurance policies. Because Appellant had health insurance from September through December of 2020, he is entitled to a three-month grace period, and Appellant is appealing a five-month tax penalty for 2020 (the months he was uninsured less the three-month grace period.) (Exhibit 1).

The issue before me is whether the five-month 2020 Tax Year penalty assessed against Appellant should be waived in whole or in part. To make this determination, there must be an evaluation of whether affordable insurance meeting minimum creditable coverage standards was available to Appellant in 2020. In determining affordability, consideration is given first to the amount Appellant is deemed able to afford for health insurance premiums under the Affordability Schedule, and second, to the cost of health insurance that was available to Appellant through employer-sponsored plans, government-subsidized programs or on the private insurance market. *See* 2020 Schedule HC Instructions and Worksheets. If

affordable insurance was available, it must be determined if such insurance was, in fact, not affordable based on Appellant experiencing a financial hardship, as defined in 956 C.M.R. 6.08.

According to Schedule HC for 2019 Table 2, I find that Appellant's 2020 Adjusted Gross Income of \$44,235 made him ineligible for Connector Care (eligibility for government-subsidized health insurance is based on income being no more than 300% of the Federal Poverty Level, which in 2020 was \$37,470 for an individual). See 2020 Schedule HC Instructions and Worksheets, *supra*, at Table 2.

Based on Schedule HC for 2020 Table 4, it would have cost Appellant, age 25 and living in Suffolk County, \$269 per month to purchase an individual plan on the private insurance market. Based on the Affordability Schedule, Appellant, filing the Federal tax return as single with no dependents, with an annual Adjusted Gross Income of \$44,235 could afford to pay \$280 monthly for an individual plan. See 2020 Schedule HC Instructions and Worksheets, *supra*, at Table 3. Based on these Tables, I conclude private insurance was available to Appellant at an affordable premium of \$280 per month for an individual plan. See 2020 Schedule HC Instructions and Worksheets, Tables 3 and 4.

Appellant testified that he did not have access to ESI while working as an intern for his employer from January through August of 2020. (Exhibit 3; Appellant Testimony). Appellant testified that through the Health Connector web site he obtained an estimate for health insurance of approximately \$200 per month, deeming this amount unaffordable. (Exhibit 3; Appellant Testimony). Appellant testified, with supporting documentation from his employer, that upon being hired as a full-time employee in September of 2020, he enrolled in ESI at a cost of \$208 per month for a single plan. (Exhibits 3 and 7; Appellant Testimony). Appellant testified that he is able to afford this premium. (Exhibit 3; Appellant Testimony). Even after accounting for Appellant's credible assertion that his paycheck was \$80 less per pay period when he was interning, I conclude that Appellant had access to affordable health insurance in 2020 based on his ability to afford his current \$208 premium for ESI, and his eligibility for purchasing a Health Connector plan for the same cost during the months he did not have access to ESI, and where the Affordability Tables deem Appellant able to afford to pay \$280 per month for insurance. See 2020 Schedule HC Instructions and Worksheets, Tables 3 and 4.

Because Appellant had access to affordable insurance in 2020, it must be determined whether he experienced a financial hardship such that he could not purchase otherwise affordable health insurance. See 956 C.M.R. 6.08 and 956 C.M.R. 12.11. Financial hardship considerations include homelessness, rent or mortgage payments in arrears for more than thirty days, receiving utility shutoff notices, incurring significant, unexpected increases in essential expenses resulting from fire, flood or a natural disaster, domestic violence, death of a family member, sudden responsibility for providing care for a family member, if the expense of purchasing health insurance would have caused a serious deprivation of food, shelter or other necessities, and any other grounds that demonstrate unaffordability. (See 956 C.M.R. 6.08 and 956 C.M.R. 12.11).

Appellant claims his monthly earning averaged \$2,700; however his 2020 adjusted gross income was \$44,235, equating to gross earnings of \$3,686 per month. (Exhibits 1 and 3; Appellant Testimony). Appellant's monthly expenses are \$1,330, well under his gross monthly earnings. (Appellant Testimony). Appellant was not facing eviction, did not receive any utility shutoff notices and did not occur significant

and unexpected expenses due to a family emergency or natural disaster. (Exhibit 2). Appellant failed to demonstrate that the cost of purchasing health insurance would have caused him to experience a serious deprivation of basic necessities. I find that Appellant did not experience a financial hardship as defined by the regulation. (See 956 C.M.R. 6.08 and 956 C.M.R. 12.11).

Accordingly, Appellant's five-month penalty is **UPHELD**.

PENALTY ASSESSED

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

The Connector has notified the Department of Revenue that, pursuant to its decision, you should be assessed a penalty for Tax Year 2020 for the amount equal to one half of the lowest cost health insurance plan available to you for each month you have been assessed the penalty, as listed above, plus applicable interest back to the due date of the return without regard to extension.

NOTIFICATION OF YOUR RIGHT TO APPEAL TO COURT

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

Hearing Officer

Cc: Connector Appeals Unit

Massachusetts Health Connector Appeals Unit
Final Appeal Decision PA 20-173

Appeal Decision: XX Penalty Upheld ___Penalty Overturned in Full ___Penalty Overturned in Part

Hearing Issue: Whether the 2020 Tax Year Penalty Should Be Waived in Whole or in Part

Hearing Date: May 20, 2021

Decision Date: June 17, 2021

AUTHORITY

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

JURISDICTION

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

HEARING RECORD

Appellant appeared at the hearing, which was held by telephone on May 20, 2021. The procedures to be followed during the hearing were reviewed with Appellant, who was sworn in. Exhibits were marked and admitted into evidence without objection. The hearing record consists of the Appellant's testimony, and the following documents, which were admitted into evidence:

- Exhibit 1: Appeal Case Information from Schedule HC.
- Exhibit 2: Statement of Grounds for the Appeal dated March 4, 2021.
- Exhibit 3: Letter from Appellant in Support of Appeal dated March 2, 2021.
- Exhibit 4: Health Connector Appeals Unit Notice of Hearing.

FINDINGS OF FACT

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

1. Appellant turned 29 years old and resided in Bristol County in 2020. (Exhibit 1).
2. Appellants filed his 2020 Federal Income Tax return as single with no dependents claimed, reporting an Adjusted Gross Income of \$68,792. (Exhibit 1).
3. Appellant works a seasonal job paving asphalt and has been doing this seasonal work for over a decade. (Appellant Testimony).

4. Appellant typically works during the warmer months and is laid off in the winter months. (Appellant Testimony).
5. Appellant was laid off in November of 2019, re-hired on August 3, 2020, and laid off again on November 27, 2020. (Exhibit 3; Appellant Testimony).
6. During his period of unemployment in 2020, Appellant received unemployment benefits of approximately \$650 per week. (Appellant Testimony).
7. Appellant's seasonal employer does not offer employer sponsored health insurance ("ESI").

In addition to the foregoing facts, I take administrative notice of the 2020 Schedule HC Instructions and Worksheets, and in particular Tables 1-6 which includes the Affordability Schedule and other financial information used in making 2020 individual mandate tax penalty determinations.

ANALYSIS AND CONCLUSIONS OF LAW

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

In support of his appeal, Appellant submitted a statement of grounds and a letter, claiming that the cost of purchasing health insurance in 2020 would have caused a serious deprivation of food, shelter, clothing or other necessities. (Exhibit 2). In his submitted letter, Appellant claims he could not afford to purchase health insurance because he was only employed from August 3, 2020 to November 27, 2020 due to Covid. (Exhibit 3).

Pursuant to the Connector's Administrative Bulletin 03-10, applying M.G.L. c. 111M, §2(b), taxpayers are given a three-month grace period for any lapse in coverage to allow the taxpayer to obtain health insurance coverage or to make the transition between health insurance policies. Because Appellant had no health insurance in 2020, the three-month grace period is inapplicable, and Appellant is appealing a twelve-month tax penalty for 2020. (Exhibit 1).

The issue before me is whether the twelve-month 2020 Tax Year penalty assessed against Appellant should be waived in whole or in part. To make this determination, there must be an evaluation of whether affordable insurance meeting minimum creditable coverage standards was available to Appellant in 2020. In determining affordability, consideration is given first to the amount Appellant is deemed able to afford for health insurance premiums under the Affordability Schedule, and second, to the cost of health insurance that was available to Appellant through employer-sponsored plans, government-subsidized programs or on the private insurance market. *See* 2020 Schedule HC Instructions and Worksheets. If affordable insurance was available, it must be determined if such insurance was, in fact, not affordable based on Appellant experiencing a financial hardship, as defined in 956 C.M.R. 6.08.

According to Schedule HC for 2019 Table 2, I find that Appellant's 2020 Adjusted Gross Income of \$68,792 made him ineligible for Connector Care (eligibility for government-subsidized health insurance is based on income being no more than 300% of the Federal Poverty Level, which in 2020 was \$37,470 for an individual). See 2020 Schedule HC Instructions and Worksheets, *supra*, at Table 2.

As a preliminary matter, Appellant's testimony regarding the reason for his four-month work history in 2020 directly contradicts his submitted letter claiming he worked only four months due to Covid-19. (Exhibit 3; Appellant Testimony). Based on his testimony during the hearing that his asphalt paving work has been seasonal for the decade that he has been performing this work, I do not find credible his claim that Covid-19 caused his work stoppage, resulting in sudden or unexpected financial difficulties.

Appellant testified that his seasonal employer does not offer ESI, and has never offered ESI in the ten to twelve years Appellant has been performing this seasonal work. (Appellant Testimony).

Based on Schedule HC for 2020 Table 4, it would have cost Appellant, age 29 and living in Bristol County, \$269 per month to purchase an individual plan on the private insurance market. Based on the Affordability Schedule, Appellant, filing the Federal tax return as single with no dependents, with an annual Adjusted Gross Income of \$68,792 could afford to pay \$459 monthly for an individual plan. See 2020 Schedule HC Instructions and Worksheets, *supra*, at Table 3. Based on these Tables, I conclude private insurance was available to Appellant at an affordable premium of \$269 per month for an individual plan. See 2020 Schedule HC Instructions and Worksheets, Tables 3 and 4.

Because Appellant had access to affordable insurance in 2020, it must be determined whether he experienced a financial hardship such that he could not purchase otherwise affordable health insurance. See 956 C.M.R. 6.08 and 956 C.M.R. 12.11. Financial hardship considerations include homelessness, rent or mortgage payments in arrears for more than thirty days, receiving utility shutoff notices, incurring significant, unexpected increases in essential expenses resulting from fire, flood or a natural disaster, domestic violence, death of a family member, sudden responsibility for providing care for a family member, if the expense of purchasing health insurance would have caused a serious deprivation of food, shelter or other necessities, and any other grounds that demonstrate unaffordability. (See 956 C.M.R. 6.08 and 956 C.M.R. 12.11).

Appellant's 2020 adjusted gross income was \$68,792, equating to gross earnings of \$5,732 per month. (Exhibits 1; Appellant Testimony). Appellant's monthly expenses are \$2,935, well under his gross monthly earnings. (Appellant Testimony). Appellant was not facing eviction, did not receive any utility shutoff notices and did not occur significant and unexpected expenses due to a family emergency or natural disaster. (Exhibit 2). Appellant failed to demonstrate that the cost of purchasing health insurance would have caused him to experience a serious deprivation of basic necessities. I find that Appellant did not experience a financial hardship as defined by the regulation. (See 956 C.M.R. 6.08 and 956 C.M.R. 12.11).

Accordingly, Appellant's twelve-month penalty is **UPHELD**.

PENALTY ASSESSED

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

The Connector has notified the Department of Revenue that, pursuant to its decision, you should be assessed a penalty for Tax Year 2020 for the amount equal to one half of the lowest cost health insurance plan available to you for each month you have been assessed the penalty, as listed above, plus applicable interest back to the due date of the return without regard to extension.

NOTIFICATION OF YOUR RIGHT TO APPEAL TO COURT

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

Hearing Officer

Cc: Connector Appeals Unit

Massachusetts Health Connector Appeals Unit

FINAL APPEAL DECISION: PA 20-374

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

Hearing Issue: Appeal of the 2020 Tax Year Penalty

Hearing Date: July 27, 2021

Decision Date: August 5, 2021

AUTHORITY

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

JURISDICTION

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

HEARING RECORD

Appellant appeared at the hearing, which was held by telephone, on July 28, 2021. The hearing record consists of the testimony of Appellant, and the following documents, which were admitted into evidence:

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

FINDINGS OF FACT

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

1. Appellant was 27 years old at the end of 2020.
2. During 2020, Appellant lived in Berkshire County.
3. Appellant filed his 2020 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 2020 of \$31,952. See Exhibit 2.

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

5. Appellant reported in the Schedule HC that he filed with his 2020 state income taxes that he did not have health insurance meeting minimum creditable (MCC) standards at any point in 2020. Exhibit 2.
6. During 2020, Appellant worked at a job that did not offer him health insurance. His hours were reduced as a result of the pandemic and for a while he was not able to work at all.
7. Appellant tried to obtain health insurance by going to a website that he found on an Internet search. He was quoted a premium of \$240 a month, which he considered unaffordable. He did not go to the Massachusetts Health Connector website at this time because he was unaware of it.
8. Subsequently, Appellant applied for insurance through the Health Connector and, in early 2021, he was determined eligible and enrolled. He was enrolled in insurance at the time of the hearing.
9. During 2020, Appellant lived with his daughter and his daughter's mother. He contributed to the support of the household.

In addition to the foregoing, I take administrative notice of the 2020 Schedule HC Instructions and Worksheets, available at <https://www.mass.gov/doc/2020-schedule-hc-instructions-1/download> and in particular, Tables 1-6, which, as discussed below, include the Affordability Schedule and other financial information used in making 2020 individual mandate tax penalty determinations.

ANALYSIS AND CONCLUSIONS OF LAW

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

In order to determine whether Appellant should be penalized for not having coverage meeting MCC standards, I must first consider whether he could have obtained affordable insurance from any of the following three sources: (1) employment-based insurance; (2) government-subsidized insurance; or (3) unsubsidized insurance purchased on the non-group market. See 2020 Schedule HC instructions at pages HC 6-8.

During 2020, Appellant worked at a job that did not offer him health insurance. Thus, he could not have obtained employment-based insurance.

Further, Appellant would not have been able to afford unsubsidized insurance purchased on the non-group market under state affordability standards set by the Health Connector board pursuant to M.G.L. c. 111M. Under those standards, a person like Appellant who had income of \$31,952 for a tax household of one person was deemed able to afford 5 percent of income for health insurance. (I obtain that percentage figure from Table 3 to the instructions for the 2020 Schedule HC.) In Appellant's case, that amounts to \$1,597 annually or \$133 a month. During 2020, a person like Appellant who lived in Berkshire County and was 27 years of age would have had to pay a monthly premium of \$241 for health

insurance. (I obtain the premium figure from Table 4 to the instructions for the 2020 Schedule HC). Thus, under state standards, this amount would not have been affordable for Appellant.

However, Appellant would have qualified for government-subsidized insurance which would have been affordable. His annual income in 2020 of \$31,952 was below \$37,470, which is 300 percent of the federal poverty limit for a household of one person like Appellant's. (I obtain the figure of \$37,470 from Table 2 to the instructions for the 2020 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 criteria such as citizenship or legal permanent residence, and lack of access to affordable employer sponsored insurance. 956 CMR 12.04 (Connector Care eligibility requirements.) I infer that Appellant met these other criteria in 2020 because he testified that he did not have employer-sponsored insurance and because he was determined eligible for Connector Care in 2021.

Because Appellant could have obtained affordable health insurance in 2020, but didn't, I must determine whether he has met the standards to waive the individual mandate penalty under the Health Connector's regulations. 956 CMR 6.08. In this case, I determine that he has. Appellant had uncertain and variable income during 2020, as a result of the disruption caused by the pandemic. Further, even though he is in a tax household of one person because he is unmarried and doesn't take a dependent, he actually helps to support a household of three persons. This means he had even less money available than the state affordability standards would indicate. Further, he attempted to purchase health insurance, but unfortunately he did not go the Health Connector website, where he could have obtained affordable comprehensive insurance through Connector Care. That was the result of an error. The \$240 cost of the insurance that was quoted to him at this other website was, in fact, unaffordable under state standards. Further, I take into account the fact that Appellant did get health insurance in 2021 when he went to the Health Connector website. In light of all these factors, I exercise my discretion to waive the penalty against Appellant in its entirety.

PENALTY ASSESSED

Number of Months Appealed: 12

Number of Months Assessed: 0

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

NOTIFICATION OF YOUR RIGHT TO APPEAL TO COURT

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

Hearing Officer

Cc: Connector Appeals Unit

Massachusetts Health Connector Appeals Unit

FINAL APPEAL DECISION: PA 20-376

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

Hearing Issue: Appeal of the 2020 Tax Year Penalty

Hearing Date: July 27, 2021

Decision Date: August 5, 2021

AUTHORITY

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

JURISDICTION

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

HEARING RECORD

Appellant appeared at the hearing, which was held by telephone, on July 28, 2021. The hearing record consists of the testimony of Appellant, and the following documents, which were admitted into evidence:

- Exhibit 1: Health Connector Hearing Notice (2 pages)
- Exhibit 2: Appeal Case Information sheet¹ (1 page)
- Exhibit 3: Statement of Grounds with attachment (5 pages)

FINDINGS OF FACT

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

1. Appellant was 26 years old at the end of 2020.
2. During 2020, Appellant lived for part of the year in Hampshire County and part of the year in Suffolk County.
3. Appellant filed his 2020 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 2020 of \$19,970. See Exhibit 2.

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

5. Appellant reported in the Schedule HC that he filed with his 2020 state income taxes that he did not have health insurance meeting minimum creditable (MCC) standards from January through August 2020 but did have such insurance from September through December. Exhibit 2.
6. At the start of the year, Appellant had a position that paid him a stipend and provided him with housing. However, the position did not offer him health insurance.
7. During that time, he did not try to get health insurance through the Health Connector because he was unaware of that option. Prior to that year, he had been covered under his parents' health insurance.
8. In August, he obtained a new position that caused him to move to Boston. That position did offer him health insurance and he obtained it.
9. He was insured as of the date of the hearing

In addition to the foregoing, I take administrative notice of the 2020 Schedule HC Instructions and Worksheets, available at <https://www.mass.gov/doc/2020-schedule-hc-instructions-1/download> and in particular, Tables 1-6, which, as discussed below, include the Affordability Schedule and other financial information used in making 2020 individual mandate tax penalty determinations.

ANALYSIS AND CONCLUSIONS OF LAW

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

Further, according to M.G.L. c. 111M, § 2, residents are permitted a 63-day gap between periods of insurance. The Health Connector’s “Administrative Bulletin 03-10: Guidance Regarding M.G.L. c. 111M and M.G.L. c. 176Q, as implemented by 956 CMR 6.00”, which can be found at <https://betterhealthconnector.com/wp-content/uploads/rules-and-regulations/AdminBulletin03-10.pdf>, interprets the 63-day gap in coverage to be three months. As a result, gaps of three months are not subject to penalty. In Appellant’s case, he reported on his Schedule HC that he was without insurance for eight months in 2020. Because he was entitled to a three-month gap without penalty, he has been assessed a penalty for only five months.

In order to determine whether Appellant should be penalized for not having coverage meeting MCC standards, I must first consider whether he could have obtained affordable insurance from any of the following three sources: (1) employment-based insurance; (2) government-subsidized insurance; or (3) unsubsidized insurance purchased on the non-group market. See 2020 Schedule HC instructions at pages HC 6-8.

During the eight months when he was uninsured in 2020, Appellant worked at a job that did not offer him health insurance or else was not employed. Thus, he could not have obtained employment-based insurance.

Further, Appellant would not have been able to afford unsubsidized insurance purchased on the non-group market under state affordability standards set by the Health Connector board pursuant to M.G.L. c. 111M. Under those standards, a person like Appellant who had income of \$19,970 for a tax household of one person was deemed able to afford 2.9 percent of income for health insurance. (I obtain that percentage figure from Table 3 to the instructions for the 2020 Schedule HC.) In Appellant's case, that amounts to \$579 annually or \$48 a month. During 2020, a person like Appellant who lived in Hampshire County and was 26 years of age would have had to pay a monthly premium of \$241 for health insurance. (I obtain the premium figure from Table 4 to the instructions for the 2020 Schedule HC). Thus, under state standards, this amount would not have been affordable for Appellant.

However, Appellant would have qualified for government-subsidized insurance, which would have been affordable. His annual income in 2020 of \$19,970 was below \$37,470, which is 300 percent of the federal poverty limit for a household of one person like Appellant's. (I obtain the figure of \$37,470 from Table 2 to the instructions for the 2020 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 criteria such as citizenship or legal permanent residence, and lack of access to affordable employer sponsored insurance. 956 CMR 12.04 (Connector Care eligibility requirements.) I infer that Appellant meet these other criteria based on his testimony and other evidence in the record.

Because Appellant could have afforded to obtain health insurance, but didn't, I must determine whether he has met the standards to waive the individual mandate penalty under the Health Connector's regulations. 956 CMR 6.08. In this case, I determine that he has. Appellant was not aware that he could have obtain affordable, comprehensive insurance through the Health Connector's Connector Care program because this was the first year in which he had to obtain insurance for himself. His employment situation during the early part of the year was uncertain and he made a move across the state at one point for work reasons. His annual income was low, and was particularly low in the early part of the year when he was without insurance. Further, I take into account the fact that Appellant did get health insurance in 2021 when he was able to do so through his employment. In light of all these factors, I exercise my discretion to waive the penalty against Appellant in its entirety.

PENALTY ASSESSED

Number of Months Appealed: 5

Number of Months Assessed: 0

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

NOTIFICATION OF YOUR RIGHT TO APPEAL TO COURT

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

Hearing Officer

Cc: Connector Appeals Unit

Massachusetts Health Connector Appeals Unit

FINAL APPEAL DECISION: PA19-309

Appeal Decision: Penalty Overturned in Full

Hearing Issue: Appeal of the 2019 Tax Year Penalty

Hearing Date: July 12, 2021

Decision Date: July 19, 2021

AUTHORITY

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

JURISDICTION

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

HEARING RECORD

The appellant appeared at the hearing which was held by telephone on July 12, 2021, and testified under oath. The hearing record consists of the appellant's testimony and the following documents which were admitted into evidence without her objection:

- Ex. 1—Statement of Grounds for Appeal—2019
- Ex. 2—Appeal Case Information from Schedule HC ¹
- Ex. 3—Notice of Hearing dated June 15, 2020
- Ex. 4—Hearing Attendance Sheet dated July 16, 2020
- Ex. 5—Health Connector's Notice of Dismissal of Appeal dated March 4, 2021
- Ex. 6—Request to Vacate Dismissal dated April 7, 2021
- Ex. 7—Notice of Hearing dated June 9, 2021

FINDINGS OF FACT

The record shows, and I so find:

1. The appellant is 40-years-old, is single, and has two adult children. She resided in Plymouth County, MA in 2019. She did not have health insurance in 2019. (Testimony, Ex. 2)
2. Prior to 2019, the appellant last had health insurance in 2015. She has never been assessed a penalty for not obtaining insurance for all or part of any tax year since then. (Testimony)
3. The appellant held two part-time jobs in 2019. One of the employers offered health insurance which would have cost approximately \$300.00-\$400.00/month which she could not afford. (Testimony)

¹ Ex. 2 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. The appellant did not investigate any health insurance options for 2019. She looked into options for 2020 through the Health Connector and determined that a monthly premium would have cost approximately \$250.00 which she could not afford. (Testimony)
5. Between 2015 and the beginning of 2019, the appellant was homeless. From January until approximately the end of November, 2019, she lived with a friend to whom she paid \$250.00/month for rent. In or about December, 2019, she found her own place to live and continues to reside there. (Testimony, Ex. 1)
6. The appellant reported an adjusted gross income of \$31,834.00 on her 2019 federal tax return, and reported that she was single with no dependents. (Ex. 2)
7. In 2019, the appellant had regular monthly expenses of approximately \$956.00 for rent (\$250.00); cell phone (\$34.00); automobile loan (\$292.00); automobile insurance (\$120.00); food (\$180.00) and gasoline (\$80.00). In addition, she paid approximately \$50.00/month for a student loan. (Testimony, Ex.1)

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

ANALYSIS AND CONCLUSIONS OF LAW

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

The appellant submitted a statement of grounds for appeal (Ex. 1), claiming that the individual mandate did not apply to her during 2019 because she was homeless; more than 30 days in arrears in rent or mortgage payments; or received an eviction or foreclosure notice. She also submitted a letter with her statement in which she stated in part that she bounced around for a while with no permanent place to live. She further stated that she investigated health insurance options through the Health Connector, but determined that she had missed the open enrollment period.

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

The appellant testified credibly that the last time she had health insurance was in 2015, and that she has never been assessed a penalty in any ensuing year for not obtaining insurance for all or part of a tax year. She testified that she held two part-time jobs in 2019, and one employer offered insurance which she could not afford. She testified that she did not investigate any other insurance options for the year. She testified that she lived with a friend for most of 2019 to whom she paid monthly rent, and was able to get her own place at the end of the year. Finally, she testified that she was unable to obtain insurance in 2020 due to the cost.

Although the appellant claimed in her Statement of Grounds for Appeal that she was homeless in 2019, she testified that she had a stable place to live for the entire year, and for which she paid a small monthly rent. Accordingly, the ground of homelessness will not be considered, and her appeal will be analyzed in terms of whether the cost of insurance would have caused a serious deprivation of food, shelter, clothing or other necessities as she claimed in the hearing. See 956 CMR 6.08.

The evidence provided by the appellant established that her income for 2019, \$31,834.00, was less 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 \$30,351.00 and \$36,420.00 is deemed to be able to afford a monthly premium of \$132.64 (5.00% of \$31,834.00/12). Table 4 of the Premium Schedule indicates that a 38-year-old individual (the age of the appellant in 2019) in Plymouth County (where the appellant resided in 2019) could have purchased private health insurance for \$286.00 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.

The next issue to consider is whether the appellant had access to affordable employer health insurance in 2019. The appellant testified that one of her employers offered health insurance for approximately \$300.00-\$400.00/month.² Pursuant to 26 IRC section 36B and 45 CFR section 155.305(f), applicants are eligible for an Advanced Premium Tax Credit (APTC) if they meet qualifying income levels and other eligibility requirements. Massachusetts residents may also be eligible for additional state premium assistance through the Health Connector's ConnectorCare program if: a) their household income does not exceed 300 percent of the Federal Poverty Level (FPL) and b) they are eligible for an APTC. 956 CMR 12.09(1) An applicant who has access to other qualifying health insurance, including insurance through an employer, will be blocked from eligibility for an APTC if the coverage is affordable and meets minimum value standards, as those terms are defined by the law. See 26 CFR section 1.36B-2(c)(3). Coverage for plan year 2019 is considered to be affordable if the employee's contribution for an individual plan is 9.86% 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 appellant testified that the monthly cost for an individual plan through the appellant's employer was \$300.00-\$400.00. That cost is more than 9.86% of the appellant's projected household MAGI for 2019 (i.e. 9.86% of \$31,834.00 is \$3139.00 or \$261.57/month).³ Hence, since the cost of employer insurance is more than \$261.57/month, 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).

Inasmuch as the appellant's income was within 300% of the FPL, the appellant should have qualified for subsidized health insurance through the Health Connector, assuming she met all other eligibility criteria, and for which she would have been subject to a subsidized premium of approximately \$132.64 per month, pursuant to the aforementioned Affordability Schedule in Table 3.

² Since the appellant appeared to have a firm recollection of the cost of employer insurance, no Open Record Request was made at the conclusion of the hearing for documentation from the employer regarding the cost and terms of its health insurance in 2019.

³ A MAGI figure was not obtained at the hearing and the record was not held open for documentation to make that calculation. It is recognized that the federal adjusted gross income (AGI) is not the same number as MAGI since the latter number starts with AGI and then adds in certain income sources such as tax-exempt interest, taxable social security and foreign earned income. See 26 USC section 36B(d)(2)(b) and 956 CMR 12.04. Notwithstanding this discrepancy, based on the appellant's testimony, the two numbers were probably very close, if not the same, in which case it is not unreasonable to use the AGI number for purposes of this calculation.

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

The evidence presented by the appellant in this case is insufficient to establish that she experienced a financial hardship as defined by law so as to waive her penalty for the months in question. The appellant testified that in 2019 she incurred basic monthly expenses of approximately \$1006.00, including her student loan debt. Those expenses were less than her regular monthly pre-tax income of approximately \$2652.00, thereby making a subsidized insurance premium of \$132.64 seemingly manageable. While it is recognized that an approximate difference between income and expenses of \$1646.00 per month is not a panacea, it does not appear on its face that the payment of \$132.64 for health insurance would have caused an undue hardship.

Based on the foregoing, it is concluded that the appellant could have afforded subsidized insurance and failed to establish that she experienced a financial hardship that would entitle her to a waiver of the penalty. Notwithstanding this conclusion, the penalty will be waived for the following reasons. First, although this analysis indicates otherwise, the appellant offered credible testimony which established that she was in financial distress in 2019 due to several years of homelessness. While she was technically not homeless in 2019, she could only afford to pay a small amount of her income towards rent to a friend. She testified that she has been in a stable living situation since the end of 2019, and hopefully she will be able to finally consider the feasibility of purchasing health insurance. The appellant has not had insurance since 2015, and is advised not to rely on a similar extension of leniency should she be assessed and appeal a penalty for not having health insurance in the future.

Therefore, based upon the totality of the evidence, it is concluded that the appellant's request for a waiver from the penalty is **granted** for the months for which she was assessed. The determination that the appellant is eligible for a waiver is with respect to 2019, only and is based upon the extent of information submitted by her in this appeal.

PENALTY ASSESSED

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

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

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

NOTIFICATION OF YOUR RIGHT TO APPEAL TO COURT

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

Hearing Officer

Cc: Connector Appeals Unit

ADDENDUM

The appellant is advised that the open enrollment period for health insurance for 2021 has been extended until July 23, 2021. After that, between July 24, 2021 and the next open enrollment period which typically begins on November 1st, the appellant will need a “qualifying event” to enroll in coverage for 2021. She is encouraged to investigate her options for health insurance through the Health Connector at mahealthconnector.org or by contacting customer service at 1-877-623-6765.

Massachusetts Health Connector Appeals Unit

FINAL APPEAL DECISION: PA19-892

Appeal Decision Appeal Approved.

Hearing Issue: Appeal of the 2019 Tax Year Penalty

Hearing Date: April 21, 2021

Decision Date: June 29, 2021

AUTHORITY

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

JURISDICTION

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

HEARING RECORD

Appellant appeared at the hearing, which was held by telephone, on April 21, 2021. The hearing record consists of the Appellant's testimony, and the following documents which were admitted into evidence without objection by Appellant as well as an additional document submitted by Appellant:

- Exhibit 1: Notice of Hearing (3-16-21) (2 pages);
- Exhibit 2: Information from Schedule HC TY 2019 (1 page);
- Exhibit 3: Statement of Grounds for Appeal (7-30-20) (with documents) (11 pages);
- Exhibit 4: Notice of prior hearing date (10-20-20) (2 pages); and
- Exhibit 5: Letter to vacate dismissal (1 page).

FINDINGS OF FACT

The record shows, and I so find:

1. Appellant, age 64 during 2019, from Bristol County, filed single on the tax return with a family size of 1. (Exhibit 2).
2. Appellant did not have health insurance for 2019. Exhibits 2, 3).
3. Appellant's Federal Adjusted Gross Income for 2019 was \$40,700.00 (Exhibit 2).
4. Appellant drives a school bus and does not work 40 hours and does not have health insurance through the employer. Appellant applied for health insurance through the Health Connector and the premium amount changed from an amount that Appellant deemed affordable to one that Appellant deemed not affordable. (Appellant's testimony, Exhibit 3).

5. Appellant had received Social Security income that caused the income to appear to be greater than it was as Appellant was required to return the Social Security income. (Appellant Testimony, Exhibit 3).
6. Appellant received shut off notices for February, March and April 2019. (Appellant Testimony).
7. Appellant's expenses for food, shelter, clothing, and other necessities used most of the income. Appellant's expenses totaled approximately \$3,016.00 per month or \$36,192.00 per year.
8. Appellant now has health insurance through Medicare. (Appellant testimony).
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. Appellant could not afford health insurance based on the tables in Schedule HC. According to Table 4, the health insurance would cost \$418.00 for coverage. According to Table 3, Appellant was deemed to afford \$252.00.
11. Private insurance was not affordable for the Appellant in 2019. (Schedule HC for 2019).
12. 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).
13. Appellant claimed that they should be granted a waiver based on the grounds that they received shut off notices, and that paying for health insurance would have caused a serious deprivation of food, shelter, clothing and other necessities. (Testimony of Appellant, Exhibit 3).
14. 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. Appellant did not incur additional expenses as a result of a fire, flood, or other natural or man-made disaster in 2019 (Exhibit 3).
15. Appellant was not homeless, was not thirty days or more behind in rent in 2019, however Appellant did receive shut-off notices for basic utilities. (Appellant's Testimony, Exhibit 3).

ANALYSIS AND CONCLUSIONS OF LAW

The issue on appeal is whether the tax penalty assessed by the Massachusetts Department of Revenue for 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 \$40,700.00 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 \$252.00 per month; according to Table 4, Appellant, who was 64 years old in 2019, from Bristol County, and filed the 2019 Massachusetts taxes as single, would have had to pay \$418.00 for coverage per month for family insurance on the private market. See CMR 6.05 (1)(2), Schedule HC Tables 3 and 4, and Exhibit 2.

With regard to the hardship waiver of the penalty, Appellant claimed that paying for health insurance would have caused a serious deprivation of food, shelter, clothing and other necessities, and also that Appellant received shut off notices for utilities for February, March and April of 2019. Appellant's expenses for necessities did use most of the income. In addition, Appellant did receive shut off notices for three months during 2019. In addition, the Appellant now has health insurance. For these reasons, the waiver of the penalty is approved.

Appellant should note that the waiver of the penalty is based upon the facts that I have determined to be true for the 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: PA19-917

Appeal Decision Appeal Approved.

Hearing Issue: Appeal of the 2019 Tax Year Penalty

Hearing Date: April 21, 2021

Decision Date: June 29, 2021

AUTHORITY

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

JURISDICTION

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

HEARING RECORD

Appellant appeared at the hearing, which was held by telephone, on April 21, 2021. The hearing record consists of the Appellant's testimony, and the following documents which were admitted into evidence without objection by Appellant as well as an additional document submitted by Appellant:

- Exhibit 1: Notice of Hearing (3-16-21) (2 pages);
- Exhibit 2: Information from Schedule HC TY 2019 (1 page);
- Exhibit 3: Statement of Grounds for Appeal (8-3-20) (5 pages);
- Exhibit 4: Notice of prior hearing date (11-5-20) (2 pages); and
- Exhibit 5: Letter to vacate dismissal (12-17-20) (with document) (3 pages).

FINDINGS OF FACT

The record shows, and I so find:

1. Appellant, age 30 during 2019, from Suffolk County, filed single on the tax return with a family size of 1. (Exhibit 2).
2. Appellant did not have health insurance for 2019. Exhibits 2, 3).
3. Appellant's Federal Adjusted Gross Income for 2019 was \$48,716.00 (Exhibit 2).
4. Appellant had health insurance through the employer for January through May. In May, Appellant started a new job and then was unemployed in June 2019. Appellant got another job in July 2019, and was going to be eligible for health insurance through the new employer after 90 days. Appellant was away during the window when Appellant could enroll and missed the

deadline. Appellant then enrolled in November 2019 for health insurance beginning in January 2020. (Appellant's testimony, Exhibit 2).

5. 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.
6. Appellant could afford health insurance based on the tables in Schedule HC. According to Table 4, the health insurance would cost \$257.00 for coverage. According to Table 3, Appellant was deemed to afford \$324.00.
7. Private insurance was affordable for the Appellant in 2019. (Schedule HC for 2019).
8. 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).
9. Appellant claimed that they should be granted a waiver based on the grounds that they were without the health insurance due to misunderstandings and miscommunication with the employer. (Testimony of Appellant, Exhibit 3).
10. 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. Appellant did not incur additional expenses as a result of a fire, flood, or other natural or man-made disaster in 2019 (Exhibit 3).
11. Appellant was not homeless, was not thirty days or more behind in rent in 2019, and Appellant did not receive shut-off notices for basic utilities. (Appellant's Testimony, Exhibit 3).

ANALYSIS AND CONCLUSIONS OF LAW

The issue on appeal is whether the tax penalty assessed by the Massachusetts Department of Revenue for 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 through May of 2019, but did not have health insurance for the remaining months of 2019. They have been assessed a tax penalty for four months. Appellant appealed the assessment. See Exhibits 2, and 3. To determine if the penalty should be waived in whole or in part, we must consider whether affordable insurance which met minimum creditable coverage

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

Private insurance was affordable for the Appellant during 2019. According to Tables 3 and 4 of the HC Schedule for 2019, Appellant, with an adjusted gross income of \$48,716.00 was deemed to have been able to afford health insurance on the private market. According to Table 3, Appellant could have afforded to pay \$324.00 per month; according to Table 4, Appellant, who was 30 years old in 2019, from Suffolk County, and filed the 2019 Massachusetts taxes as single, would have had to pay \$257.00 for coverage per month 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 were without the insurance due to miscommunication with the employer. In addition, the Appellant made attempts to get the health insurance. For these reasons, the waiver of the penalty is approved.

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

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

NOTIFICATION OF YOUR RIGHT TO APPEAL TO COURT

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

Hearing Officer

Cc: Connector Appeals Unit

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: PA19-933

Appeal Decision Appeal Approved.

Hearing Issue: Appeal of the 2019 Tax Year Penalty

Hearing Date: May 4, 2021

Decision Date: June 29, 2021

AUTHORITY

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

JURISDICTION

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

HEARING RECORD

Appellant appeared at the hearing, which was held by telephone, on May 4, 2021. The hearing record consists of the Appellant's testimony, and the following documents which were admitted into evidence without objection by Appellant as well as an additional document submitted by Appellant:

- Exhibit 1: Notice of Hearing (4-5-21) (2 pages);
- Exhibit 2: Information from Schedule HC TY 2019 (1 page);
- Exhibit 3: Statement of Grounds for Appeal (8-13-20) (with letter and documents (12 pages);
- Exhibit 4: Notice of prior hearing date (11-10-20) (2 pages); and
- Exhibit 5: Final Appeal Decision TY2018 (11-21-19) (4 pages).

FINDINGS OF FACT

The record shows, and I so find:

1. Appellant, age 28 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 December of 2019, but did not have health insurance for the remaining months of 2019. Exhibits 2, 3).
3. Appellant's Federal Adjusted Gross Income for 2019 was \$116,396.00 (Exhibit 2).
4. Appellant had been laid off in 2018 and the COBRA was not affordable. Appellant lives with parents due to a difficult family situation (domestic abuse by father against mother), and neither of the parents were working during 2019. Therefore, Appellant had extra expenses for the household. (Appellant's testimony, Exhibit 3).

5. Appellant did get health insurance in December 2019 and still has that health insurance.
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 coverage. According to Table 3, Appellant was deemed to afford \$775.00.
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 domestic violence by Appellant's father against Appellant's mother caused Appellant extra expenses. (Testimony of Appellant, Exhibit 3).
11. Appellant did incur significant and unexpected increases in essential expenses as a result of domestic violence; but not due to the death of a spouse, family member, or partner who shared household expenses; and did not incur expenses due to the sudden responsibility for providing full care for an aging parent or other family member. Appellant did not incur additional expenses as a result of a 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 shut-off notices for basic utilities. (Appellant's Testimony, Exhibit 3).

ANALYSIS AND CONCLUSIONS OF LAW

The issue on appeal is whether the tax penalty assessed by the Massachusetts Department of Revenue for 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 December of 2019, but did not have health insurance for the remaining months of 2019. They have been assessed a tax penalty for eight months. Appellant appealed the assessment. See Exhibits 2, and 3. To determine if the penalty should be waived in whole or in part, we must consider whether affordable insurance which met minimum creditable coverage standards was available to the Appellant through employment, through the private market, or through a government-

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

Private insurance was affordable for the Appellant during 2019. According to Tables 3 and 4 of the HC Schedule for 2019, Appellant, with an adjusted gross income of \$116,396.00 was deemed to have been able to afford health insurance on the private market. According to Table 3, Appellant could have afforded to pay \$775.00 per month; according to Table 4, Appellant, who was 28 years old in 2019, from Plymouth County, and filed the 2019 Massachusetts taxes as single, would have had to pay \$257.00 for coverage per month 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 were without the insurance due to domestic violence by Appellant's father against Appellant's mother that caused appellant to incur significant expenses. In addition, the Appellant's parents were unemployed during 2019. Further, Appellant now has health insurance. For these reasons, the waiver of the penalty is approved.

Appellant should note that the waiver of the penalty is based upon the facts that I have determined to be true for the 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: 8 Number of Months Assessed: 0

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

NOTIFICATION OF YOUR RIGHT TO APPEAL TO COURT

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

Hearing Officer

Cc: Connector Appeals Unit

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: PA19-998

Appeal Decision Appeal Approved.

Hearing Issue: Appeal of the 2019 Tax Year Penalty

Hearing Date: May 4, 2021

Decision Date: June 30, 2021

AUTHORITY

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

JURISDICTION

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

HEARING RECORD

Appellant appeared at the hearing, which was held by telephone, on May 4, 2021. The hearing record consists of the Appellant's testimony, and the following documents which were admitted into evidence without objection by Appellant as well as an additional document submitted by Appellant:

- Exhibit 1: Notice of Hearing (4-5-21) (2 pages);
- Exhibit 2: Information from Schedule HC TY 2019 (1 page);
- Exhibit 3: Statement of Grounds for Appeal (8-5-20) (with letter) (4 pages); and
- Exhibit 4: Notice of prior hearing date (5-6-20) (2 pages).

FINDINGS OF FACT

The record shows, and I so find:

1. Appellant, age 32 during 2019, from Middlesex County, filed single on the tax return with a family size of 1. (Exhibit 2).
2. Appellant did have health insurance for January through May of 2019, but did not have health insurance for the remaining months of 2019. Exhibits 2, 3).
3. Appellant's Federal Adjusted Gross Income for 2019 was \$47,698.00 (Exhibit 2).
4. Appellant was laid off in 2019, and received unemployment for most of the rest of the year of 2019. Once Appellant got a job Appellant obtained health insurance through the employer and continues to have it. (Appellant's testimony, Exhibit 3).

5. Appellant's expenses for food, shelter, clothing and transportation used all of the unemployment compensation. When Appellant was employed and earning more money, Appellant had health insurance through the employer. (Appellant Testimony, Exhibit 3).
6. I take administrative notice of the financial information set forth in Tables 1 through 6 in the DOR 2019 Massachusetts Schedule HC Health Care Instructions and Worksheets. Tables 3 and 4 incorporate affordability and premium schedules adopted by the Board of Directors for the Commonwealth Health Insurance Connector Authority for 2019. Table 2 sets forth income at 300% of the Federal poverty level and Tables 5 and 6 set forth tax penalties in effect for 2019.
7. Appellant could afford health insurance based on the tables in Schedule HC. According to Table 4, the health insurance would cost \$279.00 for coverage. According to Table 3, Appellant was deemed to afford \$302.00.
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. (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; and did not incur expenses due to the sudden responsibility for providing full care for an aging parent or other family member. Appellant did not incur additional expenses as a result of a 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 shut-off notices for basic utilities. (Appellant's Testimony, Exhibit 3).

ANALYSIS AND CONCLUSIONS OF LAW

The issue on appeal is whether the tax penalty assessed by the Massachusetts Department of Revenue for 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 through May of 2019, but did not have health insurance for the remaining months of 2019. They have been assessed a tax penalty for four months. Appellant appealed the assessment. See Exhibits 2, and 3. To determine if the penalty should be waived in whole

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

Private insurance was affordable for the Appellant during 2019. According to Tables 3 and 4 of the HC Schedule for 2019, Appellant, with an adjusted gross income of \$47,698.00 was deemed to have been able to afford health insurance on the private market. According to Table 3, Appellant could have afforded to pay \$302.00 per month; according to Table 4, Appellant, who was 32 years old in 2019, from Middlesex County, and filed the 2019 Massachusetts taxes as single, would have had to pay \$279.00 for coverage per month insurance on the private market. See CMR 6.05 (1)(2), Schedule HC Tables 3 and 4, and Exhibit 2.

With regard to the hardship waiver of the penalty, Appellant claimed that paying for health insurance would have caused a serious deprivation of food, shelter, clothing and other necessities. Appellant's expenses for those necessities during the period when Appellant did not have health insurance used most of the income during that time. Further, Appellant now has health insurance. For these reasons, the waiver of the penalty is approved.

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

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

NOTIFICATION OF YOUR RIGHT TO APPEAL TO COURT

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

Hearing Officer

Cc: Connector Appeals Unit

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: PA20-112

Appeal Decision: Appeal Approved

Hearing Issue: Appeal of the 2020 Tax Year Penalty

Hearing Date: May 17, 2021

Decision Date: July 7, 2021

AUTHORITY

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

JURISDICTION

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

HEARING RECORD

The Appellants appeared at the hearing, which was held by telephone, on May 17, 2021. The Appellants offered testimony under oath or affirmation. At the end of the hearing, the record was left open for the Appellants to submit additional evidence by June 7, 2021. The Appellants submitted additional evidence on June 3, 2021, 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 2020 Schedule HC (1 page)

Exhibit 2: 2/27/21 Appeal (3 pages)

Exhibit 3: 4/8/21 Notice of Hearing (2 pages)

Exhibit 4: 2020TY Penalty Appeal Decision (3 pages)

Exhibit 5: 6/3/21 Open-Record Response (23 pages)

FINDINGS OF FACT

The record shows, and I so find:

1. The Appellants' filing status for 2020 was Single with two dependents. The Appellants' federal AGI in 2020 was \$145,237. The Appellants turned thirty-five years and forty years old in 2020. The Appellants resided in Middlesex County in 2020. (Exhibit 1)
2. The Appellants appeal from the assessment of two eight-month penalties on their 2020 income tax return, checking off two boxes on the appeal form, as the basis of their appeal: 1) "During 2020, you received a shut-notice; were shut off; or were refused delivery of essential utilities;" and, 2) "During 2020, the expense of purchasing health insurance would have caused a serious deprivation of food, shelter, clothing or other necessities." (Exhibit 2)

3. The Appellants had health insurance coverage in 2019 through the Appellant/husband's employer. (Exhibit 5)
4. The Appellants missed the open-enrollment period for enrolling in the employer-sponsored coverage for 2020, because they were having financial difficulties during the time and felt that they could not afford to enroll in 2020 coverage. (Exhibit 5)
5. The Appellants' financial problems continued through May 2020. (Appellants' testimony; Exhibit 5)
6. The Appellants' 2020 expenses for basic necessities included: rent, \$2,000; car payment, \$325; car insurance, \$310; gas, \$435; tolls, \$130; cell phones, \$350; Internet, \$120; minimum credit card payment, \$250; heat, \$275; electricity, \$225; cable, \$120; food, \$650; braces, \$122; clothing, \$200; household items, \$120; dental insurance, \$140; and, gym, \$50, for a total of \$5,822/monthly plus \$1,983 for the year in 2020 car repairs. (Exhibit 5)
7. The Appellants received shut-off notices in February 2020 and again in April 2020 for non-payment of their utility bills. (Exhibit 5)
8. The Appellants did not apply for health insurance coverage in 2020 until the fall, when they applied and had coverage beginning in December 2020. (Exhibit 1; Appellants' testimony)
9. According to Table 2 of the 2020 Schedule HC Guidelines, the Appellants did not qualify for government-subsidized health insurance coverage in 2020, since their 2020 AGI income was more than \$77,250 for a family size of four.
10. According to Table 3, Affordability, based on their 2020 AGI and Married with two dependents tax filing status, the Appellants could have afforded to pay up to \$968/monthly for health insurance coverage in 2020.
11. According to Table 4, Premiums, based on their age and county of residence, the Appellants could have found health insurance coverage in the Massachusetts private market in 2020 for a monthly premium of \$793, based on their age and county of residence in 2020.

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, as the Appellants had a three-month grace period to obtain health insurance at the start of 2020 and had health insurance coverage in December 2020, at issue here is the Appellants' failure to have health insurance during the eight months from April through November 2020.

The Appellants' costs for basic necessities in 2020, including car repairs, totaled \$71,847, or nearly \$6,000 monthly. As the Appellants' AGI for 2020 was more than twice their 2020 costs for basic necessities, the Appellants would appear to have been able to afford health insurance coverage throughout 2020. However, I credit the Appellants' testimony that they were struggling financially at the end of 2019 and during the first five months of 2020 to pay their bills, including their utility bills. Under these circumstances, I find that the Appellants have established that they could not have afforded health insurance coverage during this period.

However, with respect to the five months from July through November 2020, the Appellants have presented no evidence to support the conclusion that health insurance coverage remained unaffordable for them. They did not receive any more shut-off notices after the April 2020 notice. While they could have afforded to pay a monthly premium of up to \$968 for health insurance coverage, Appellants could have found health insurance coverage in the private market for a monthly premium of \$793. Yet, the Appellants made no effort to obtain coverage.

Therefore, I conclude that the Appellants have not established that affordable health insurance coverage was not available to them during the five months of 2020 from July through November.

Accordingly, the Appellants' two eight-month penalties for 2020 shall be reduced to two five-month penalties.

PENALTY ASSESSED

Number of Months Appealed: ____16____ Number of Months Assessed: ____10____

The Connector has notified the Department of Revenue that, pursuant to its decision, you should be assessed a penalty for Tax Year 2020 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 2020.

NOTIFICATION OF YOUR RIGHT TO APPEAL TO COURT

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

Hearing Officer

Cc: Connector Appeals Unit

Massachusetts Health Connector Appeals Unit

FINAL APPEAL DECISION: PA20-114

Appeal Decision: Appeal Approved

Hearing Issue: Appeal of the 2020 Tax Year Penalty

Hearing Date: May 17, 2021

Decision Date: July 13, 2021

AUTHORITY

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

JURISDICTION

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

HEARING RECORD

Only the Appellant/wife appeared at the hearing, which was held by telephone, on May 17, 2021. The Appellant offered testimony under oath or affirmation. At the end of the hearing, the record was left open for the Appellants to submit additional evidence by June 7, 2021. The Appellants submitted additional evidence on May 27, 2021, 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 2020 Schedule HC (1 page)
- Exhibit 2: 3/3/21 Appeal (4 pages)
- Exhibit 3: 4/8/21 Notice of Hearing (2 pages)
- Exhibit 4: 5/27/21 Open-Record Response (10 pages)

FINDINGS OF FACT

The record shows, and I so find:

1. The Appellants' filing status for 2020 was Married Filing Jointly with no dependents. The Appellants' federal AGI in 2020 was \$48,196. The Appellants both turned thirty years old in 2020. The Appellants resided in Hampden County in 2020. (Exhibit 1)
2. The Appellants appeal from the assessment of two twelve-month penalties on their 2020 income tax return, checking off as the basis of their appeal: "During 2020, the expense of purchasing health insurance would have caused a serious deprivation of food, shelter, clothing or other necessities." (Exhibit 2)
3. The Appellants had health insurance coverage in 2019 through the Health Connector for a monthly premium of about \$100. (Appellant's testimony)
4. The Appellant/husband worked for the same employer throughout 2020. His employer did not offer health insurance coverage. (Appellant's testimony)

5. The Appellant/wife was not employed in 2020. (Appellant's testimony)
6. The Appellants' 2020 monthly expenses for basic necessities included: rent, \$850; heat/hot water, \$120; electric, \$69; cell phone, \$100; Internet, \$40; car payment, \$130; car insurance, \$96; gas/oil for car, \$160; groceries, \$650; personal loan, \$285; and, credit card minimum payments, \$160, for a total of \$2,660/monthly and \$31,920 for the year. (Exhibit 4; Appellant's testimony)
7. The Appellants' costs for other necessities during 2020 included: \$140/yearly for dental insurance; \$682, dental services; and, \$978, car repairs, for a total of \$1,800, for the year. (Exhibit 4)
8. According to Table 2 of the 2020 Schedule HC Guidelines, the Appellants qualified for government-subsidized health insurance coverage in 2020, since their 2020 AGI income was less than \$50,730 for a family size of two.
9. According to Table 3, Affordability, based on their 2020 AGI and Married with no dependents tax filing status, the Appellants could have afforded to pay up to \$305/monthly for health insurance coverage in 2020.
10. According to Table 4, Premiums, based on their ages and county of residence, the Appellants could have found health insurance coverage in the Massachusetts private market in 2020 for a monthly premium of \$482, based on their ages and county of residence in 2020.

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, as the Appellants had health insurance coverage through December 2019, they had a three-month grace period to obtain health insurance at the start of 2020. At issue here is the Appellants' failure to have health insurance during the nine months from April 2020 through December 2020.

I do not find credible the Appellant's testimony that the Health Connector automatically enrolled the Appellants in health insurance coverage at the start of 2020 with a monthly premium of over \$400, when the Appellants had been paying a monthly premium of less than \$100 in 2019 for insurance coverage through the Health Connector. Certainly, if this did happen and the Appellants wanted to continue health insurance coverage through the Health Connector in 2020, the Appellants would have contacted the Health Connector and inquired why their 2019 premium had more than quadrupled for 2020.

The Appellants contend that they could not have afforded health insurance coverage in 2020 and that purchasing coverage would have caused a serious deprivation of necessities during the year. However, the evidence in the record does not support this argument. If the Appellants had applied for health insurance coverage through the Health Connector in 2020, they would have found coverage available to them for a monthly premium of \$305. The Appellants' total cost for basic necessities in 2020 was \$33,720, while full-year health insurance coverage in 2020 would have cost the Appellants a total of \$3,660, and only \$2,745 for the nine months at issue. With a 2020 AGI of \$48,196, either cost was well within the Appellants' range of what the Appellants could have afforded to pay for coverage in 2020.

Therefore, I conclude that the Appellants have not established that affordable health insurance coverage was not available to them during the nine months of 2020 from April through December.

Accordingly, the Appellants' two twelve-month penalties for 2020 shall be reduced to two nine-month penalties.

PENALTY ASSESSED

Number of Months Appealed: ____24____

Number of Months Assessed: ____18____

The Connector has notified the Department of Revenue that, pursuant to its decision, you should be assessed a penalty for Tax Year 2020 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 2020.

NOTIFICATION OF YOUR RIGHT TO APPEAL TO COURT

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

Hearing Officer

Cc: Connector Appeals Unit

Massachusetts Health Connector Appeals Unit

FINAL APPEAL DECISION: PA20-116

Appeal Decision: Appeal Approved

Hearing Issue: Appeal of the 2020 Tax Year Penalty

Hearing Date: May 17, 2021

Decision Date: July 2, 2021

AUTHORITY

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

JURISDICTION

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

HEARING RECORD

The Appellant appeared at the hearing, which was held by telephone, on May 17, 2021. The Appellant offered testimony under oath or affirmation. At the end of the hearing, the record was closed.

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

- Exhibit 1: Appeal Case Information from 2019 Schedule HC (1 page)
- Exhibit 2: 3/1/21 Appeal (11 pages)
- Exhibit 3: 2020 1095-B Cigna (1 page)
- Exhibit 4: 4/8/21 Hearing Notice (2 pages)

FINDINGS OF FACT

The record shows, and I so find:

1. The Appellant/husband's filing status for 2020 was Married Filing Joint with no dependents. The Appellant's federal AGI in 2020 was \$121,611. The Appellant turned fifty-four years old in 2020. The Appellant resided in Bristol County in 2020. (Exhibit 1)
2. The Appellant appealed from the assessment of a twelve-month penalty on his 2020 income tax return, checking off on the appeal form as the basis for his appeal: "During 2020, you purchased health insurance that didn't meet minimum creditable coverage standards because that is what your employer offered, and you felt that your circumstances prevented you from buying other insurance that met the requirements." (Exhibit 2)
3. The Appellant's wife did not have a tax penalty assessed against her in 2020 for not having health insurance coverage. (Exhibit 1)
4. The Appellant has worked for the same employer since 2007. His employer has offered health insurance coverage to employees throughout that period. (Exhibit 1)

5. The Appellant had health insurance coverage through his employer in 2020 for a bi-weekly premium of \$300, which is equivalent to \$606/monthly. (Appellant’s testimony)
6. It was not until he filed his tax return for 2019 and was assessed a tax penalty under the individual mandate that the Appellant learned that his employer-sponsored coverage did not meet MCC standards. The Appellant appealed this 2019 tax penalty but never followed through on his scheduled hearing on the 2019 tax penalty. (Appellant’s testimony)
7. According to Table 3, Affordability, of the Schedule HC 2020, based on his 2020 AGI and Married Filing Joint with no dependents tax filing status, the Appellant could have afforded to pay up to \$810/monthly for health insurance coverage in 2020.
8. According to Table 4, Premiums, the Appellant could have purchased individual health insurance coverage that met MCC standards in the private market in 2020 for a monthly premium of \$603, 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.

In this case, the Appellant knew at the time he filed his tax return for 2019, or soon thereafter, that his employer-sponsored health insurance coverage did not meet MCC standards for 2019; and, that he needed to obtain new coverage that met MCC standards to avoid 2020 tax penalty. If he had looked in the private market for 2020 coverage, the Appellant would have found MCC individual coverage for a monthly premium of \$603, based on his age and county of residence, well below the \$810/monthly that he could have afforded to pay.

Under these circumstances, I conclude that the Appellant has not established that health insurance that provided minimum creditable coverage was not affordable for him 2020 because he experienced a hardship, under 956 CMR 6.08(1). However, I recognize that the Appellant may not have understood that his employer-sponsored coverage was deficient until he filed his 2019 tax return in the spring of 2020 and learned that he was being assessed a tax penalty. For that reason, his tax penalty for 2020 should be reduced from twelve months to six months.

Accordingly, the Appellant’s twelve-month penalty for 2020 shall be reduced to a six-month penalty.

PENALTY ASSESSED

Number of Months Appealed: 12 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 2020 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 2020.

NOTIFICATION OF YOUR RIGHT TO APPEAL TO COURT

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

Hearing Officer

Cc: Connector Appeals Unit

Massachusetts Health Connector Appeals Unit

FINAL APPEAL DECISION: PA20150

Appeal Decision: The penalty is overturned in full.

Hearing Issue: Appeal of the 2020 Tax Year Penalty

Hearing Date: May 10, 2021

Decision Date: June 26, 2021

AUTHORITY

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

JURISDICTION

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

HEARING RECORD

The appellant appeared at the hearing which was held by telephone on May 10, 2021. 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 2020 signed and dated by Appellant on March 5, 2021 with letter attached

Exhibit 2: Appeal Case Information from Schedule HC 2020

Exhibit 3: Notice of Hearing sent to Appellant dated April 16, 2021 for May 10, 2021 hearing

FINDINGS OF FACT

The record shows, and I so find:

1. Appellant, who filed a 2020 Massachusetts tax return as a single person with no dependents claimed, was 47 years old in 2020. Appellant has two teen-aged children (Exhibit 2, Testimony of Appellant).
2. Appellant resided in Middlesex County in 2020 (Testimony of Appellant, Exhibit 2).
3. Appellant had a Federal Adjusted Income of \$60,694 in 2020 (Testimony of Appellant, Exhibit 2).
4. Appellant started 2020 working as a chef. The appellant earned \$24 an hour and generally worked 40 hours a week. The appellant was laid off in March because of the pandemic. Appellant had health insurance which met the Commonwealth's minimum creditable coverage standards through this job. Coverage was terminated at the end of May, 2020 because of the lay-off (Testimony of Appellant).
5. Appellant was unemployed until some time in August when he got a part-time job, also paying \$24 an hour. Because Appellant was a part-time employee, he was not offered health insurance. In November, the job became full-time. Appellant would have been offered health insurance, but he was furloughed in early December, again because of the pandemic (Testimony of Appellant, Exhibit 1 attachment).

6. Appellant received unemployment compensation benefits once he lost his job in March and again in December, 2020. At first, Appellant collected \$600 a week, but later received \$800 a week. In December, Appellant received \$650 a week in benefits (Testimony of Appellant)

7. Appellant had no health insurance from June through December, 2020. Appellant has been assessed a penalty for four months, September through December. Appellant has appealed this assessment (Testimony of Appellant, Exhibits 1 and 2).

8. I take administrative notice of the financial information set forth in Tables 1 through 6 in the DOR 2020 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 2020. Table 2 sets forth income at 300% of the Federal poverty level and Tables 5 and 6 set forth tax penalties in effect for 2020.

9. According to Table 3 of Schedule HC for 2020, the appellant with no dependents claimed with an adjusted gross income of \$60,694 could afford to pay \$404 per month for health insurance. According to Table 4, Appellant, 47 years old and living in Middlesex County, could have purchased insurance for \$361 per month for a plan for an individual. Insurance on the individual market was affordable for the appellant based upon Appellant's adjusted gross income for the year (Schedule HC for 2020 Tables 3 and 4, Exhibit 2).

10. According to Table 2 of Schedule HC for 2020, Appellant, who earned more than \$37,470 per year, would have been ineligible for the ConnectorCare program based upon income (Table 2 of Schedule HC-2020, and Exhibit 2).

11. Appellant did not incur significant and unexpected increases in essential expenses as a result of domestic violence; the death of a spouse, family member, or partner who shared household expenses; the sudden responsibility for providing full care for an aging parent or other family member, or a natural or human-caused event which caused substantial personal damage in 2020 (Testimony of Appellant).

12. Appellant did not fall more than thirty days behind in rent payments in 2020 (Testimony of Appellant).

13. Appellant did not receive any shut-off notices for basic utilities in 2020 (Testimony of Appellant).

14. Appellant had the following monthly expenses for basic necessities in 2020: rent-\$680; electricity-\$45; heat-\$80; internet-\$70; telephone-\$145; food, household and personal items-\$820; clothing and laundry-\$105.00; public transportation-\$90. Appellant paid \$900 in child support. Appellant also spent about \$6,000 during the year on his children (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 2020 should be waived, either in whole or in part.

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

CMR 6.00, which interprets the 63-day gap in coverage to be three months. The Connector's regulations provide for a waiver of the tax penalty in the case of a financial hardship. See 956 CMR 6.08. Pursuant to 45 CFR 155.305(f), an individual is not eligible for an advance premium tax credit if the individual has access to affordable health insurance which meets minimum essential coverage as defined in the Patient Protection and Affordable Care Act.

The appellant has been assessed for a penalty for September through December, 2020. The appellant appealed the assessment. Exhibits 1, 2.

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

According to Table 3 of Schedule HC for 2020, the appellant with no dependents claimed with an adjusted gross income of \$60,694 could afford to pay \$404 per month for health insurance. According to Table 4, Appellant, 47 years old and living in Middlesex County, could have purchased insurance for \$361 per month for a plan for an individual. Insurance on the individual market was affordable for the appellant. See Schedule HC for 2020, Tables 3 and 4, Exhibit 2.

Appellant had no access to health insurance through employment in from June through December. During most of this period, Appellant was either unemployed or was employed part-time, and, therefore, not eligible for coverage. For several weeks, Appellant did have full-time work, but Appellant was furloughed because of the pandemic before coverage became effective. See the testimony of the appellant which I find to be credible, and Exhibit 1 attachment which is a letter from Appellant's employer from August through the beginning of December when Appellant was furloughed because of the pandemic.

Based upon Appellant's adjusted gross income, Appellant was ineligible for affordable coverage through the ConnectorCare program. His annual Federal Adjusted Income was \$60,694, much higher than the income limit for one person (\$37,470). See 956 CMR 12.00 et. seq., Exhibit 2, and Table 2 of Schedule HC 2020.

Since the appellant could have obtained affordable health insurance through the Connector, we need to determine if Appellant had a financial hardship such that the cost of purchasing health insurance would have caused Appellant to experience a serious deprivation of basic necessities or some other financial hardship as defined in 956 CMR 6.08 (a), (b), (d), and or (e), and 6.08(3).

Appellant had the following expenses for basic necessities in 2020: rent-\$680; electricity-\$45; heat-\$80; internet-\$70; telephone-\$145; food, household and personal items-\$820; clothing and laundry-\$105.00; public transportation-\$90. Appellant paid \$900 in child support. Appellant also spent \$6,000 during the year on his children in addition to the child support. See the testimony of Appellant which I find to be credible. These expenses amounted to about \$3,450 a month.

I determine that the cost of purchasing coverage would have caused the appellant to experience a serious deprivation of basic necessities from September through December. See 956 CMR 6.08(1)(e). Though it looks as if Appellant had some disposable income before taxes if we only consider his adjusted gross income, if we consider that Appellant's income varied throughout the year, Appellant did not have disposable income after he paid for his basic expenses, including child support and care.

Appellant's expenses were greater than his monthly income during the months for which he was assessed a penalty. Appellant was unemployed from mid-March until August because of the pandemic. The appellant did collect

unemployment compensation, but the amount he collected each month was significantly less than the amount he would have had if we divided the adjusted gross income by twelve. From August through November, Appellant had a part-time job, again earning less than Appellant's adjusted gross income suggests. When Appellant finally obtained full-time work, in November, he was almost immediately furloughed, again because of the pandemic. Throughout, Appellant's expenses remained the same. See also 956 CMR 6.08(3) which provides that other financial issues raised by the appellant may be considered.

Appellant's penalty is waived because in 2020, Appellant had financial a hardship such that the cost of health insurance was unaffordable for him.

Appellant should note that any waiver granted here is for 2020 only and is based upon the specific facts I have found to be true and should not assume that the same determination will be made should Appellant be assessed a penalty in the future.

PENALTY ASSESSED

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

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

NOTIFICATION OF YOUR RIGHT TO APPEAL TO COURT

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

Cc: Connector Appeals Unit

Hearing Officer

Addendum: If Appellant still does not have health insurance, he may wish to apply through the Connector to determine if he is eligible for coverage. Appellant can call Customer Service at 1-877-623-6765 or apply on-line at mahealthconnector.org.

Massachusetts Health Connector Appeals Unit

FINAL APPEAL DECISION: PA20-156

Appeal Decision Appeal Approved.

Hearing Issue: Appeal of the 2020 Tax Year Penalty

Hearing Date: May 12, 2021

Decision Date: July 5, 2021

AUTHORITY

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

JURISDICTION

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

HEARING RECORD

Appellant appeared at the hearing, which was held by telephone, on May 12, 2021. The hearing record consists of the Appellant's testimony, and the following documents which were admitted into evidence without objection by Appellant as well as an additional document submitted by Appellant:

- Exhibit 1: Notice of Hearing (4-16-21) (2 pages);
- Exhibit 2: Information from Schedule HC TY 2020 (1 page); and
- Exhibit 3: Statement of Grounds for Appeal (3-5-21) (3 pages).

FINDINGS OF FACT

The record shows, and I so find:

1. Appellant, age 36 during 2020, from Bristol County, filed Head of Household on the tax return with a family size of 2. (Exhibit 2).
2. Appellant did have health insurance for January and February of 2020, but did not have health insurance for the remaining months of 2020. Exhibits 2, 3).
3. Appellant's Federal Adjusted Gross Income for 2020 was \$36,503.00 (Exhibit 2).
4. Appellant had health insurance for January and February but the health insurance was terminated due to the Appellant's child's other parent not filling out paperwork. The paperwork was filled out but Appellant did not get the health insurance back. (Appellant's testimony, Exhibit 3).

5. Appellant's expenses for food, shelter, clothing, and other necessities used all of the income. The monthly expenses totaled approximately \$2,838.00 or \$34,056.00 per year. (Appellant testimony).
6. I take administrative notice of the financial information set forth in Tables 1 through 6 in the DOR 2020 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 2020. Table 2 sets forth income at 300% of the Federal poverty level and Tables 5 and 6 set forth tax penalties in effect for 2020.
7. Appellant could not afford health insurance based on the tables in Schedule HC. According to Table 4, the health insurance would cost \$751.00 for family coverage. According to Table 3, Appellant was deemed to afford \$188.00.
8. Private insurance was not affordable for the Appellant in 2020. (Schedule HC for 2020).
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 2020).
10. Appellant claimed that they should be granted a waiver based on the grounds that paying for health insurance would have caused a serious deprivation of food, shelter, clothing and other necessities. (Testimony of Appellant, Exhibit 3).
11. Appellant did not incur significant and unexpected increases in essential expenses as a result of domestic violence; and did not incur such expenses due to the death of a spouse, family member, or partner who shared household expenses; and did not incur expenses due to the sudden responsibility for providing full care for an aging parent or other family member. Appellant did not incur additional expenses as a result of a fire, flood, or other natural or man-made disaster in 2020 (Exhibit 3).
12. Appellant was not homeless, was not thirty days or more behind in rent in 2020, and Appellant did not receive shut-off notices for basic utilities. (Appellant's Testimony, Exhibit 3).

ANALYSIS AND CONCLUSIONS OF LAW

The issue on appeal is whether the tax penalty assessed by the Massachusetts Department of Revenue for 2020 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 February of 2020, but did not have health insurance for the remaining months of 2020. They have been assessed a tax penalty for seven 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 2020. According to Tables 3 and 4 of the HC Schedule for 2020, Appellant, with an adjusted gross income of \$36,503.00 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 \$188.00 per month; according to Table 4, Appellant, who was 36 years old in 2020, from Bristol County, and filed the 2020 Massachusetts taxes as Head of Household with a family size of 2, would have had to pay \$751.00 for coverage per month insurance on the private market. See CMR 6.05 (1)(2), Schedule HC Tables 3 and 4, and Exhibit 2.

With regard to the hardship waiver of the penalty, Appellant claimed that paying for health insurance would have caused a serious deprivation of food, shelter, clothing and other necessities. Appellant's expenses for such 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 2020 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 Number of Months Assessed: 0

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

NOTIFICATION OF YOUR RIGHT TO APPEAL TO COURT

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

Hearing Officer

Cc: Connector Appeals Unit

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: PA20-157

Appeal Decision Appeal Approved.

Hearing Issue: Appeal of the 2020 Tax Year Penalty

Hearing Date: May 12, 2021

Decision Date: July 5, 2021

AUTHORITY

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

JURISDICTION

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

HEARING RECORD

Appellant appeared at the hearing, which was held by telephone, on May 12, 2021. The hearing record consists of the Appellant's testimony, and the following documents which were admitted into evidence without objection by Appellant as well as an additional document submitted by Appellant:

- Exhibit 1: Notice of Hearing (4-16-21) (2 pages);
- Exhibit 2: Information from Schedule HC TY 2020 (1 page);
- Exhibit 3: Statement of Grounds for Appeal (3-8-21) (with letter) (4 pages); and
- Exhibit 4: Final Appeal Decision TY2019 (4-14-20) (5 pages); and
- Exhibit 5: Final Appeal Decision TY2018 (7-2-19) (3 pages).

FINDINGS OF FACT

The record shows, and I so find:

1. Appellant, age 43 during 2020, from Middlesex County, filed Head of Household on the tax return with a family size of 2. (Exhibit 2).
2. Appellant did not have health insurance for 2020. Exhibits 2, 3).
3. Appellant's Federal Adjusted Gross Income for 2020 was \$72,246.00 (Exhibit 2).
4. Appellant had filed for bankruptcy in 2018, and continued to have financial issues during 2019 and 2020. (Appellant's testimony, Exhibit 3).
5. Appellant did not have health insurance available through the employer. (Appellant Testimony).

6. Appellant's expenses for food, shelter, clothing, and other necessities used a significant amount of the income. The monthly expenses totaled approximately \$4,745.00 or \$56,940.00 per year. (Appellant testimony).
7. I take administrative notice of the financial information set forth in Tables 1 through 6 in the DOR 2020 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 2020. Table 2 sets forth income at 300% of the Federal poverty level and Tables 5 and 6 set forth tax penalties in effect for 2020.
8. Appellant could not afford health insurance based on the tables in Schedule HC. According to Table 4, the health insurance would cost \$793.00 for family coverage. According to Table 3, Appellant was deemed to afford \$481.00.
9. Private insurance was not affordable for the Appellant in 2020. (Schedule HC for 2020).
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 2020).
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. (Testimony of Appellant, Exhibit 3).
12. Appellant did not incur significant and unexpected increases in essential expenses as a result of domestic violence; and did not incur such expenses due to the death of a spouse, family member, or partner who shared household expenses; and did not incur expenses due to the sudden responsibility for providing full care for an aging parent or other family member. Appellant did not incur additional expenses as a result of a fire, flood, or other natural or man-made disaster in 2020 (Exhibit 3).
13. Appellant was not homeless, was not thirty days or more behind in rent in 2020, and Appellant did not receive shut-off notices for basic utilities. (Appellant's Testimony, Exhibit 3).

ANALYSIS AND CONCLUSIONS OF LAW

The issue on appeal is whether the tax penalty assessed by the Massachusetts Department of Revenue for 2020 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 2020. 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 2020. According to Tables 3 and 4 of the HC Schedule for 2020, Appellant, with an adjusted gross income of \$72,246.00 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 \$481.00 per month; according to Table 4, Appellant, who was 43 years old in 2020, from Middlesex County, and filed the 2020 Massachusetts taxes as Head of Household with a family size of 2, would have had to pay \$793.00 for coverage per month insurance on the private market. See CMR 6.05 (1)(2), Schedule HC Tables 3 and 4, and Exhibit 2.

With regard to the hardship waiver of the penalty, Appellant claimed that paying for health insurance would have caused a serious deprivation of food, shelter, clothing and other necessities. Appellant's expenses for such 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 2020 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 2020.

NOTIFICATION OF YOUR RIGHT TO APPEAL TO COURT

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

Hearing Officer

Cc: Connector Appeals Unit

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: PA20162

Appeal Decision: The penalty is overturned in full.

Hearing Issue: Appeal of the 2020 Tax Year Penalty

Hearing Date: May 14, 2021

Decision Date: June 30, 2021

AUTHORITY

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

JURISDICTION

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

HEARING RECORD

The appellant appeared at the hearing which was held by telephone on May 14, 2021. The procedures to be followed during the hearing were reviewed with Appellant who was then sworn in. Exhibits were marked and admitted in evidence with no objection from the appellant. Appellant testified. At the end of the hearing, the record was kept open to give the Connector time to submit additional evidence about Appellant's MassHealth enrollment history. The Connector did not have the authority to release such information. The record is now closed.

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

- Exhibit 1: Statement of Grounds for Appeal 2020 signed and dated by Appellant on March 3, 2021 with letter about MassHealth benefits, dated May 19, 2019 and MassHealth card, undated, attached
- Exhibit 1a: Eviction notice to Appellant dated October 26, 2020 for non-payment of rent
- Exhibit 2: Appeal Case Information from Schedule HC 2020
- Exhibit 3: Notice of Hearing sent to Appellant dated April 16, 2021 for May 14, 2021 hearing

FINDINGS OF FACT

The record shows, and I so find:

1. Appellant, who filed a 2020 Massachusetts tax return as a single person with no dependents claimed, was 20 years old in 2020 (Exhibit 2, Testimony of Appellant).
2. Appellant resided in Middlesex County in 2020 (Testimony of Appellant, Exhibit 2).
3. Appellant had a Federal Adjusted Income of \$25,761 in 2020 (Testimony of Appellant, Exhibit 2).
4. Appellant was employed all year at the same part-time job. Appellant was paid by the hour (Testimony of Appellant).
5. Appellant was offered health insurance through employment; Appellant did not take the coverage because she had MassHealth coverage in 2019 and believed she still had the coverage (Testimony of Appellant, Exhibit 1 attachment).

6. According to Appellant's 2020 Massachusetts tax return, Schedule HC, Appellant had no health insurance last year. Appellant has been assessed a penalty for all of the year. Appellant has appealed this assessment, claiming that she was evicted from her apartment during 2020 for non-payment of rent. Appellant also claimed that she had MassHealth coverage all year, but made a mistake on her tax return, not showing the coverage (Testimony of Appellant, Exhibits 1 and 2).

7. I take administrative notice of the financial information set forth in Tables 1 through 6 in the DOR 2020 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 2020. Table 2 sets forth income at 300% of the Federal poverty level and Tables 5 and 6 set forth tax penalties in effect for 2020.

8. According to Table 3 of Schedule HC for 2020, the appellant with no dependents claimed with an adjusted gross income of \$25,761 could afford to pay \$90 per month for health insurance. According to Table 4, Appellant, 20 years old and living in Middlesex County, could have purchased insurance for \$269 per month for a plan for an individual. Insurance on the individual market was unaffordable for the appellant (Schedule HC for 2020 Tables 3 and 4, Exhibit 2).

9. According to Table 2 of Schedule HC for 2020, Appellant, who earned less than \$37,470 per year, would have been eligible for the ConnectorCare program based upon income (Table 2 of Schedule HC-2020, and Exhibit 2).

10. Appellant fell more than thirty days behind in rent payments in 2020 and was evicted in November, 2020. Appellant received a notice of the eviction in October, 2020 (Testimony of Appellant, Exhibit 1a).

ANALYSIS AND CONCLUSIONS OF LAW

The issue on appeal is whether the tax penalty assessed by the Massachusetts Department of Revenue for 2020 should be waived, either in whole or in part.

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

The appellant has been assessed for a penalty for all of 2020. The appellant appealed the assessment claiming that she was evicted after falling behind in her rent payments. Exhibits 1, 2, Testimony of Appellant.

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 2020, the appellant with no dependents claimed with an adjusted gross income of \$25,761 could afford to pay \$90 per month for health insurance. According to Table 4, Appellant, 20 years old and living in Middlesex County, could have purchased insurance for \$269 per month for a plan for an individual. Insurance on the individual market was unaffordable for the appellant. See Schedule HC for 2020, Tables 3 and 4, Exhibit 2.

Appellant had access to health insurance through employment in 2020. Appellant had the same job all year; she was offered health insurance through the job. Appellant did not opt to take the coverage because she believed she had MassHealth coverage. See the testimony of the appellant which I find to be credible.

Appellant may have been eligible for affordable coverage through the ConnectorCare program. Her annual Federal Adjusted Income was \$25,761, less than the income limit for one person (\$37,470). Appellant had access to employer-sponsored insurance, but there is no evidence in the record as to cost or as to whether the coverage met the Commonwealth's minimum creditable coverage standards. If the coverage through employment was affordable under the Affordable Care Act and met the Commonwealth's standards, Appellant would not have been eligible for ConnectorCare coverage. In addition, if Appellant did have MassHealth coverage, she would not have been eligible. See 956 CMR 12.00 et. seq., Exhibit 2, and Table 2 of Schedule HC 2020.

Appellant testified that she had MassHealth in 2020. Appellant did not submit any corroborating evidence for 2020 coverage. If she did have the coverage, her penalty would be waived in its entirety. Appellant certainly had the coverage in 2019, but it is unclear whether the coverage continued into 2020. See Exhibit 1 attachment (a MassHealth card, no date, and a letter to Appellant from MassHealth about benefits, May, 2019).

I need not determine whether Appellant's testimony about MassHealth coverage is creditable or not, however, because Appellant's penalty can be waived in full because of financial hardship as defined in 956 CMR 6.08 (a), (b), (d), and or (e), and 6.08(3). Appellant not only fell more than 30 days behind in her rent payments in 2020, but she was actually evicted because of non-payment. See the testimony of the appellant which I find credible and Exhibit 1a which corroborates the testimony.

Pursuant to 956 CMR 6.08(1)(a), I determine that Appellant suffered financial hardship such that the cost of purchasing health insurance was unaffordable for the appellant. Falling more than 30 days behind in rent and eviction are considered examples of financial hardship.

Appellant's penalty is waived in full.

Appellant should note that any waiver granted here is for 2020 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 2020.

NOTIFICATION OF YOUR RIGHT TO APPEAL TO COURT

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

Cc: Connector Appeals Unit

Hearing Officer

Addendum: If Appellant is without health insurance at this time, she may wish to apply through the Connector for coverage. If her income is about the same, she might be eligible for ConnectorCare coverage. Appellant can call Customer Service at 1-877-623-6765 or apply on-line at mahealthconnector.org.

Massachusetts Health Connector Appeals Unit

FINAL APPEAL DECISION: PA20163

Appeal Decision: The penalty is overturned in full.

Hearing Issue: Appeal of the 2020 Tax Year Penalty

Hearing Date: May 14, 2021

Decision Date: July 9, 2021

AUTHORITY

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

JURISDICTION

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

HEARING RECORD

The appellant appeared at the hearing which was held by telephone on May 14, 2021. 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 2020 signed and dated by Appellant on March 8, 2021

Exhibit 1a: Appellant's 1095-C form for 2020

Exhibit 2: Appeal Case Information from Schedule HC 2020

Exhibit 3: Notice of Hearing sent to Appellant dated April 16, 2021 for May 14, 2021 hearing

FINDINGS OF FACT

The record shows, and I so find:

1. Appellant, who filed a 2020 Massachusetts tax return as a single person with no dependents claimed, was 27 years old in 2020 (Exhibit 2, Testimony of Appellant).
2. Appellant resided in Suffolk County in 2020 (Testimony of Appellant, Exhibit 2).
3. Appellant had a Federal Adjusted Income of \$49,222 in 2020 (Testimony of Appellant, Exhibit 2).
4. Appellant worked for a newspaper all year. Appellant worked 37.5 hours a week for about \$24 an hour. Because of the pandemic, Appellant was furloughed for a week in May, a week in June, and a week in July. He was able to receive unemployment compensation, but he did not get the benefits until the end of August or early September (Testimony of Appellant).
5. Appellant's employer offered health insurance. Appellant would have had to pay \$140 a month for the coverage. When he was first offered the coverage, Appellant did not opt to enroll. He had had coverage at the time under his parents' plan and had the coverage through the end of December, 2019. Later in the year, he asked to enroll, but could not because the open enrollment period had ended. In 2020, he enrolled as soon as the next open

enrollment period started and obtained coverage as of January 1, 2021. As of the date of this hearing, Appellant still had coverage (Testimony of Appellant., Exhibit 1a).

6. Appellant was uninsured all of 2020. He has been assessed a twelve-month penalty. Appellant has appealed the assessment (Testimony of Appellant, Exhibits 1 and 2)

7. I take administrative notice of the financial information set forth in Tables 1 through 6 in the DOR 2020 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 2020. Table 2 sets forth income at 300% of the Federal poverty level and Tables 5 and 6 set forth tax penalties in effect for 2020.

8. According to Table 3 of Schedule HC for 2020, the appellant with no dependents claimed with an adjusted gross income of \$49,222 could afford to pay \$311 per month for health insurance. According to Table 4, Appellant, 27 years old and living in Suffolk County, could have purchased insurance for \$267 per month for a plan for an individual. Insurance on the individual market was affordable for the appellant based upon Appellant's adjusted gross income for the year (Schedule HC for 2020 Tables 3 and 4, Exhibit 2).

9. According to Table 2 of Schedule HC for 2020, Appellant, who earned more than \$37,470 per year, would have been ineligible for the ConnectorCare program based upon income (Table 2 of Schedule HC-2020, and Exhibit 2).

10. Appellant did not incur significant and unexpected increases in essential expenses as a result of domestic violence; the death of a spouse, family member, or partner who shared household expenses; the sudden responsibility for providing full care for an aging parent or other family member, or a natural or human-caused event which caused substantial personal damage in 2020 (Testimony of Appellant).

11. Appellant did not fall more than thirty days behind in rent payments in 2020 (Testimony of Appellant).

12. Appellant did not receive any shut-off notices for basic utilities in 2020 (Testimony of Appellant).

13. Appellant had the following monthly expenses for basic necessities in 2020: rent-\$1,200; electricity-\$75; heat-\$30; internet-\$60; telephone-\$0.00; food, household and personal items-\$750; clothing-\$65; public transportation-\$400 until May when the cost dropped to \$200. Appellant paid \$1,200 a month for his student loans until June or July when payments were stopped because of the pandemic. Appellant had to pay \$2,500 for an urgent care visit during 2020 (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 2020 should be waived, either in whole or in part.

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

155.305(f), an individual is not eligible for an advance premium tax credit if the individual has access to affordable health insurance which meets minimum essential coverage as defined in the Patient Protection and Affordable Care Act.

The appellant has been assessed for a penalty for all of 2020. The appellant appealed the assessment. Exhibits 1, 2. To determine if the penalty should be waived in whole or in part, we must consider whether affordable insurance which met minimum creditable coverage standards was available to the appellant through employment, through the individual market, or through a government-sponsored program during the months Appellant was uninsured. If affordable insurance was available, we must determine if such insurance was, in fact, not affordable to the appellant because Appellant experienced a financial hardship as defined in 956 CMR 6.08.

Based upon Appellant's adjusted gross income, Appellant was ineligible for affordable coverage through the ConnectorCare program. His annual Federal Adjusted Income was \$49,222, much higher than the income limit for one person (\$37,470). See 956 CMR 12.00 et. seq., Exhibit 2, and Table 2 of Schedule HC 2020.

Appellant was offered health insurance through work at the cost of \$140 a month. This was affordable for the appellant. See Table 3 of Schedule HC for 2020. There is no evidence in the record, however, as to whether the coverage offered met the Commonwealth's minimum creditable coverage standards. See the testimony of the appellant which I find to be credible and Exhibit 1a.

According to Table 3 of Schedule HC for 2020, the appellant with no dependents claimed with an adjusted gross income of \$49,222 could afford to pay \$311 per month for health insurance. According to Table 4, Appellant, 27 years old and living in Suffolk County, could have purchased insurance for \$269 per month for a plan for an individual. Insurance on the individual market was affordable for the appellant. See Schedule HC for 2020, Tables 3 and 4, Exhibit 2.

Since the appellant could have obtained affordable health insurance through the Connector, we need to determine if Appellant had a financial hardship such that the cost of purchasing health insurance would have caused Appellant to experience a serious deprivation of basic necessities or some other financial hardship as defined in 956 CMR 6.08 (a), (b), (d), and or (e), and 6.08(3).

Appellant had the following expenses for basic necessities in 2020: rent-\$1,200; electricity-\$75; heat-\$30; internet-\$60; telephone-\$0.00; food, household and personal items-\$750; clothing-\$65; public transportation-\$400 until May when the cost dropped to \$200. Appellant paid \$1,200 a month for his student loans until June or July when payments were stopped because of the pandemic. Appellant had to pay \$2,500 for an urgent care visit during 2020. See the testimony of Appellant which I find to be credible.

Appellant's expenses amounted to about \$3,800 a month, though they varied during the year depending upon whether Appellant was paying off his student loans or not. Appellant's transportation costs also varied. The expenses do not include \$2,500 which the appellant had to pay for urgent medical care. If we simply divide his income by twelve, before taxes, he earned about \$4,000 a month. Appellant essentially had no disposable income after paying for his basic necessities. If he paid \$269 a month for insurance, the cost through the Connector, he would have run a deficit each month. See the testimony of the appellant which I find to be credible.

Based upon the facts summarized above, I determine that the cost of purchasing coverage would have caused the appellant to experience a serious deprivation of basic necessities. See 956 CMR 6.08(1)(e). I also note that the pandemic had an effect upon his earnings. Appellant's income varied because he was furloughed for three weeks, one in May, one in June, and one in July. Appellant had no way of knowing if he would be furloughed again or for longer periods of time. See 956 CMR 6.08(3) which provides that other financial issues raised by the appellant may be considered.

Appellant's penalty is waived because in 2020, Appellant had financial a hardship such that the cost of health insurance was unaffordable for him.

Appellant should note that any waiver granted here is for 2020 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 2020.

NOTIFICATION OF YOUR RIGHT TO APPEAL TO COURT

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

Cc: Connector Appeals Unit

Hearing Officer

Massachusetts Health Connector Appeals Unit

FINAL APPEAL DECISION: PA20167

Appeal Decision: The penalty is overturned in full.

Hearing Issue: Appeal of the 2020 Tax Year Penalty

Hearing Date: May 14, 2021

Decision Date: July 6, 2021

AUTHORITY

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

JURISDICTION

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

HEARING RECORD

The appellant appeared at the hearing which was held by telephone on May 14, 2021. 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 2020 signed by Appellant, undated, with letter in support, paystubs, February-March, 2020 attached
- Exhibit 2: Appeal Case Information from Schedule HC 2020
- Exhibit 3: Notice of Hearing sent to Appellant dated April 16, 2021 for May 14, 2021 hearing
- Exhibit 4: Letter to Appellant from prospective employer offering employment, 2019
- Exhibit 5: Appellant's 2020 FORM MA 1099-HC
- Exhibit 6: Appellant's miscellaneous medical bills

FINDINGS OF FACT

The record shows, and I so find:

1. Appellant, who filed a 2020 Massachusetts tax return as a single person with no dependents claimed, was 26 years old in 2020 (Exhibit 2, Testimony of Appellant).
2. Appellant resided in Norfolk County in 2020 (Testimony of Appellant, Exhibit 2).
3. Appellant had a Federal Adjusted Income of \$48,446 in 2020 (Testimony of Appellant, Exhibit 2).
4. Appellant worked for a start-up company from January to mid-May, 2020. Appellant's gross income was \$1,460 biweekly. Her income after taxes was \$1,134 biweekly. The employer did not offer the appellant health insurance (Testimony of Appellant, Exhibit 1 attachments).
5. Appellant left her job in mid-May because she realized she needed benefits. In March, Appellant needed medical care and ended up owing over \$13,600 for the care she received (Testimony of Appellant).

6. Appellant found a new job, but could not start working for a month. At her new job, Appellant earned \$27 an hour and worked 40 hours a week, more than she had earned at her previous job. Appellant obtained health insurance at the new job and was insured from July through December (Testimony of Appellant).
7. Appellant has been assessed a penalty for January through March, 2020. Appellant has appealed this assessment (Testimony of Appellant, Exhibits 1 and 2).
8. I take administrative notice of the financial information set forth in Tables 1 through 6 in the DOR 2020 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 2020. Table 2 sets forth income at 300% of the Federal poverty level and Tables 5 and 6 set forth tax penalties in effect for 2020.
9. According to Table 3 of Schedule HC for 2020, the appellant with no dependents claimed with an adjusted gross income of \$48,446 could afford to pay \$306 per month for health insurance. According to Table 4, Appellant, 26 years old and living in Norfolk County, could have purchased insurance for \$269 per month for a plan for an individual. Insurance on the individual market was affordable for the appellant (Schedule HC for 2020 Tables 3 and 4, Exhibit 2).
10. According to Table 2 of Schedule HC for 2020, Appellant, who earned more than \$37,470 per year, would have been ineligible for the ConnectorCare program based upon income (Table 2 of Schedule HC-2020, and Exhibit 2).
11. Appellant did not have access to health insurance through employment from January through mid-May. She worked at a start-up; the employer did not provide coverage (Testimony of Appellant, Exhibit 4).
12. Appellant did not incur significant and unexpected increases in essential expenses as a result of domestic violence; the death of a spouse, family member, or partner who shared household expenses; the sudden responsibility for providing full care for an aging parent or other family member, or a natural or human-caused event which caused substantial personal damage in 2020 (Testimony of Appellant).
13. Appellant did not fall more than thirty days behind in rent payments in 2020 (Testimony of Appellant).
14. Appellant did not receive any shut-off notices for basic utilities in 2020 (Testimony of Appellant).
15. Appellant had the following monthly expenses for basic necessities in 2020: rent-\$750; electricity and heat-\$250; internet-\$50; telephone-\$50; food, household supplies and personal items-\$250; insurance-\$60; gas-\$250 clothing-\$45. Appellant paid \$300 for student loans each month. Appellant also spent about \$800 in early 2020 for car repairs. In March, she incurred over \$13,600 in medical bills (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 2020 should be waived, either in whole or in part.

G.L c. 111M, § 2, also called the “individual mandate,” requires every adult resident of Massachusetts to obtain insurance coverage “[s]o long as it is deemed affordable” under the schedule set by the board of directors for the Commonwealth Health Insurance Connector Authority. Residents who do not obtain insurance are subject to

a tax penalty for “each of the months” that the individual did not have health insurance as required by the individual mandate. There is a three-month grace period to allow the taxpayer to obtain health insurance coverage or to make the transition between health insurance policies. See G. L. c. 111M, sec. 2(b) and for Tax Year 2010, Administrative Bulletin 03-10: Guidance Regarding M.G.L. c. 111M and M.G.L. c. 176Q, as implemented by 956 CMR 6.00, which interprets the 63-day gap in coverage to be three months. The Connector’s regulations provide for a waiver of the tax penalty in the case of a financial hardship. See 956 CMR 6.08. Pursuant to 45 CFR 155.305(f), an individual is not eligible for an advance premium tax credit if the individual has access to affordable health insurance which meets minimum essential coverage as defined in the Patient Protection and Affordable Care Act.

Appellant had health insurance which met the Commonwealth’s minimum creditable coverage standards from July through December, 2020. Since Appellant was entitled to a three-month grace period prior to obtaining coverage, the appellant has been assessed a penalty for January through March, 2020. The appellant appealed the assessment. Exhibits 1, 2, Testimony of Appellant.

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.

Appellant had no access to health insurance through employment from January through March. Appellant worked for a start-up which did not offer health insurance benefits to its employees. See the testimony of the appellant which I find to be credible, Exhibit 4.

Appellant was not eligible for ConnectorCare coverage in 2020. Appellant earned more than the income limit for an individual (\$37,740). See 956 CMR 12.00 et. seq., Exhibit 2, and Table 2 of Schedule HC 2020.

According to Table 3 of Schedule HC for 2020, the appellant with no dependents claimed with an adjusted gross income of \$48,446 could afford to pay \$306 per month for health insurance. According to Table 4, Appellant, 26 years old and living in Norfolk County, could have purchased insurance for \$269 per month for a plan for an individual. Insurance on the individual market was affordable for the appellant. See Schedule HC for 2020, Tables 3 and 4, Exhibit 2.

Since affordable health insurance was available to the appellant through the Connector, we need to determine if Appellant had a financial hardship as defined in 956 CMR 6.08 (a), (b), (d), and or (e), and 6.08(3).

Appellant had the following monthly expenses for basic necessities in 2020: rent-\$750; electricity and heat-\$250; internet-\$50; telephone-\$50; food, household supplies and personal items-\$250; insurance-\$60; gas-\$250 clothing-\$45. Appellant paid \$300 for student loans each month. Appellant also spent about \$800 in early 2020 for car repairs. In March, she incurred over \$13,600 in medical bills. See the testimony of the appellant which I find to be credible.

Appellant’s monthly expenses for basic necessities came to slightly over \$2,000 a month. This amount does not include car repairs or the medical bills Appellant incurred in early in 2020. From January through mid-May, Appellant was earning \$2,920 gross each month and \$2,200 take-home. See Exhibit 1 attachment, Exhibit 4, and the testimony of the appellant which I find to be credible. Health insurance through the Connector would have cost at least \$269 a month. See Schedule HC, Table 4. If we consider Appellant’s monthly expenses and the cost of health insurance, Appellant would have run a deficit each month. Taking in to account car repairs and medical bills, the appellant’s financial situation becomes worse.

I determine that pursuant to 956 CMR 6.08(1)(e) and 6.08(3), the appellant experienced a financial hardship during the months of January through March such that the cost of health insurance was unaffordable for the appellant. The added cost would have caused the appellant to suffer a serious deprivation of basic necessities. See 6.08(1)(e). 6.08(3) allows the consideration of other financial issues raised by the appellant on appeal, such as the cost of car repairs and in the incurring of medical bills of over \$13,600.

I also note that Appellant specifically changed jobs in order to obtain health insurance. See the testimony of the appellant.

Appellant's penalty is waived in full.

Appellant should note that any waiver granted here is for 2020 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 2020.

NOTIFICATION OF YOUR RIGHT TO APPEAL TO COURT

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

Cc: Connector Appeals Unit

Hearing Officer

Massachusetts Health Connector Appeals Unit

FINAL APPEAL DECISION: PA20188

Appeal Decision: The penalty is overturned in full.

Hearing Issue: Appeal of the 2020 Tax Year Penalty

Hearing Date: June 8, 2021

Decision Date: July 10, 2021

AUTHORITY

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

JURISDICTION

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

HEARING RECORD

The appellant appeared at the hearing which was held by telephone on June 8, 2021. The procedures to be followed during the hearing were reviewed with Appellant who was then sworn in. Exhibits were marked and admitted in evidence with no objection from the appellant. Appellant testified.

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

Exhibit 1: Statement of Grounds for Appeal signed by Appellant on March 11, 2021 with letter attached

Exhibit 2: Appeal Case Information from Schedule HC 2020

Exhibit 3: Notice of Hearing sent to Appellant dated May 10, 2021 for June 8, 2021 hearing

FINDINGS OF FACT

The record shows, and I so find:

1. Appellant, who filed a 2020 Massachusetts tax return as a single person, with no dependents claimed, was 39 years old in 2020 (Testimony of Appellant).
2. Appellant resided in Berkshire County in 2020 (Testimony of Appellant).
3. Appellant had a Federal Adjusted Income of \$38,444 in 2020 (Testimony of Appellant).
4. Appellant was a lecturer at a university in 2019. At some point, the number of classes Appellant taught decreased. She had had health insurance but when her income dropped, she felt she could no longer afford it. At the same time, her rent was increased and Appellant had to find a new place to live. As a result of these events, Appellant went into debt.
5. In October, 2019, Appellant decided to look for work through a temp agency. Appellant obtained work, earning about \$21 dollars an hour and working 32 hours a week. Early in 2020, Appellant was told that her job would become permanent. Once the pandemic started, Appellant realized that she would not be given the permanent position soon. In October, 2020, Appellant finally was made a permanent employee (Testimony of Appellant, Exhibit 1 attachment).
6. When appellant started working for the temp agency, she knew that after she had worked a certain number of hours, she would be eligible for health insurance. The person who called her to tell her she was finally eligible could not describe the plan. Appellant asked for information about the coverage. Appellant received a written offer of coverage but no information about the plan. The cost would have been \$52 a week. Appellant opted not to

take the coverage because she thought she was about to obtain a permanent position. When it became apparent that Appellant would not be given the permanent job because of the pandemic, Appellant tried to obtain the health insurance offered through the agency. She was no longer eligible for coverage because too much time had gone by since the offer. Appellant called the Connector to find out about obtaining coverage. She was told she was not eligible because of the offer from the temp agency (Testimony of Appellant, Exhibit 1 attachment).

7. Appellant obtained a permanent position in September, 2020. She was offered health insurance which she took. Her coverage was effective October 1, 2020. The coverage met the Commonwealth's minimum creditable coverage standards (Exhibit 1 attachment, Exhibit 2, Testimony of Appellant).

8. Appellant has been assessed a penalty for January through June, 2020. Appellant has appealed this assessment (Testimony of Appellant, Exhibits 1 and 2).

9. I take administrative notice of the financial information set forth in Tables 1 through 6 in the DOR 2020 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 2020. Table 2 sets forth income at 300% of the Federal poverty level and Tables 5 and 6 set forth tax penalties in effect for 2020. I also take administrative notice of relevant sections of the Patient Protection and Affordable Care Act and relevant regulations, and 956CMR12.00 et. seq.

10. According to Table 3 of Schedule HC for 2020, the appellant with no dependents claimed with an adjusted gross income of \$38,444 could afford to pay \$238 per month for health insurance. According to Table 4, Appellant, 39 years old and living in Berkshire County, could have purchased insurance for \$265 per month for a plan for an individual. Insurance on the individual market was unaffordable for the appellant (Schedule HC for 2020 Tables 3 and 4, Exhibit 4, Testimony of Appellant).

11. According to Table 2 of Schedule HC for 2020, Appellant earning more than \$37,470 per year, the income limit for an individual, would have been ineligible for the ConnectorCare program based upon income. (Table 2 of Schedule HC-2020, 956CMR12.00et. seq.).

12. Appellant did not incur significant and unexpected increases in essential expenses as a result of domestic violence; the death of a spouse, family member, or partner who shared household expenses; the sudden responsibility for providing full care for an aging parent or other family member; or fire, flood, or other natural or man-made disaster in 2020 (Testimony of Appellant).

13. Appellant did not receive any shut-off notices for basic utilities during 2020 (Testimony of Appellant).

14. Appellant did not fall more than 30 days behind in rent payments during 2020 (Testimony of Appellant).

15. Appellant had the following monthly expenses for basic necessities in 2020: rent- \$600; electricity-\$55; heat-\$75 from January through April; telephone-\$70; food, household items, personal items-\$225; car payment-\$200; car insurance-\$70; gas-\$120; car repairs-\$140; clothing-\$25. In addition, Appellant paid \$402 each month to pay off the consolidation of credit card debt and \$200 a month to pay off another personal loan (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 2020 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. Pursuant to 26 CFR 1.36B-2(b)(2), married couples must file their Federal tax return jointly in order to be eligible for an advance premium tax credit.

Appellant was uninsured from January through September, 2020. The appellant obtained insurance which met the Commonwealth’s minimum creditable coverage standards as of October 1, 2020. Since Appellant is entitled to a three-month grace period prior to obtaining coverage, the penalty for July through August has been waived. Appellant has been assessed a penalty for January through June. Appellant has appealed this assessment. See Exhibits 1 and 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 2020, the appellant with no dependents claimed with an adjusted gross income of \$38,444 could afford to pay \$238 per month for health insurance. According to Table 4, Appellant, 39 years old and living in Berkshire County, could have purchased insurance for \$265 per month for a plan for an individual. Insurance on the individual market was unaffordable for the appellant See Schedule HC for 2019 Tables 3 and 4, Exhibit 2, and the testimony of Appellant.

When appellant started working for the temp agency, she knew that after she had worked a certain number of hours, she would be eligible for health insurance. The person who called her some time in February to tell her she was finally eligible could not describe the plan. Appellant asked for information about the coverage. Appellant later received a written offer of coverage but no information about the plan. The cost would have been \$52 a week. Appellant opted not to take the coverage because she thought she was about to obtain a permanent position and because she did not know what the plan covered. When it became apparent that Appellant would not be given the permanent job because of the pandemic, Appellant tried to obtain the health insurance offered through the agency. She was no longer eligible for coverage because too much time had gone by since the offer. Despite the appellant’s efforts, Appellant received no information about what the plan covered. There is no evidence in the record as to whether the plan met the Commonwealth’s minimum creditable coverage standards. See the testimony of the appellant which I find to be credible.

Appellant was not eligible for a ConnectorCare plan. The appellant earned more than the income cap for an individual, \$37,740. See Table 2 of Schedule HC for 2020. There is no evidence in the record that the appellant was eligible for any other government-sponsored coverage. See Exhibit 2.

Appellant’s penalty is waived in full because there was no affordable health insurance that met the Commonwealth’s standards available to the appellant. Insurance through the individual market was not affordable; insurance through the Connector Care program was unavailable for the appellant because Appellant earned too

much. No coverage which met the Commonwealth's standards was available to the appellant through employment,. See the facts summarized above. See also Massachusetts General Laws, Chapter 111M, Section 2 and 956 CMR 6.08(3) which provides that financial issues raised by the appellant may be considered. In this matter, Appellant had been unemployed in 2019 for a period, and then had a temporary job. Appellant struggled with debt during 2020. Because of the pandemic, a promised permanent job was not offered to the appellant until late in 2020. Appellant's financial situation was negatively impacted by the pandemic. Appellant should note that any waiver granted here is for 2020 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 2020.

NOTIFICATION OF YOUR RIGHT TO APPEAL TO COURT

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

Cc: Connector Appeals Unit

Hearing Officer

Massachusetts Health Connector Appeals Unit

FINAL APPEAL DECISION: PA20-253

Appeal Decision: Appeal Approved.

Hearing Issue: Appeal of the 2020 Tax Year Penalty

Hearing Date: June 25, 2021

Decision Date: June 30, 2021

AUTHORITY

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

JURISDICTION

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

HEARING RECORD

The Appellant appeared at the hearing, which was held telephonically on June 25, 2021. The procedures to be followed during the hearing were reviewed with the Appellant who was then sworn in. Exhibits were marked and admitted into evidence with no objection from the Appellant. The hearing record consists of the Appellant's testimony and the following documents which were admitted into evidence:

- Exhibit 1: Health Connector Appeals Unit Notice of Hearing dated May 21, 2021.
- Exhibit 2: Appeal Case Information from Schedule HC 2020.
- Exhibit 3: Statement of Grounds for Appeal signed by the Appellant on March 15, 2021, with attachments.

FINDINGS OF FACT

The record shows, and I so find:

1. The Appellant age 34 in August 2020, filed their 2020 Federal Income Tax return as a single person with no dependents claimed (Exhibit 2).
2. The Appellant was a resident of Middlesex County in 2020 (Exhibit 2).
3. According to the information on the Appellant's Schedule HC 2019, the Appellant did not have health insurance that met Massachusetts Minimum Creditable Coverage (MCC) standards for any months of tax year 2020 (Exhibit 2).
4. The Appellant has been assessed a twelve-month tax penalty. The Appellant filed an appeal of the assessment in March 2021 (Exhibits 2, 3).
5. The Appellant's Federal Adjusted Gross Income for 2020 was \$21,087 (Exhibit 2 and Appellant Testimony).

6. The Appellant testified that they attended a university during tax year 2020 and had health insurance through the university. The Appellant said that when they completed the Schedule HC 2020, they did not see a box that had their insurance listed. The Appellant said that the form said not to submit copies of other documents (Appellant Testimony).
7. The Appellant had submitted a copy of their Form 1095-B for 2020 and a BlueCross/Blue Shield insurance card verifying that the Appellant had health insurance that met MCC standards for all months of tax year 2020 (Exhibit 3 and Appellant Testimony).

ANALYSIS AND CONCLUSIONS OF LAW

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

According to the information in the Appellant’s Schedule HC 2020, the Appellant did not have health insurance for any months of tax year 2020. Consequently, the Appellant was assessed a twelve-month penalty. The Appellant filed an appeal of the penalty in March 2021. The Appellant explained that they were insured through a Boston university in tax year 2020 but when completing their Schedule HC did not see a box that had their insurance listed. The Appellant submitted a copy of their form 1095-B 2020 as well as a copy of their Blue Cross/Blue Shield insurance card with their appeal request. These documents verify that the Appellant had health insurance that met MCC standards for all months of tax year 2020. The Appellant should not be subject to a tax penalty for failing to have health insurance in tax year 2020.

The Appellant should note that the waiver of their penalty is based upon the facts that I have determined to be true in 2020. The Appellant should not assume that a similar determination will be made for subsequent tax years should they again be assessed a penalty for failure to have health insurance.

PENALTY ASSESSED

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

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

NOTIFICATION OF YOUR RIGHT TO APPEAL TO COURT

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

Cc: Connector Appeals Unit

Massachusetts Health Connector Appeals Unit

FINAL APPEAL DECISION: PA 19-1047

Appeal Decision Appeal Denied

Hearing Issue: Appeal of the 2019 Tax Year Penalty

Hearing Date: July 15, 2021

Decision Date: July 23, 2021

AUTHORITY

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

JURISDICTION

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

HEARING RECORD

The Appellant appeared at the hearing, which was held by telephone, on July 15, 2021. The procedures to be followed during the hearing were reviewed with the Appellant who was then sworn in. Exhibits were marked and admitted into evidence with no objection from the Appellant.

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

- Exhibit 1: Notice of Hearing dated June 9, 2021
- Exhibit 2: Appeal Case Information from form Schedule HC
- Exhibit 3: Written Statement of Appeal, dated January 29, 2021

FINDINGS OF FACT

The record shows, and I so find:

1. The appellant is sixty-four years old and is single. He lives in Essex County, Massachusetts.
2. Appellant works in the fuel business. The company he worked for did offer health insurance in 2019 but at a rate of \$150.00 per month which he could not afford.
3. Appellant had to help both of his daughters financially in 2019. He also had a high auto repair cost.
4. Appellant does have health insurance in 2021 and had health insurance in 2020.
5. The Appellant's monthly expenses totaled \$2,296.00, consisting of rent \$1,085.00, heat & light \$40.00, internet & cable \$30.00 cell phone \$25.00, car insurance \$110.00, car gas \$100.00, food \$280.00, credit card \$75.00, entertainment \$60.00, toiletries \$40.00, money to daughter one \$134.00, money to daughter two \$167.00, car repair, \$150.00.
6. The Appellant did not submit a Statement of Grounds for Appeal-2019 under the grounds for Appeal but should have under " During 2019, the expense of purchasing health insurance would have caused a serious deprivation of food, shelter, clothing or other necessities." 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 might have been eligible for subsidized health insurance, because Appellant's income of \$31,823.00 was less than \$36,420.00. The monthly premium for health insurance available on the private market in Essex County for a 62 year old single person was \$418.00. The tables reflect that Appellant could afford \$132.59. 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 not submit a Statement of Grounds for Appeal-2019 under the grounds for Appeal but should have under “ During 2019, the expense of purchasing health insurance would have caused a serious deprivation of food, shelter, clothing or other necessities.” 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.*

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 \$31,823.00 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 \$132.59 monthly for health insurance. See 2019 Schedule HC Instructions and Worksheets, *supra* at Table 3. *Id.* at Table 4. The monthly premium for health insurance available on the private market in Essex County for a 62 year old single person was \$418.00.

Appellant had to help both of his daughters financially in 2019. He also had a high auto repair cost.

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

On these facts, I find that Appellant has shown that he was precluded from purchasing affordable health insurance during 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: PA19-1053

Appeal Decision Appeal Approved.

Hearing Issue: Appeal of the 2019 Tax Year Penalty

Hearing Date: May 4, 2021

Decision Date: June 30, 2021

AUTHORITY

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

JURISDICTION

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

HEARING RECORD

Appellant appeared at the hearing, which was held by telephone, on May 4, 2021. The hearing record consists of the Appellant's testimony, and the following documents which were admitted into evidence without objection by Appellant as well as an additional document submitted by Appellant:

- Exhibit 1: Notice of Hearing (4-5-21) (2 pages);
- Exhibit 2: Information from Schedule HC TY 2019 (1 page);
- Exhibit 3: Statement of Grounds for Appeal (8-30-20) (with letter) (6 pages); and
- Exhibit 4: Notice of prior hearing date (12-14-20) (2 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 January through April of 2019, but did not have health insurance for the remaining months of 2019. Exhibits 2, 3).
3. Appellant's Federal Adjusted Gross Income for 2019 was \$27,359.00 (Exhibit 2).
4. Appellant had health insurance through their parent for January through April, but turned 26 in March and therefore no longer qualified. Appellant was not aware of how to find health insurance and that there would be a penalty for not having it. Appellant also did not believe they could afford health insurance. (Appellant's testimony, Exhibit 3).

5. Appellant's expenses for food, shelter, clothing, transportation and student loans used most of the income. The expenses totaled approximately \$2,096.00 per month or \$25,152.00 for the year. Appellant has since obtained health insurance. (Appellant Testimony, Exhibit 3).
6. I take administrative notice of the financial information set forth in Tables 1 through 6 in the DOR 2019 Massachusetts Schedule HC Health Care Instructions and Worksheets. Tables 3 and 4 incorporate affordability and premium schedules adopted by the Board of Directors for the Commonwealth Health Insurance Connector Authority for 2019. Table 2 sets forth income at 300% of the Federal poverty level and Tables 5 and 6 set forth tax penalties in effect for 2019.
7. 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 coverage. According to Table 3, Appellant was deemed to afford \$95.00.
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. (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; and did not incur expenses due to the sudden responsibility for providing full care for an aging parent or other family member. Appellant did not incur additional expenses as a result of a 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 shut-off notices for basic utilities. (Appellant's Testimony, Exhibit 3).

ANALYSIS AND CONCLUSIONS OF LAW

The issue on appeal is whether the tax penalty assessed by the Massachusetts Department of Revenue for 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 through April 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 \$27,359.00 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 \$95.00 per month; according to Table 4, Appellant, who was 26 years old in 2019, from Plymouth County, and filed the 2019 Massachusetts taxes as single, would have had to pay \$257.00 for coverage per month insurance on the private market. See CMR 6.05 (1)(2), Schedule HC Tables 3 and 4, and Exhibit 2.

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

Appellant should note that the waiver of the penalty is based upon the facts that I have determined to be true for the 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: PA19-1084

Appeal Decision Appeal Approved.

Hearing Issue: Appeal of the 2019 Tax Year Penalty

Hearing Date: May 4, 2021

Decision Date: June 30, 2021

AUTHORITY

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

JURISDICTION

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

HEARING RECORD

Appellant appeared at the hearing, which was held by telephone, on May 4, 2021. The hearing record consists of the Appellant's testimony, and the following documents which were admitted into evidence without objection by Appellant as well as an additional document submitted by Appellant:

- Exhibit 1: Notice of Hearing (4-5-21) (2 pages);
- Exhibit 2: Information from Schedule HC TY 2019 (1 page);
- Exhibit 3: Statement of Grounds for Appeal (9-10-20) (with letter and documents) (9 pages); and
- Exhibit 4: Notice of prior hearing date (12-16-20) (2 pages).

FINDINGS OF FACT

The record shows, and I so find:

1. Appellant, age 27 during 2019, from Norfolk County, filed single on the tax return with a family size of 1. (Exhibit 2).
2. Appellant was a part year resident, moving to Massachusetts in June 2019 and then being in Massachusetts through 2019. Appellant did not have health insurance for July through December of 2019, the months Appellant resided in Massachusetts. Exhibits 2, 3).
3. Appellant's Federal Adjusted Gross Income for 2019 was \$63,371.00 (Exhibit 2).
4. Appellant is currently unemployed and does not believe they can pay a penalty due to present hardship. Appellant also did not believe they could afford health insurance at the time they moved to Massachusetts. (Appellant's testimony, Exhibit 3).

5. Appellant's expenses for food, shelter, clothing, transportation and student loans did not use a significant amount of the income. The expenses totaled approximately \$2,115.00 per month (rent, utilities, car insurance, gas and parking, telephone, food, toiletries, student loans and out of pocket medical/dental) or \$25,380.00 for the year. However, currently Appellant's expenses use all of the available income. (Appellant Testimony).
6. Appellant has since obtained health insurance through the Health Connector. (Appellant Testimony, 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. Appellant could afford health insurance based on the tables in Schedule HC. According to Table 4, the health insurance would cost \$257.00 for coverage. According to Table 3, Appellant was deemed to afford \$422.00.
9. Private insurance was 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. (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; and did not incur expenses due to the sudden responsibility for providing full care for an aging parent or other family member. Appellant did not incur additional expenses as a result of a 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 shut-off notices for basic utilities. (Appellant's Testimony, Exhibit 3).

ANALYSIS AND CONCLUSIONS OF LAW

The issue on appeal is whether the tax penalty assessed by the Massachusetts Department of Revenue for 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 the months during 2019 in which Appellant was a resident of Massachusetts (July through December of 201). They have been assessed a tax penalty for four months. Appellant appealed the assessment. See Exhibits 2, and 3. To determine if the penalty should be waived in whole or in part, we must consider whether affordable insurance which met minimum creditable coverage standards was available to the Appellant through employment, through the private market, or through a government-sponsored program. If affordable insurance was available, we must determine if such insurance was, in fact, not affordable to the Appellant because they experienced a financial hardship as defined in 956 CMR 6.08.

Private insurance was affordable for the Appellant during 2019. According to Tables 3 and 4 of the HC Schedule for 2019, Appellant, with an adjusted gross income of \$63,371.00 was deemed to have been able to afford health insurance on the private market. According to Table 3, Appellant could have afforded to pay \$422.00 per month; according to Table 4, Appellant, who was 27 years old in 2019, from Norfolk County, and filed the 2019 Massachusetts taxes as single, would have had to pay \$257.00 for coverage per month insurance on the private market. See CMR 6.05 (1)(2), Schedule HC Tables 3 and 4, and Exhibit 2.

With regard to the hardship waiver of the penalty, Appellant claimed that paying for health insurance would have caused a serious deprivation of food, shelter, clothing and other necessities. Appellant's expenses for those necessities did not use a significant amount of the income. However, Appellant is now unemployed and paying the penalty would cause a hardship. Further, Appellant now has health insurance. For these reasons, the waiver of the penalty is approved.

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

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

NOTIFICATION OF YOUR RIGHT TO APPEAL TO COURT

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

Hearing Officer

Cc: Connector Appeals Unit

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: PA19-1141

Appeal Decision Appeal Approved.

Hearing Issue: Appeal of the 2019 Tax Year Penalty

Hearing Date: May 4, 2021

Decision Date: June 30, 2021

AUTHORITY

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

JURISDICTION

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

HEARING RECORD

Appellant appeared at the hearing, which was held by telephone, on May 4, 2021. The hearing record consists of the Appellant's testimony, and the following documents which were admitted into evidence without objection by Appellant as well as an additional document submitted by Appellant:

- Exhibit 1: Notice of Hearing (4-5-21) (2 pages);
- Exhibit 2: Information from Schedule HC TY 2019 (1 page);
- Exhibit 3: Statement of Grounds for Appeal (with document) (5 pages); and
- Exhibit 4: Notice of prior hearing date (1-19-21) (2 pages).

FINDINGS OF FACT

The record shows, and I so find:

1. Appellant, age 24 during 2019, from Essex County, filed single on the tax return with a family size of 1. (Exhibit 2).
2. Appellant was a student from January through June 2019, and then was working from June through the end of 2019. Exhibits 2, 3).
3. Appellant's Federal Adjusted Gross Income for 2019 was \$22,404.00 (Exhibit 2).
4. Appellant had health insurance through the college they attended from January through June 2019, and then had health insurance through the employer from June 2019 through the end of 2019. (Appellant's testimony, Exhibit 3).

5. Appellant received a 1099-HC for the health insurance through the employer, but did not receive any document for the health insurance through the college. (Appellant Testimony, Exhibit 3).
6. I take administrative notice of the financial information set forth in Tables 1 through 6 in the DOR 2019 Massachusetts Schedule HC Health Care Instructions and Worksheets. Tables 3 and 4 incorporate affordability and premium schedules adopted by the Board of Directors for the Commonwealth Health Insurance Connector Authority for 2019. Table 2 sets forth income at 300% of the Federal poverty level and Tables 5 and 6 set forth tax penalties in effect for 2019.
7. 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 coverage. According to Table 3, Appellant was deemed to afford \$54.00.
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 they believed they had health insurance through the college for January through June of 2019, and did also have the Schedule-HC for the health insurance through the employer for August through December 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; and did not incur expenses due to the sudden responsibility for providing full care for an aging parent or other family member. Appellant did not incur additional expenses as a result of a 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 shut-off notices for basic utilities. (Appellant's Testimony, Exhibit 3).

ANALYSIS AND CONCLUSIONS OF LAW

The issue on appeal is whether the tax penalty assessed by the Massachusetts Department of Revenue for 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 2019 and does not know why there was a penalty. 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 \$22,404.00 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 \$54.00 per month; according to Table 4, Appellant, who was 24 years old in 2019, from Essex County, and filed the 2019 Massachusetts taxes as single, would have had to pay \$257.00 for coverage per month insurance on the private market. See CMR 6.05 (1)(2), Schedule HC Tables 3 and 4, and Exhibit 2.

With regard to the hardship waiver of the penalty, Appellant claimed that they had health insurance for all but two months of 2019. Appellant was enrolled in a state college for January through June 2019 when they graduated, and had health insurance during that time but did not have a document to prove it. However, the Hearing Officer finds the Appellant's testimony credible that the Appellant did have the insurance. Appellant did have documentation proving health insurance through the employer for August through December 2019. Further, Appellant continues to have health insurance. For these reasons, the waiver of the penalty is approved.

Appellant should note that the waiver of the penalty is based upon the facts that I have determined to be true for the 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: PA19-1148

Appeal Decision Appeal Denied

Hearing Issue: Appeal of the 2019 Tax Year Penalty

Hearing Date: July 15, 2021

Decision Date: July 23, 2021

AUTHORITY

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

JURISDICTION

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

HEARING RECORD

The Appellant appeared at the hearing, which was held by telephone, on July 15, 2021. The procedures to be followed during the hearing were reviewed with the Appellant who was then sworn in. Exhibits were marked and admitted into evidence with no objection from the Appellant.

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

- Exhibit 1: Notice of Hearing dated June 9, 2021
- Exhibit 2: Appeal Case Information from form Schedule HC
- Exhibit 3: Written Statement of Appeal Dated November 11, 2020

FINDINGS OF FACT

The record shows, and I so find:

1. The appellant is twenty-four years old and is single. He lives in Barnstable County, Massachusetts.
2. Appellant works in the tree business. The company he worked for did not offer health insurance..
3. Appellant did not have health insurance in 2020 and does not have health insurance in 2021. The Appellant has not had health insurance since he was 18 years old.
4. The Appellant had two care accidents in 2019 that cost him a considerable amount of money
5. The Appellant's monthly expenses totaled \$2,935.00, consisting of rent \$1,000.00, heat & light \$425.00, car insurance \$180.00, car gas \$300.00, food \$300.00, clothes \$200.00, entertainment \$250.00, toiletries \$150.00, car repairs 300.00.
6. TThe Appellant did not submit a Statement of Grounds for Appeal-2019 under the grounds for Appeal but should have under " During 2019, the expense of purchasing health insurance would have caused a serious deprivation of food, shelter, clothing or other necessities." 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 \$18,376.00 was less than \$36,420.00. The monthly premium for health insurance available on the private market in Barnstable County for a 22 year old single person was \$257.00. The tables reflect that Appellant could afford \$44.40. 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 not submit a Statement of Grounds for Appeal-2019 under the grounds for Appeal but should have under “ During 2019, the expense of purchasing health insurance would have caused a serious deprivation of food, shelter, clothing or other necessities.” 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.*

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 \$18,376.00 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 \$44.40 monthly for health insurance. See 2019 Schedule HC Instructions and Worksheets, *supra* at Table 3. *Id.* at Table 4.

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

On these facts, I find that Appellant has shown that he was partially precluded from purchasing affordable health insurance during 2019. 956 Mass. Code Regs. 6.08(3) (2008). Accordingly, I conclude that he is partially exempt from a tax penalty for his non-compliance with the individual mandate.

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

PENALTY ASSESSED

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

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

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