

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: PA19-564

Appeal Decision: The penalty is overturned in part.

Hearing Issue: Appeal of the 2019 Tax Year Penalty

Hearing Date: March 26, 2021

Decision Date: May 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 March 26, 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 2019 Signed by Appellant on 3/28/2020. (4 PP).
- Exhibit 3: Health Connector's Notice of Hearing dated 3/4/2021 (2 PP).

The Record was left open until April 23, 2021 for the Appellant to submit documentation regarding proof of coverage under his Fiancé's employer insurance. The Appellant submitted the following:

- Exhibit 4: Benefits Statement from 1/1/2020 for Open Enrollment period for Spouse's Employer.
- Exhibit 5: Employer Statement to Connector reflecting Appellant was offered health insurance in 2019 but did not enroll until 2020.

FINDINGS OF FACT

The record shows, and I so find:

1. Appellant, who filed a 2019 Massachusetts tax return filed single with a family size of 1, was age 52 in 2019, lived in Suffolk County, and had no dependents. (Exhibit 1, Testimony of Appellant).
2. Appellant's Federal Adjusted Gross Income for 2019 was \$116,570. (Exhibit 1). (Appellant's Testimony).

3. Appellant testified he investigated and attempted to obtain health insurance through the Connector, was eligible to enroll in a plan but his eligibility for enrollment expired because was unable to make the payment on-line and could not get through to the Connector. (Appellant's Testimony).
4. Appellant applied in February 2019 but was not eligible for an open enrollment period.
5. Appellant was employed full time for an employer with a limited number of employees who did not offer employer sponsored insurance ("ESI"). (Appellant Testimony).
6. Appellant testified he was covered under his Fiancé's employer sponsored plan. (Appellant's Testimony).
7. According to Table 3 Appellant could have afforded \$717.33 per month for health insurance in 2019. According to Table 4 Appellant could have purchased insurance for \$406.00 per month.
8. The Appellant would not have been eligible for ConnectorCare coverage in 2019 because the Appellant's income was greater than 300% of the poverty level, which was \$36,420.00. (See Table 2 of Schedule HC 2019, Appellant's Testimony).
9. In addition to the foregoing, I take administrative notice of the 2019 Schedule HC Instructions and Worksheets, available at <http://www.mass.gov.dor/docs/dor/health-care/2019>, and in particular, Tables 1-6 which, as discussed below, include the Affordability Schedule and other financial information used in making 2019 individual mandate tax penalty determinations.

ANALYSIS AND CONCLUSIONS OF LAW

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

The Appellant submitted a statement of grounds for appeal (Ex. 2) with the appeal but did not check a box indicating on what grounds the individual mandate did not apply to him during 2019. The Appellant did not testify 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 2019. 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 2019, \$116,570 was greater than 300% of the federal poverty level, which for 2019 was \$36,420.00 for a single person. According to Table 3 of Schedule HC for 2019, the Appellant had an adjusted gross income of \$116,570 in 2019 and could have afforded \$777.13 per month. According to Table 4, Appellant, age 52 and living in Suffolk County during the time he was being penalized for not having insurance, could have purchased insurance for \$406 per month. Individual coverage was affordable through the individual market for the Appellant in 2019 (Schedule HC for 2019).

The next issue to consider is whether the Appellant had access to affordable employer health insurance in 2019 ("ESI"). The Appellant credibly testified he was not eligible for employer sponsored insurance because his employer did not offer insurance based on the limited number of employees.

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

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

The Appellant, whose annual income was \$116,570, did not adduce any evidence that he experienced a hardship during 2019 as defined by law so as to waive his penalty for the months in question. Given the Appellant's Annual Adjusted Gross Income ("AGI") of \$116,570, the Appellant failed to demonstrate that the cost of purchasing private insurance for \$777.13 per month would have caused the Appellant to

experience a serious deprivation of food, shelter clothing, or other necessities. (Exhibit 2, Appellant Testimony).

Moreover, the Appellant did not adduce evidence or documentation that he was covered under his Fiancé's employer insurance plan in 2019. The Appellant testified he attempted to apply in 2019 but could not get through and was denied.

The Appellant did attempt to enroll but was not eligible for open enrollment when he applied in 2019 and would not have been eligible for ConnectorCare coverage in 2019 because the Appellant's income was greater than 300% of the poverty level.

Notwithstanding the above, the penalty will be reduced to eight (8) months in order to mitigate the harshness of a full twelve (12) month assessment.

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

PENALTY ASSESSED

Number of Months Appealed: 12 Number of Months Assessed: 8

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

NOTIFICATION OF YOUR RIGHT TO APPEAL TO COURT

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

Cc: Connector Appeals Unit

Hearing Officer

ADDENDUM

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

Massachusetts Health Connector Appeals Unit
Final Appeal Decision PA 20-171

Appeal Decision: ___Penalty Upheld XXPenalty 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 dated April 21, 2021.

Exhibit 2: Statement of Grounds for the Appeal dated March 4, 2021.

Exhibit 3: Document showing 'Payment History'.

Exhibit 4: Mortgage Statement dated October 30, 2020.

Exhibit 5: Car loan Statement dated June 4, 2020.

Exhibit 6: Various documents and copy of check.

Exhibit 7: HC Appeals Unit Notice of Hearing dated April 26, 2021.

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 59 years old and resided in Plymouth County in 2020. (Exhibit 1' Appellant Testimony).
2. Appellant filed her 2020 Federal Income Tax return as single with no dependents claimed, reporting an Adjusted Gross Income of \$65,896. (Exhibit 1).

3. Appellant was laid off from her job in January of 2020. (Appellant Testimony).
4. Appellant had minimum creditable coverage (“MCI”) employer sponsored health insurance (“ESI”) in January of 2020, and was uninsured for the remainder of 2020. (Exhibit 1; Appellant Testimony).
5. Appellant was paying for ESI for a family plan for she and her partner at a cost of \$500 per month. (Appellant Testimony).
6. Appellant’s partner is receiving MassHealth. (Appellant Testimony).
7. Appellant received regular and pandemic unemployment benefits of \$700 per week in 2020. (Exhibit 3; Appellant Testimony).

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 her appeal, Appellant submitted a statement of grounds claiming that the individual mandate did not apply to her because the expense of purchasing health insurance would have caused a serious deprivation of food, shelter, clothing or other necessities. (Exhibit 2).

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 in January, she is entitled to a three-month grace period, and Appellant is appealing an eight-month tax penalty for 2020 (the months she was uninsured less the three-month grace period.) (Exhibit 1).

The issue before me is whether the eight-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 \$65,896 made her 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. While Appellant testified that while she was paying for a family plan with her employer to include coverage for her partner, she later testified that her partner, with whom she lives, received MassHealth. (Appellant Testimony). Based on this testimony, I find that Appellant needed to purchase solely an individual plan in 2020, rather than a family plan.

Based on Schedule HC for 2020 Table 4, it would have cost Appellant, age 59 and living in Plymouth County, \$432 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 \$65,896, could afford to pay \$439 monthly for an individual plan. See 2020 Schedule HC Instructions and Worksheets, *supra*, at Table 3. While a strict adherence to these Tables show Appellant could afford private insurance, albeit by a mere seven dollars, Appellant credibly testified that the loss of her job in January resulted in a weekly reduction in wages of approximately \$200. (Appellant Testimony). Given the reduction in her wages, at only seven dollars below her affordability threshold, I find that private insurance was not affordable for Appellant. See 2020 Schedule HC Instructions and Worksheets, Tables 3 and 4. Based on her January 2020 lay-off, I further find that Appellant did not have access to ESI for 2020. Appellant credibly testified to the difficulty she is having trying to obtain another job given the pandemic, and that as of the date of the hearing, she is no longer receiving unemployment benefits, remains unemployed and is living off her savings. (Appellant Testimony). Appellant was strongly encouraged to report any changes in income to the Health Connector.

Because Appellant did not have access to either affordable private insurance or ESI, and was ineligible for subsidized health insurance through the Connector, the individual mandate penalty does not apply to Appellant.

Accordingly, Appellant's appeal is **GRANTED** and her eight-month 2020 Tax Penalty is **OVERTURNED**.

PENALTY ASSESSED

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

The Connector has notified the Department of Revenue that, pursuant to its decision, you should 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 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

FINAL APPEAL DECISION: PA20-177

Appeal Decision: The penalty is overturned in full.

Hearing Issue: Appeal of the 2020 Tax Year Penalty

Hearing Date: May 24, 2021

Decision Date: May 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 May 24, 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 3/4/2021. (2 PP).
- Exhibit 2(a) Documentation in Support of Appeal submitted by Appellant (5PP).
- Exhibit 2(b) Form 1099C Support of Appeal submitted by Appellant (1P).
- Exhibit 3: Health Connector's Notice of Hearing dated 5/3/2021 (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 40 in 2020, lived in Suffolk County, and had zero (0) dependents. (Exhibit 1).
2. Appellant's Federal Adjusted Gross Income for 2020 was \$34,421. (Exhibit 1).
3. Appellant had employer health insurance from January until February 2020 when he lost his job. (Exhibit 1, 2(a), Appellant's Testimony).
4. Appellant could not afford COBRA. (Exhibits 1, 2(a), Appellant Testimony).

5. Appellant did not investigate applying for the Connector and was overwhelmed with Covid and staying safe. (Appellant Testimony).
6. Appellant received unemployment insurance beginning May 2020 in the amount of approximately \$500 a week (Appellant Testimony).
7. Appellant has been assessed a tax penalty for (5) months in 2020. The Appellant has appealed this assessment (Exhibits 1, 2).
8. Appellant had the following average monthly living expenses in 2020: Rent: \$750, Utilities: \$40, Cell Phone \$35, Car Insurance \$77, Food: \$100, Dental Out of Pocket annual \$1,200: \$100 mo., totaling: \$1,102. (Appellant's Testimony).
9. According to Table 3 Appellant could have afforded \$143.42 per month for health insurance in 2020. According to Table 4 Appellant could have purchased insurance for \$316.00 per month.
10. 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).
11. 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 five (5) 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: that during 2020 he purchased health insurance that didn't meet minimum credible coverage. However, the Appellant testified he had health insurance during the time he was employed. 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 May 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, \$34,421.00 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 \$34,421 in 2020 and could have afforded \$143.42 per month. According to Table 4, Appellant, age 40 and living in Suffolk County during the time he was being penalized for not having insurance, could have purchased insurance for \$316.00 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 he was not employed during the months for which he is being penalized 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: Rent: \$750, Utilities: \$40, Cell Phone \$35, Car Insurance \$77, Food: \$100, Dental Out of Pocket annual \$1,200: \$100 mo., totaling: \$1,102. (Appellant's Testimony).

The evidence presented by the Appellant in this case is sufficient to establish that he experienced a financial hardship as defined by law so as to waive his penalty for the months in question. Given the Appellant was not employed during the months he was being penalized, he did not have any employment income to pay his monthly expenses of \$1,100 and was unable to afford the cost of purchasing private

insurance for \$ 143.42 per month. I find this would have caused the Appellant to experience a serious deprivation of food, shelter clothing, or other necessities. (Exhibit 2(a), Appellant Testimony).

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: 5 Number of Months Assessed: 0

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

FINAL APPEAL DECISION: PA20-178

Appeal Decision: The penalty is overturned in part.
Hearing Issue: Appeal of the 2020 Tax Year Penalty
Hearing Date: May 24, 2021
Decision Date: May 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 May 24, 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 3/5/2021. (2 PP).
- Exhibit 2(a) Documentation in Support of Appeal submitted by Appellant (15PP).
- Exhibit 3: Health Connector's Notice of Hearing dated 5/3/2021 (2 PP).

FINDINGS OF FACT

The record shows, and I so find:

1. Appellant, who filed a 2020 Massachusetts tax return filed married with a family size of 2, was age 26 in 2020, lived in Plymouth County, and had no dependents. (Exhibit 1, Testimony of Appellant).
2. Appellant's Federal Adjusted Gross Income for 2020 was \$58,169. (Exhibit 1). (Appellant's Testimony).
3. Appellant did not have health insurance in 2020. (Exhibit 1). (Appellant's Testimony).
4. Appellant's Spouse was enrolled in MassHealth in 2020. (Appellant Testimony).
5. Appellant worked in the restaurant industry and became unemployed as a result of Covid.

6. Appellant was employed part time and was not eligible for employer sponsored insurance (“ESI”). (Appellant Testimony).
7. Appellant testified that she could not work because of fear of Covid where she was entrusted with caring for her Spouse’s ill parents who they resided with.
8. Appellant testified she investigated obtaining ConnectorCare but was concerned about her immigration status. (Appellant Testimony, Exhibit 2(a)).
9. Appellant was able to collect Unemployment insurance in the amount of \$600 a week. (Appellant Testimony).
10. Appellant has been assessed a tax penalty for twelve (12) months in 2020. The Appellant has appealed this assessment (Exhibits 1, 2).
11. Appellant testified that her and her spouse’s unemployment income consisted of \$1,200 per week. (Appellant Testimony).
12. Appellant had the following average monthly living expenses in 2020: Cable \$300/mo., Car Payment \$230, Car Insurance \$250/mo., Cell Phone \$90, Loan for Spouse’s Medical Expense \$625, Medical Out of Pockets \$70, Food \$200, totaling: \$1,765. (Appellant’s Testimony, Exhibit 2(a)).
13. Appellant also had \$640 in out of pocket for Covid Tests. (Appellant’s Testimony).
14. According to Table 3 Appellant could have afforded \$361.13 per month for health insurance in 2020. According to Table 4 Appellant could have purchased insurance and individual plan for \$269.00 per month.
15. The Appellant would not have been eligible for ConnectorCare coverage in 2020 because the Appellant’s income was greater than 300% of the poverty level, which was \$50,370.00 for a family of two (2). (See Table 2 of Schedule HC 2020, Appellant’s Testimony).
16. 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.
17. Appellant was able to obtain ESI in 2021. (Appellant’s Testimony).

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 her during 2020 because she incurred a significant, unexpected increase in essential expenses resulting directly from providing full care for an aging individuals. The Appellant also adduced testimony that 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 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 the Appellant and her spouse’s income for 2020, \$58,169.00, was greater than 300% of the federal poverty level, which for 2020 was \$50,370.00 for a family size of two (2). According to Table 3 of Schedule HC for 2020, the Appellant and her spouse had an adjusted gross income of \$58,169 in 2020 and could have afforded \$361.13 per month. According to Table 4, Appellant, age 26 and living in Plymouth County during the time she was being penalized for not having insurance, could have purchased insurance for \$269 per month. Individual coverage was 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 (“ESI”). The Appellant credibly testified she was not eligible for employer sponsored insurance because she did not work enough hours.

Where the Appellant had access to full rate insurance on the market, we need to determine if the Appellant experienced a financial hardship such the coverage would have been unaffordable for her. See 956 CMR 6.08. et. seq. The Appellant may not be subject to a penalty for failing to get health insurance for the months in question if she can show that she experienced a hardship during 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 she experienced financial

circumstances such that the expense of purchasing health insurance would have caused her to experience a serious deprivation of food, shelter, clothing or other necessities. See 956 CMR 6.08.

The Appellant had the following average monthly living expenses in 2020: Cable \$300/mo., Car Payment \$230, Car Insurance \$250/mo., Cell Phone \$90, Loan for Spouses Medical Expense \$625/mo., Medical Out of Pockets \$70/mo., Food \$200, totaling: \$1,765. (Appellant's Testimony, Exhibit 2(a)).

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. Given the Appellant and Spouse's Annual Adjusted Gross Income ("AGI") of \$58,169, the Appellants' receipt of Unemployment income of approximately \$1,200 a week, and the Appellant's monthly expenses of \$1,765, the Appellant failed to demonstrate that the cost of purchasing private insurance for \$361.13 per month would have caused the Appellant to experience a serious deprivation of food, shelter clothing, or other necessities. (Exhibit 2, Appellant Testimony).

The mandate was not lost on the Appellant as he obtained ESI as soon as she regained employment. (Exhibit 1, Appellant Testimony). Notwithstanding the above, the penalty will be reduced to four (4) months in order to mitigate the harshness of a full twelve (12) month assessment.

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: 4

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, she is advised to investigate her eligibility for subsidized health insurance through the Health Connector at www.mahealthconnector.org or by contacting customer service at 1-877-623-6765.

FINAL APPEAL DECISION: PA20-180

Appeal Decision: The penalty is overturned in part.
Hearing Issue: Appeal of the 2020 Tax Year Penalty
Hearing Date: May 24, 2021
Decision Date: May 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 Spouse appeared at the hearing, which was held by telephone on May 24, 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 2/27/2021. (2 PP).
- Exhibit 2(a) Correspondence and Documentation in Support of Appeal submitted by Appellant (1PP).
- Exhibit 3: Health Connector's Notice of Hearing dated 5/3/2021 (2 PP).

FINDINGS OF FACT

The record shows, and I so find:

1. Appellant, who filed a 2020 Massachusetts tax return filed married with a family size of 2, was age 23 in 2020, lived in Suffolk County, and had no dependents. (Exhibit 1, Testimony of Appellant).
2. Appellant's Federal Adjusted Gross Income for 2020 was \$62,976. (Exhibit 1). (Appellant's Testimony).
3. Appellant did not have health insurance from May through September in 2020. (Exhibit 1). (Appellant's Testimony).
4. Appellant's Spouse was enrolled in MassHealth in 2020. (Appellant Testimony).

5. Appellant was laid off and became unemployed sometime in 2020. (Appellant Testimony).
6. Appellant became employed in a part time position later in the year and applied for employer sponsored insurance (“ESI”), but was not eligible until 2021 and is now enrolled (Appellant Testimony).
7. Appellant and Appellant’s Spouse were each able to collect Unemployment insurance in the amount of \$10,000 annually. (Appellant Testimony).
8. Appellant has been assessed a tax penalty for five (5) months in 2020. The Appellant has appealed this assessment (Exhibits 1, 2).
9. Appellant had the following average monthly living expenses in 2020: Rent: \$1,000, Utilities: \$200, Car Insurance \$150/mo., Cell Phone \$40, Credit Cards: \$100, Food \$200, totaling: \$1,690. (Appellant’s Testimony, Exhibit 2).
10. According to Table 3 Appellant could have afforded \$398.84 per month for health insurance in 2020. According to Table 4 Appellant could have purchased insurance and individual plan for \$269.00 per month.
11. The Appellant would not have been eligible for ConnectorCare coverage in 2020 because the Appellant’s income was greater than 300% of the poverty level, which was \$62,976.00. (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.
13. Appellant was able to obtain ESI in 2021. (Appellant’s Testimony).

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 five (5) 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 her during 2020 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 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 her income for 2020, \$62,976 was greater than 300% of the federal poverty level, which for 2020 was \$50,370.00 for a family size of two (2). According to Table 3 of Schedule HC for 2020, the Appellant had an adjusted gross income of \$62,976 in 2020 and could have afforded \$398.84 per month. According to Table 4, Appellant, age 23 and living in Suffolk County during the time she was being penalized for not having insurance, could have purchased insurance for \$269 per month. Individual coverage was 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 ("ESI"). The Appellant credibly testified she was not eligible for employer sponsored insurance because she worked part time and was not eligible for enrollment until 2021.

Where the Appellant had access to full rate insurance on the market, we need to determine if the Appellant experienced a financial hardship such the coverage would have been unaffordable for her. See 956 CMR 6.08. et. seq. The Appellant may not be subject to a penalty for failing to get health insurance for the months in question if she can show that she experienced a hardship during 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 she experienced financial circumstances such that the expense of purchasing health insurance would have caused her to experience a serious deprivation of food, shelter, clothing or other necessities. See 956 CMR 6.08.

The Appellant had the following average monthly living expenses in 2020: Rent: \$1,000, Utilities: \$200, Car Insurance \$150/mo., Cell Phone \$40, Credit Cards: \$100, Food \$200, totaling: \$1,690. (Appellant's Testimony, Exhibit 2).

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. Given the Appellant and Spouse's Annual Adjusted Gross Income ("AGI") of \$62,976, the Appellants' receipt of Unemployment income of approximately \$10,000 each in 2020, and the Appellant's monthly expenses of

\$1,690, the Appellant failed to demonstrate that the cost of purchasing private insurance for \$398.94 per month would have caused the Appellant to experience a serious deprivation of food, shelter clothing, or other necessities. (Exhibit 2, Appellant Testimony).

The mandate was not lost on the Appellant as he obtained ESI as soon as she regained employment. (Exhibit 1, Appellant Testimony). Notwithstanding the above, the penalty will be reduced to two (2) months in order to mitigate the harshness of a full five (5) month assessment.

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: 5 Number of Months Assessed: 2

The Connector has notified the Department of Revenue that pursuant to its decision, you should be assessed a penalty for Tax Year 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, she is advised to investigate her eligibility for subsidized health insurance through the Health Connector at www.mahealthconnector.org or by contacting customer service at 1-877-623-6765.

Massachusetts Health Connector Appeals Unit

FINAL APPEAL DECISION: PA20-123

Appeal Decision: Appeal Approved

Hearing Issue: Appeal of the 2020 Tax Year Penalty

Hearing Date: May 20, 2021

Decision Date: June 12, 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 28, 2021 (2 pages)

Exhibit 2 Appeal Case Info. fr. Sch. HC 2020 (1 page)

Exhibit 3 Statement of Grounds for Appeal w/ letter (4 pages)

FINDINGS OF FACT

The record shows, and I so find:

1. The Appellant turned 28 years old in February 2020. The Appellant filed their Federal Income Tax Return as a single individual, with no dependents claimed. (Exhibit 2).

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

2. The Appellant lived in Worcester County, MA in 2020. (Exhibit 2 and Appellant's Testimony).
3. The Appellant's Federal Adjusted Gross Income (AGI) for 2020 was \$31,196.00. (Exhibit 2).
4. The Appellant did not have health insurance that met Minimum Creditable Coverage (MCC) during five (5) months of tax year 2020 according to Appeal Case Information from Schedule HC for 2020. (Exhibit 1).
5. The Appellant has been assessed a two (2)-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 2019, the Appellant filing the Federal tax return as a single individual, with no dependents claimed, with an annual adjusted gross income of \$31,196.00, could afford to pay \$109.19 per month for government-sponsored health insurance. In accordance with Table 4, the Appellant, age 28, living in Worcester County, could have purchased private market health insurance for \$269.00 per month. (Table 4, Schedule HC for 2020). Thus, private insurance was not affordable for the Appellant in 2019.
8. The Appellant had employer-sponsored health insurance until they left their job in July 2020 because of the pandemic. The Appellant was unemployed and did not have employer-sponsored insurance from August through December 2020. (Appellant's Testimony).
9. The Appellant was income-eligible for ConnectorCare coverage in 2020 because their adjusted gross income of \$31,196.00 was less than 300% of the Federal poverty level, which was \$37,470.00 in 2020 (Schedule HC, Table 2).
10. After leaving their job in July 2020, Appellant did not have a source of income and could not afford to buy private market health insurance. At the time, they were unfamiliar with the Health Connector marketplace and did not know enough to explore insurance options there. (Exhibit 3 and Appellant's Testimony).
11. The Appellant moved home in July 2020 to live with family in order to reduce living expenses, save money and look for a job. (Appellant's Testimony)

12. The Appellant had monthly living expenses of \$1,107.00 from July through the end of December 2020. (Appellant's Testimony). The Appellant had no wage income during this time period.
13. The Appellant continued to search for employment and found a new job in February 2021. However, because the job is part-time, they are not offered health insurance by their employer. They are in the process of enrolling in health insurance through the Health Connector.² (Exhibit 3 and Appellant's Testimony).

ANALYSIS AND CONCLUSIONS OF LAW

G.L. c. 111M, § 2, also called the "individual mandate", requires every adult resident of Massachusetts to obtain insurance coverage "[s]o long as it is deemed affordable" under the schedule set by the board of directors for the Commonwealth Health Insurance Connector Authority. Residents who do not obtain insurance are subject to a tax penalty for each of the months that the individual did not have health insurance as required by the individual mandate. There is a three-month grace period to allow the taxpayer to obtain health insurance coverage or to make the transition between health insurance policies. See M.G.L. c. 111M, sec. 2(b) and for Tax Year 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 explained that they incorrectly stated that they were eligible for insurance through their employer, which was not true after they left their job because of the pandemic in July 2020. From August through December 2020, the Appellant did not have a source of income to pay for health insurance. (Appellant's Testimony and Exhibit 3).

To determine if the two (2)-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 2019, the Appellant filing the Federal tax return as a single individual, with no dependents claimed, with an annual adjusted gross income of \$31,196.00, could afford to pay \$109.19 per month for government-sponsored health insurance. In accordance with Table 4, the Appellant, age 28, living in Worcester County, could have

² The Appellant was informed that Open Enrollment period for 2021 is extended through July 23, 2021 and was encouraged to complete the enrollment process as quickly as possible.

purchased private market health insurance for \$269.00 per month. (Table 4, Schedule HC for 2020). Thus, private insurance was not affordable for the Appellant in 2019.

The Appellant had employer-sponsored health insurance until they left their job in July 2020 because of the pandemic. From August 2020 until December 2020, the Appellant was unemployed and did not have employer-sponsored insurance. (Appellant's Testimony).

The Appellant was income-eligible for ConnectorCare coverage in 2020 because their adjusted gross income of \$31,196.00 was less than 300% of the Federal poverty level, which was \$37,470.00 in 2020 (Schedule HC, Table 2).

The Appellant had employer-sponsored health insurance through July 2020, until they had to leave their job because of the pandemic. From August through December 2020, the Appellant was unemployed and was forced to move home to live with family in order to reduce expenses and save money. The Appellant was unfamiliar with the Health Connector and did not understand enough to contact the Connector in order to explore possible health insurance options. The Appellant continued to search for employment and found a new job in February 2021. However, because the job is part-time, they are not offered health insurance by their employer. They are in the process of enrolling in health insurance through the Health Connector. (Exhibit 3 and Appellant's Testimony).

Based on all the credible evidence contained in this administrative record and the totality of the circumstances, I conclude that the Appellant has demonstrated a hardship under 956 CMR 6.08 (3) for tax year 2020. Accordingly, payment for the two (2)-month penalty assessment is waived.

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: 2 Number of Months Assessed: 0

If the number of months assessed is zero (0) because your penalty has been overturned, the Connector has notified the Department of Revenue that you should NOT be assessed a penalty for Tax Year 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: PA20-127

Appeal Decision: Appeal Approved

Hearing Issue: Appeal of the 2020 Tax Year Penalty

Hearing Date: May 20, 2021

Decision Date: June 15, 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	(3 pages)

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 31 years old in December 2020. The Appellant filed their Federal Income Tax Return as a single individual, with no dependents claimed. (Exhibit 2).
2. The Appellant lived in Bristol County, MA in 2020. (Exhibit 2 and Appellant's Testimony).
3. The Appellant's Federal Adjusted Gross Income (AGI) for 2020 was \$27,323.00. (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 2019, the Appellant filing the Federal tax return as a single individual, with no dependents claimed, with an annual adjusted gross income of \$27,323.00, could afford to pay \$195.63 per month for government-sponsored health insurance. In accordance with Table 4, the Appellant, age 31, living in Bristol County, could have purchased private market health insurance for \$288.00 per month. (Table 4, Schedule HC for 2020). Thus, private insurance was not affordable for the Appellant in 2019.
8. The Appellant's employer during 2020 did not offer health insurance. (Appellant's Testimony).
9. The Appellant was income-eligible for ConnectorCare coverage in 2020 because their adjusted gross income of \$27,323.00 was less than 300% of the Federal poverty level, which was \$37,470.00 in 2020 (Schedule HC, Table 2).
10. The Appellant was employed as a mechanic at a tire company. Because of an exposure to someone with Covid-19 in the house in which Appellant lived, they had to quarantine for a period of two weeks. (Appellant's Testimony, which I find credible).

11. As a result, Appellant lost their job and could not afford to pay rent. Consequently, Appellant received a notice about being in arrears on rent payments for more than thirty days. (Appellant's Testimony and Exhibit 3).
12. The Appellant next was employed for a short period of time as a plumber, without being offered health insurance. Appellant then contracted Covid-19 themselves and had to be absent from work. Again, they lost their job and received two more notices about being more than thirty (30) days in arrears on rent payments. (Appellant's Testimony, which I find credible).
13. Appellant had monthly living expenses of \$1,775.00 during 2020.
14. The Appellant secured a new job as a mechanic in March 2021. They are in the process of applying for health insurance through the Health Connector.² (Appellant's Testimony).

ANALYSIS AND CONCLUSIONS OF LAW

G.L. c. 111M, § 2, also called the "individual mandate", requires every adult resident of Massachusetts to obtain insurance coverage "[s]o long as it is deemed affordable" under the schedule set by the board of directors for the Commonwealth Health Insurance Connector Authority. Residents who do not obtain insurance are subject to a tax penalty for each of the months that the individual did not have health insurance as required by the individual mandate. There is a three-month grace period to allow the taxpayer to obtain health insurance coverage or to make the transition between health insurance policies. See M.G.L. c. 111M, sec. 2(b) and for Tax Year 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 they had been more than 30 days in arrears in rent payments during 2020. (Appellant's Testimony and Exhibit 3).

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

² The Appellant was informed that Open Enrollment period for 2021 is extended through July 23, 2021 and was encouraged to complete the enrollment process as quickly as possible.

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 2019, the Appellant filing the Federal tax return as a single individual, with no dependents claimed, with an annual adjusted gross income of \$27,323.00, could afford to pay \$95.63 per month for government-sponsored health insurance. In accordance with Table 4, the Appellant, age 28, living in Bristol County, could have purchased private market health insurance for \$288.00 per month. (Table 4, Schedule HC for 2020). Thus, private insurance was not affordable for the Appellant in 2019.

The Appellant's employer did not offer health insurance. (Appellant's Testimony).

The Appellant was income-eligible for ConnectorCare coverage in 2020 because their adjusted gross income of \$27,323.00 was less than 300% of the Federal poverty level, which was \$37,470.00 in 2020 (Schedule HC, Table 2).

The Appellant was employed as a mechanic at a tire company. Because of an exposure to someone with Covid-19 in the house in which Appellant lived, they had to quarantine for a period of two weeks. (Appellant's Testimony, which I find credible). As a result, Appellant lost their job and could not afford to pay rent. Consequently, Appellant received a notice about being in arrears on rent payments for more than thirty days. (Appellant's Testimony and Exhibit 3).

The Appellant next was employed for a short period of time as a plumber, without being offered health insurance. Appellant then contracted Covid-19 themselves and had to be absent from work. Again, they lost their job and received two more notices about being more than thirty (30) days in arrears on rent payments. (Appellant's Testimony, which I find credible).

Appellant had monthly living expenses of \$1,775.00 during 2020.

The Appellant secured a new job as a mechanic in March 2021. They are in the process of applying for health insurance through the Health Connector. (Appellant's Testimony).

Based on all the credible evidence contained in this administrative record and the totality of the circumstances, I conclude that the Appellant has demonstrated a hardship under 956 CMR 6.08 (1). Accordingly, payment for the twelve (12)-month penalty assessment is waived.

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

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: PA20-126

Appeal Decision: Appeal Approved

Hearing Issue: Appeal of the 2020 Tax Year Penalty

Hearing Date: May 20, 2021

Decision Date: June 21, 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	(5 pages)

FINDINGS OF FACT

The record shows, and I so find:

1. The Appellant turned 42 years old in October 2020. The Appellant filed their Federal Income Tax Return as a single individual, with one dependent claimed. (Exhibit 2).

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

2. The Appellant lived in Essex County, MA in 2020. (Exhibit 2 and Appellant's Testimony).
3. The Appellant's Federal Adjusted Gross Income (AGI) for 2020 was \$58,665.00. (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 one dependent claimed, with an annual adjusted gross income of \$58,665.00, could afford to pay \$391.00 per month for government-sponsored health insurance. In accordance with Table 4, the Appellant, age 42, living in Essex County, could have purchased private market health insurance for \$793.00 per month. (Table 4, Schedule HC for 2020). Thus, private insurance was not affordable for the Appellant in 2020.
8. The Appellant's employer during 2020 did not offer health insurance. (Appellant's Testimony).
9. The Appellant was not income-eligible for ConnectorCare coverage in 2020 because their adjusted gross income of \$58,665.00 was greater than 300% of the Federal poverty level, which was \$50,730.00 in 2020 (Schedule HC, Table 2).
10. The Appellant was employed as a driver for a company that contracts with FedEx Ground to make deliveries. (Appellant's Testimony).
11. The Appellant suffers from Lyme disease. (Appellant's Testimony).
12. The Appellant is divorced and has three children. During 2020 they claimed one child as a dependent. The Appellant's three children live with them fifty (50%) percent of the time. (Appellant's Testimony, which I credit).

13. The Appellant's pre-tax monthly expenses of \$4,294.00 during 2020 included: Rent - \$1550.00, Electricity - \$45.00, Car insurance - \$70.00, Motorcycle insurance - \$30.00, Car payments - \$450.00, Motorcycle payments - \$300.00, Gas - \$120.00, Telephone - \$125.00, Cable/internet - \$170.00, Credit card debt - \$70.00, Food - \$400.00 (including for children), and Child support - \$964.00.

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 the expense of purchasing health insurance would have created a serious deprivation of food shelter and other necessities for his three children and that he incurred a significant increase in essential expenses based on his divorce and shared custody expenses for his three children. (Appellant's Testimony and Exhibit 3).

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 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.

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 \$58,665.00, could afford to pay \$391.00 per month for government-sponsored health insurance. In accordance with Table 4, the Appellant, age 42, living in Essex County, could have purchased private market health insurance for \$793.00 per month. (Table 4, Schedule HC for 2020). Thus, private insurance was not affordable for the Appellant in 2020.

The Appellant's employer during 2020 did not offer health insurance. (Appellant's Testimony).

The Appellant was not income-eligible for ConnectorCare coverage in 2020 because their adjusted gross income of \$58,665.00 was greater than 300% of the Federal poverty level, which was \$50,730.00 in 2020 (Schedule HC, Table 2).

The Appellant had no access to affordable insurance coverage during 2020. No available coverage was available to them through employment, the non-group market and through ConnectorCare. There is no evidence in the record that the Appellant had access to any other government-sponsored programs.

Since no affordable insurance coverage was available to Appellant, their twelve (!2)-month penalty is waived in its entirety.

Even if affordable coverage had been available, the Appellant's penalty would be waived because of financial hardship. See 956 CMR 6.08 (1) & (3).

The Appellant is divorced and has three children. During 2020 they claimed one child as a dependent. The Appellant's three children live with them fifty (50%) percent of the time. (Appellant's Testimony, which I credit).

The Appellant's pre-tax monthly expenses of \$4,294.00 during 2020 included: Rent - \$1550.00, Electricity - \$45.00, Car insurance - \$70.00, Motorcycle insurance - \$30.00, Car payments - \$450.00, Motorcycle payments - \$300.00, Gas - \$120.00, Telephone - \$125.00, Cable/internet - \$170.00, Credit card debt - \$70.00, Food - \$400.00 (including for children), and Child support - \$964.00. Thus, Appellant's annual pre-tax expenses total \$51,528.00. At a cost of \$793.00 per month, private market insurance would cost Appellant \$9,516.00. Adding that amount to their monthly expenses of \$51,528.00 totals \$61,044.00. That amount is greater than Appellant's AGI of \$58,665.00. Thus, Appellant's twelve (12)-month penalty should be waived for the additional reason that doing so would cause Appellant financial hardship. See 956 CMR 6.08 (1) & (3).

Based on all the credible evidence contained in this administrative record and the totality of the circumstances, I conclude that no affordable insurance coverage was available to Appellant and, moreover, paying for insurance would have caused them financial hardship within the meaning of the governing regulation. 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.²

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 through the Connector website at

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

<https://www.mahealthconnector.org> in order to explore coverage options for 2021 if their financial circumstances change.

Massachusetts Health Connector Appeals Unit

FINAL APPEAL DECISION: PA19-221

Appeal Decision Appeal Approved.

Hearing Issue: Appeal of the 2019 Tax Year Penalty

Hearing Date: March 23, 2021

Decision Date: May 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 March 23, 2021. The hearing record consists of the Appellant's testimony, and the following documents which were admitted into evidence without objection by Appellant:

- Exhibit 1: Notice of Hearing (2-5-21) (2 pages);
- Exhibit 2: Information from Schedule HC TY 2019 (1 page);
- Exhibit 3: Statement of Grounds for Appeal (3-6-20) (with letter and documents) (6 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 25 during 2019, from Plymouth County, filed single on the tax return with a family size of 1. (Exhibit 2).
2. Appellant had health insurance for January through April of 2019, but did not have health insurance through the other months of 2019. (Appellant's testimony, Exhibits 2, 4).
3. Appellant's Federal Adjusted Gross Income for 2019 was \$34,434.00 (Exhibit 2).
4. Appellant changed jobs at in May 2019 and had been led to believe that they had health insurance through the employer. Appellant then started another new job in October 2019, and was told that there would be health insurance after a waiting period of a few months. (Appellant's testimony, Exhibit 3).

5. Appellant now has health insurance through MassHealth or Health Connector, as the current employment does not offer health insurance. (Appellant Testimony).
6. I take administrative notice of the financial information set forth in Tables 1 through 6 in the DOR 2019 Massachusetts Schedule HC Health Care Instructions and Worksheets. Tables 3 and 4 incorporate affordability and premium schedules adopted by the Board of Directors for the Commonwealth Health Insurance Connector Authority for 2019. Table 2 sets forth income at 300% of the Federal poverty level and Tables 5 and 6 set forth tax penalties in effect for 2019.
7. 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 \$143.00.
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 at least through October 2019. (Testimony of Appellant, Exhibit 3).
11. Appellant did not incur significant and unexpected increases in essential expenses as a result of domestic violence; due to the death of a spouse, family member, or partner who shared household expenses; the sudden responsibility for providing full care for an aging parent or other family member. 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 a shut-off notice for basic utilities. (Appellant's Testimony, Exhibit 3).

ANALYSIS AND CONCLUSIONS OF LAW

The issue on appeal is whether the tax penalty assessed by the Massachusetts Department of Revenue for 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 \$34,434.00 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 \$143.00 per month; according to Table 4, Appellant, who was 25 years old in 2019, from Plymouth County, and filed the 2019 Massachusetts taxes as single with a family size of 1, would have had to pay \$257.00 for coverage per month for insurance on the private market. See CMR 6.05 (1)(2), Schedule HC Tables 3 and 4, and Exhibit 2.

With regard to the hardship waiver of the penalty, Appellant claimed that they were not aware they did not have health insurance until October 2019. In addition, 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: PA19-315

Appeal Decision Appeal Approved.

Hearing Issue: Appeal of the 2019 Tax Year Penalty

Hearing Date: March 23, 2021

Decision Date: May 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

Appellants appeared at the hearing, which was held by telephone, on March 23, 2021. The hearing record consists of the Appellant's testimony, and the following documents which were admitted into evidence without objection by Appellants:

- Exhibit 1: Notices of Hearing (2-5-21) (2 pages);
- Exhibit 2: Information from Schedule HC TY 2019 (1 page);
- Exhibit 3: Statement of Grounds for Appeal (3-12-20) (with letter and documents) (9 pages);
- Exhibit 4: Letter requesting to vacate dismissal (10-7-20) (1 page); and
- Exhibit 5: Notice of prior hearing date (6-15-20) (2 pages).

FINDINGS OF FACT

The record shows, and I so find:

1. Appellants, ages 70 and 57 during 2019, from Hampden County, filed married filing jointly on the tax return with a family size of 2. (Exhibit 2).
2. One of Appellants had health insurance for all of 2019, and the other Appellant did have health insurance for 2019. (Appellant's testimony, Exhibits 2, 3).
3. Appellants' Federal Adjusted Gross Income for 2019 was \$44,687.00 (Exhibit 2).
4. One of Appellants had health insurance for the entire year. The other Appellant had health insurance through the Health Connector and was behind in payments. Appellant made the payments but still did not have the health insurance. Appellant had to wait until open

enrollment to obtain health insurance through the employer, and that occurred in November for health insurance beginning in January 2020. (Appellant's testimony, Exhibit 3).

5. Appellants' expenses for food, shelter, clothing, transportation, and other necessities, used a significant amount of the available income. (Appellant's Testimony). The monthly expenses for food, shelter, clothing, vehicle expenses, and other necessities, totaled approximately \$2,895.00 per month averaged out, or \$34,740.00 for the year. (Appellant's Testimony, Exhibit 4).
6. Appellants now have both health insurance. (Appellant Testimony).
7. I take administrative notice of the financial information set forth in Tables 1 through 6 in the DOR 2019 Massachusetts Schedule HC Health Care Instructions and Worksheets. Tables 3 and 4 incorporate affordability and premium schedules adopted by the Board of Directors for the Commonwealth Health Insurance Connector Authority for 2019. Table 2 sets forth income at 300% of the Federal poverty level and Tables 5 and 6 set forth tax penalties in effect for 2019.
8. Appellants could not afford health insurance based on the tables in Schedule HC. According to Table 4, the health insurance would cost \$836.00 for coverage for the family. According to Table 3, Appellants were deemed to afford \$273.00.
9. Private insurance was not affordable for the Appellants in 2019. (Schedule HC for 2019).
10. Appellants' AGI was under 300% of the Federal Poverty Level, and Appellants therefore may have qualified for subsidized health insurance through the Health Connector. (Schedule HC for 2019).
11. Appellants claimed that they should be granted a waiver based on the grounds that paying for health insurance would have caused a serious deprivation of food, shelter, clothing and other necessities during 2019. (Testimony of Appellant, Exhibit 3).
12. Appellants did not incur significant and unexpected increases in essential expenses as a result of domestic violence; due to the death of a spouse, family member, or partner who shared household expenses; the sudden responsibility for providing full care for an aging parent or other family member. Appellants did not incur additional expenses as a result of a fire, flood, or other natural or man-made disaster in 2019 (Exhibit 3).
13. Appellants were not homeless, were not thirty days or more behind in rent in 2019, and Appellants did not receive a shut-off notice for basic utilities. (Appellant'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.

One of Appellants did have health insurance for all of 2019, and the other Appellant did not have health insurance for 2019. They have been assessed a tax penalty for zero months for one of the Appellants and twelve months for the other Appellant. Appellants appealed the assessment. See Exhibits 2, 3 and 4. 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 Appellants during 2019. According to Tables 3 and 4 of the HC Schedule for 2019, Appellants, with an adjusted gross income of \$44,434.00 were deemed to not have been able to afford health insurance on the private market. According to Table 3, Appellants could have afforded to pay \$273.00 per month; according to Table 4, Appellants, who were 70 and 57 years old in 2019, from Hampden County, and filed the 2019 Massachusetts taxes as married filing jointly with a family size of 2, would have had to pay \$836.00 for coverage per month for insurance on the private market. See CMR 6.05 (1)(2), Schedule HC Tables 3 and 4, and Exhibit 2.

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

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

PENALTY ASSESSED

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

If the number of months assessed is zero (0) because your penalty has been overturned, the Connector has notified the Department of Revenue that you should NOT be assessed a penalty for Tax Year 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: PA19-317

Appeal Decision: Appeal Approved

Hearing Issue: Appeal of the 2019 Tax Year Penalty

Hearing Date: May 3, 2021

Decision Date: June 25, 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 3, 2021. The Appellant offered testimony under oath or affirmation. At the end of the hearing, the record was left open for the Appellant to submit additional evidence. The Appellant submitted additional evidence on May 12, 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 2019 Schedule HC (1 page)
- Exhibit 2: 3/11/20 Appeal (3 pages)
- Exhibit 3: 6/15/20 Notice of 7/17/20 Hearing (2 pages)
- Exhibit 4: 7/31/20 Request to Vacate Dismissal (2 pages)
- Exhibit 5: 4/5/21 Notice of Hearing (2 pages)
- Exhibit 6: Appellant's 2019 Tax Return (58 pages)
- Exhibit 7: 2/5/21 Notice of 3/25/21 Hearing (2 pages)

FINDINGS OF FACT

The record shows, and I so find:

1. The Appellant's filing status for 2019 was Single with no dependents. The Appellant's federal AGI in 2019 was \$57,115. The Appellant turned thirty-five years in August 2019. The Appellant resided in Massachusetts and in Barnstable County from May 13, 2019, through December 31, 2019. (Exhibit 1)
2. The Appellant appealed from the assessment of a five-month penalty on his 2019 income tax return, checking off on the appeal form: "During 2019, the expense of purchasing health insurance would have caused a serious deprivation of food, shelter, clothing or other necessities." (Exhibit 2)

3. The Appellant had health insurance coverage through his employer during the first four months of 2019, when he was working and residing in New York. (Appellant's testimony)
4. The Appellant earned close to half of his 2019 income during the first four months of 2019. (Exhibit 6)
5. The Appellant moved to Massachusetts on May 13, 2019 to open a new business. (Exhibit 2; Appellant's testimony)
6. The Appellant worked part time as a bartender, earning \$1,200/monthly, until his business opened. (Appellant's testimony; Exhibit 2)
7. The Appellant made no effort to get health insurance in 2019 from May through November. (Appellant's testimony)
8. The Appellant's new business was not operational until late September 2019, and the Appellant received no income from his business until then. (Exhibit 2; Appellant's testimony)
9. When the Appellant opened his business, the Appellant was wary of spending extra money until he felt his business and financial situation were stable. (Appellant's testimony)
10. The Appellant applied for health insurance in December 2019 for coverage beginning in January 2020. (Appellant's testimony)
11. The Appellant's monthly expenses for basic necessities when residing in Massachusetts in 2019 included: rent, \$800; utilities, \$150; phone, \$150; food/clothing, \$200; and, transportation/student loan/credit card payment, \$350, for a total of \$1,650.
12. According to Table 2 of the 2019 Schedule HC Guidelines, the Appellant did not qualify for government-subsidized health insurance coverage in 2019, since his 2019 AGI income was more than \$36,420 for a family size of one
13. According to Table 3, Affordability, based on his 2019 AGI and Single with no dependents tax filing status, the Appellant could have afforded to pay up to \$380/monthly for health insurance coverage in 2019.
14. According to Table 4, Premiums, based on his age and county of residence, the Appellant could have found health insurance coverage in the Massachusetts private market in 2019 for a monthly premium of \$286, based on his age and county of residence.

ANALYSIS AND CONCLUSIONS OF LAW

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

In this case, the individual mandate did not apply to the Appellant in 2019 until August 1, 2019, the first day of the third month following the day he began residing in Massachusetts. At issue here is the Appellant's failure to have health insurance during the last five months of 2019, August through December.

The Appellant's income was stable in 2019 only during the first four months of the year, when he earned half of his income for the year, while working and living in New York with health insurance coverage. During the next five months, while now living in Massachusetts, the Appellant's monthly income was only about \$1,200/monthly, from tending bar at night while making preparations to open his new business. His monthly expenses of \$1,650 for basic necessities far exceeded his income during this period. The Appellant certainly could not have afforded health insurance in August and September 2019. Also, I find credible the Appellant's testimony that he could not have afforded health insurance coverage for \$286/monthly for several months after his business opened, due to the debt he had taken on to open the business and the uncertainty about the financial success of his new business.

Therefore, I conclude that the Appellant has established that affordable health insurance coverage was not available to him during the last five months of 2019.

Accordingly, the Appellant's five-month penalty for 2019 shall be eliminated.

PENALTY ASSESSED

Number of Months Appealed: ___5___ Number of Months Assessed: ___0___

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

OR

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

NOTIFICATION OF YOUR RIGHT TO APPEAL TO COURT

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

Hearing Officer

Cc: Connector Appeals Unit

Massachusetts Health Connector Appeals Unit

FINAL APPEAL DECISION: PA19-321

Appeal Decision Appeal Approved.

Hearing Issue: Appeal of the 2019 Tax Year Penalty

Hearing Date: March 23, 2021

Decision Date: May 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 March 23, 2021. The hearing record consists of the Appellant's testimony, through an interpreter, and the following documents which were admitted into evidence without objection by Appellant:

- Exhibit 1: Notice of Hearing (2-5-21) (2 pages);
- Exhibit 2: Information from Schedule HC TY 2019 (1 page);
- Exhibit 3: Statement of Grounds for Appeal (3-9-20) (with letter) (4 pages); and
- Exhibit 4: Notice of prior hearing date (6-18-20) (2 pages).

FINDINGS OF FACT

The record shows, and I so find:

1. Appellant, age 33 during 2019, from Hampden County, filed Head of Household on the tax return with a family size of 3. (Exhibit 2).
2. Appellant had health insurance for January through July of 2019, but did not have health insurance through the other months of 2019. (Appellant's testimony, Exhibits 2, 3).
3. Appellant's Federal Adjusted Gross Income for 2019 was \$41,967.00 (Exhibit 2).
4. Appellant had health insurance through Mass Health but it was terminated. Appellant had moved to a different residence and may have not received a notice. (Appellant's testimony, Exhibit 3).
5. Appellant now has health insurance through the employer. (Appellant Testimony).

6. Appellant's expenses for food, shelter, clothing, child expenses and other necessities uses a significant amount of the income. Appellant's expenses totaled approximately \$2,795.00 per month or \$33,540.00 per year.
7. I take administrative notice of the financial information set forth in Tables 1 through 6 in the DOR 2019 Massachusetts Schedule HC Health Care Instructions and Worksheets. Tables 3 and 4 incorporate affordability and premium schedules adopted by the Board of Directors for the Commonwealth Health Insurance Connector Authority for 2019. Table 2 sets forth income at 300% of the Federal poverty level and Tables 5 and 6 set forth tax penalties in effect for 2019.
8. Appellant could not afford health insurance based on the tables in Schedule HC. According to Table 4, the health insurance would cost \$713.00 for coverage for family. According to Table 3, Appellant was deemed to afford \$171.00.
9. Private insurance was not affordable for the Appellant in 2019. (Schedule HC for 2019).
10. Appellant's AGI was under 300% of the Federal Poverty Level, and Appellant therefore may have qualified for subsidized health insurance through the Health Connector. (Schedule HC for 2019).
11. Appellant claimed that they should be granted a waiver based on the grounds that paying for health insurance would have caused a serious deprivation of food, shelter, clothing and other necessities. (Testimony of Appellant, Exhibit 3).
12. Appellant did not incur significant and unexpected increases in essential expenses as a result of domestic violence; due to the death of a spouse, family member, or partner who shared household expenses; the sudden responsibility for providing full care for an aging parent or other family member. 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 a shut-off notice for basic utilities. (Appellant's Testimony, Exhibit 3).

ANALYSIS AND CONCLUSIONS OF LAW

The issue on appeal is whether the tax penalty assessed by the Massachusetts Department of Revenue for 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 July of 2019, but did not have health insurance for the remaining months of 2019. They have been assessed a tax penalty for two 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 \$41,967.00 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 \$171.00 per month; according to Table 4, Appellant, who was 33 years old in 2019, from Hampden County, and filed the 2019 Massachusetts taxes as head of household with a family size of 3, would have had to pay \$713.00 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. Appellant's expenses for necessities used most of the income. In addition, 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: 2 Number of Months Assessed: 0

If the number of months assessed is zero (0) because your penalty has been overturned, the Connector has notified the Department of Revenue that you should NOT be assessed a penalty for Tax Year 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: PA19613

Appeal Decision: The penalty is overturned in full.

Hearing Issue: Appeal of the 2019 Tax Year Penalty

Hearing Date: March 30, 2021

Decision Date: May 31, 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

One of the appellants appeared at the hearing which was held by telephone on March 30, 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 into evidence:

- Exhibit 1: Statement of Grounds for Appeal 2019 signed and dated by Appellants on May 5th and 6th, 2020 with letter attached
- Exhibit 2: Appeal Case Information from Schedule HC 2019
- Exhibit 2a: Appeal Case Information from Schedule HC 2019 showing appeal dismissed on September 25, 2020
- Exhibit 2b: Request from Appellant for new hearing received by the Connector on October 7, 2020
- Exhibit 2c: Appeal Case Information from Schedule HC 2019 showing vacating of dismissal dated October 9, 2020
- Exhibit 3: Notice of Hearing sent to Appellant dated August 17, 2020 for September 24, 2020 hearing
- Exhibit 3: Notice of Hearing sent to Appellant dated March 4, 2021 for March 30, 2021 hearing
- Exhibit 4: Appellant's paystub, September 27, 2019
- Exhibit 4a: Email to Appellant from employer dated April 29, 2020 regarding health insurance
- Exhibit 5: Appellant's electric bill, March, 2020
- Exhibit 6: Appellant's mortgage bill, April, 2020
- Exhibit 7: Appellant's water and sewer bill, December, 2019
- Exhibit 8: Appellant's oil heating bill, fall, 2019
- Exhibit 9: Appellant's student loan bill, November, 2019

FINDINGS OF FACT

The record shows, and I so find:

1. Appellants, who filed a 2019 Massachusetts tax return jointly with no dependents claimed, were 35 and 36 years old in 2019 (Exhibit 2, Testimony of Appellant).
2. Appellants lived in Worcester County in 2019 (Exhibit 2, Testimony of Appellant).
3. Appellants' Federal Adjusted Gross Income for 2019 was \$34,371 (Exhibit 2, Testimony of Appellant).

4. One of the appellants worked as a manager of a nursery. The business closed down after Christmas and reopened in early spring. When the nursery first opened in spring, the appellant worked about 32 hours a week, earning about \$24 an hour. During the busy months, Appellant worked 40 hours a week at the same amount per hour. Late in the year, the appellant again worked about 32 hours a week. When the nursery was closed, the appellant collected unemployment benefits (Testimony of Appellant).
5. The other appellant was self-employed making jewelry. This appellant made no income from the business (Testimony of Appellant).
6. The appellant who was employed at the nursery was offered health insurance for him and his spouse. The coverage would have cost \$382.12 a week or \$1,528 a month. They did not opt for this coverage (Testimony of Appellant, Exhibit 4a).
7. The appellants did not have health insurance in 2019. Both appellants have been assessed a penalty for all of the year (Exhibit 2, Testimony of Appellant).
8. I take administrative notice of the financial information set forth in Tables 1 through 6 in the DOR 2019 Massachusetts Schedule HC Health Care Instructions and Worksheets. Tables 3 and 4 incorporate affordability and premium schedules adopted by the Board of Directors for the Commonwealth Health Insurance Connector Authority for 2019. Table 2 sets forth income at 300% of the Federal poverty level and Tables 5 and 6 set forth tax penalties in effect for 2019.
9. According to Table 3 of Schedule HC for 2019, the appellants with no dependent claimed with an adjusted gross income of \$34,371 could afford to pay \$177 per month for health insurance. According to Table 4, Appellants, ages 35 and 36 and living in Worcester County, could have purchased insurance for \$572 per month for a plan for a married couple. Such coverage would have been unaffordable for the appellants (Schedule HC for 2019, Tables 3 and 4; Exhibit 2; Testimony of Appellant).
10. According to Table 2 of Schedule HC for 2019, Appellants earning less than \$49,380, the income limit for a family of two, would have been eligible for the ConnectorCare program based upon income (Exhibit 2, Table 2 of Schedule HC-2019, 956 CMR 12.00 et. seq.).
11. Appellants did not incur significant and unexpected increases in essential expenses as a result of domestic violence; the death of a spouse, family member, or partner who shared household expenses; the sudden responsibility for providing full care for an aging parent or other family member; or fire, flood, or other natural or man-made disaster in 2019 (Testimony of Appellant).
12. Appellants did not fall more than thirty days behind in mortgage or rent payments in 2019 (Testimony of Appellant).
13. Appellants did not receive any shut-off notices for basic utilities during 2019 (Testimony of Appellant).
14. Appellants had the following monthly expenses for basic necessities from January through June, 2019: rent including heat-\$1,200; electricity-\$135 on average; telephone and internet-\$170; food, household, personal items, and clothing-\$630; car insurance-\$405; gas-\$135. They also had to pay \$365 a month for their student loans. Appellants bought their own place as of July, 2019. Their mortgage payments, including home owner's insurance and property taxes, was \$1,432 a month. Electricity cost \$115, heat on average \$115, and water and sewer \$108 cost a month. All of their other expenses remained the same (Testimony of Appellant, Exhibits 5 through 8).
15. Both appellants obtained coverage through the Connector as of May, 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 2019 should be waived, either in whole or in part. The appellants have each been assessed a tax penalty for all of 2019. Appellants have appealed the penalty. See Exhibits 1 and 2.

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

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

According to Table 3 of Schedule HC for 2019, the appellants with no dependent claimed with an adjusted gross income of \$34,371 could afford to pay \$177 per month for health insurance. According to Table 4, Appellants, ages 35 and 36 and living in Worcester County, could have purchased insurance for \$572 per month for a plan for a married couple. Such coverage would have been unaffordable for the appellants. See Schedule HC for 2019, Tables 3 and 4; Exhibit 2; and the testimony of Appellant which I find credible.

Appellants were offered health insurance through one of the appellant’s job. The cost for coverage for a couple would have been \$1,528 a month. This amount is significantly more than the amount the Commonwealth deemed affordable for the appellants. See above, the testimony of the appellant which I find to be credible, and Exhibit 4a. No affordable health insurance was available for the appellants through employment.

The couple earned less than the income cap for a household of two (\$49,380) for the ConnectorCare program in 2019. However, the coverage, which is subsidized in part by an advance premium tax credit, is available to individuals who have access to insurance through employment only if the offered insurance is unaffordable under standards set by the Patient Protection and Affordable Act. Pursuant to the Affordable Care Act, if employer-sponsored health insurance is offered and if the cost to the employee in 2019 is less than 9.86% of the employee’s modified adjusted gross income, then the coverage is deemed affordable and the employee is not eligible for an advance premium tax credit. See 45 CFR Section 155.305(f). 9.86% of the appellant’s modified adjusted gross income of \$34,371 equals \$282 per month ($34,371 \times .0986 = \$3,388$. $\$3,388$ divided by 12 = \$282). Coverage through the appellant’s job cost \$1,528 each month. The coverage was deemed unaffordable pursuant to the Affordable Care Act. The appellants were, therefore, eligible for ConnectorCare coverage based upon lack of access to affordable coverage through employment as well as income. See Schedule HC for 2019, Tables 2 through 4, Exhibit 1, 956 CMR 12.00 et. seq., and the testimony of the appellant which I find credible.

Since affordable coverage was available to the appellants through the ConnectorCare, we need to consider whether the appellants had a financial hardship such that the cost of purchasing health insurance would have caused them 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).

Appellants had the following monthly expenses for basic necessities from January through June, 2019: rent including heat-\$1,200; electricity-\$135 on average; telephone and internet-\$170; food and household, personal items, and clothing-\$630; car insurance-\$405; gas-\$135. They also had to pay \$365 a month for their student loans. Appellants bought their own place as of July, 2019. Their mortgage payments, including home owner's insurance and property taxes, was \$1,432 a month. Electricity cost \$115. Heat cost on average \$115, and water and sewer cost \$108 a month. All of their other expenses remained the same. See the testimony of Appellant which I find to be credible, and Exhibits 5 through 8.

Appellants' expenses were greater than their income before taxes all year. Their monthly expenses amounted to \$3,040 from January through June. They amounted to \$3,475 the rest of the year. Monthly income was \$2,860. Each month, the appellants ran a deficit. Based upon these facts, I determine that the appellants had a financial hardship such that the cost of purchasing health insurance would have been unaffordable for them. The expense of purchasing insurance would have caused the appellants to experience a serious deprivation of basic necessities. See 956 CMR 6.08 (1)(e).

I also note that Appellant's obtained coverage through the Connector as of May 1, 2019. See the testimony of the appellant which I find to be credible.

Appellants' penalty is waived because of financial hardship.

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

PENALTY ASSESSED

Number of Months Appealed: 24 Number of Months Assessed: 0

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

NOTIFICATION OF YOUR RIGHT TO APPEAL TO COURT

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

Cc: Connector Appeals Unit

Hearing Officer

Massachusetts Health Connector Appeals Unit

FINAL APPEAL DECISION: PA19-756

Appeal Decision: Appeal Denied

Hearing Issue: Appeal of the 2019 Tax Year Penalty

Hearing Date: May 3, 2021

Decision Date: June 28, 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 3, 2021. The Appellant offered testimony under oath or affirmation. At the end of the hearing, the record was left open until May 31, 2021, for the Appellant to submit additional evidence. The Appellant submitted additional evidence on May 20, 2021, and 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: 6/5/20 Appeal (4 pages)
- Exhibit 3: 4/5/21 Hearing Notice (2 pages)
- Exhibit 4: 11/5/20 Request to Vacate (2 pages)
- Exhibit 5: 5/20/21 2019 Expenses for Basic Necessities (6 pages)

FINDINGS OF FACT

The record shows, and I so find:

1. The Appellant's filing status for 2019 was Single with no dependents. The Appellant's federal AGI in 2019 was \$28,987. The Appellant turned fifty-six years old in 2019. The Appellant resided in Essex County in 2019. (Exhibit 1)
2. The Appellant appealed from the assessment of a twelve-month penalty on his 2019 income tax return, without checking off any of the boxes as the basis for his appeal, but stating that, 1) he could not afford health insurance coverage in 2019; and, 2) purchasing coverage seemed like a bad investment for him, because the law requiring coverage might be overturned. (Exhibit 2)
3. The Appellant did not apply to the Health Connector or MassHealth for health insurance coverage in 2019, because he assumed that coverage would be out of his price range. (Appellant's testimony)

4. The Appellant monthly expenses for basic necessities in 2019 included: food/groceries, \$459; rent, \$700; storage for surplus possessions, \$91; phone, \$102; gas for car, \$160; car repairs/maintenance/fees, \$132; auto insurance, \$75; PO Box rental, \$12; and, eye exam/contacts, \$26, for a total of \$1,757/monthly and \$21,084 for the year.
5. The Appellant worked full time in 2019 as an independent contractor. His business expenses in 2019 were a total of \$7,320.76. (Exhibit 5)
6. According to Table 2 of the 2019 Schedule HC Guidelines, the Appellant qualified for government-subsidized health insurance coverage in 2019, since his 2019 AGI income was less than \$36,420 for a family size of one.
7. According to Table 3, Affordability, based on his 2019 AGI and Single with no dependents tax filing status, the Appellant could have afforded to pay up to \$101/monthly for health insurance coverage in 2019.
8. According to Table 4, Premiums, based on his age and county of residence, the Appellant could have found health insurance coverage in the private market in 2019 for a monthly premium of \$418.

ANALYSIS AND CONCLUSIONS OF LAW

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

I am not persuaded by the Appellant’s contention that he could not afford health insurance coverage in 2019, as he made no effort in 2019 to find out how much coverage would cost him and as his costs for basic necessities left him with nearly \$8,000 left to pay for health insurance coverage that he could have purchased for as low as \$101/monthly.

Finally, I note that the Appellant’s business expenses of \$7,320.76 in 2019 were not “basic necessities,” but rather expenses as an independent contractor that reduced his 2019 income by that amount.

Therefore, I conclude that the Appellant has not established that affordable health insurance coverage was not available to him in 2019.

Accordingly, the Appellant’s twelve-month penalty for 2019 shall not be waived or reduced.

PENALTY ASSESSED

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

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

OR

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

NOTIFICATION OF YOUR RIGHT TO APPEAL TO COURT

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

Hearing Officer

Cc: Connector Appeals Unit

Massachusetts Health Connector Appeals Unit

FINAL APPEAL DECISION: PA19-862

Appeal Decision Appeal Approved.

Hearing Issue: Appeal of the 2019 Tax Year Penalty

Hearing Date: April 21, 2021

Decision Date: May 31, 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:

- 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 (7-20-20) (3 pages);
- Exhibit 4: Notice of prior hearing date (10-15-20) (2 pages);
- Exhibit 5: Letter to vacate dismissal (11-23-20) (1 page); and
- Exhibit 6: Final Appeal Decision TY2017 (12-20-18) (6 pages).

FINDINGS OF FACT

The record shows, and I so find:

1. Appellant, age 53 during 2019, from Suffolk County, filed single on the tax return with a family size of 1. (Exhibit 2).
2. Appellant had health insurance for November and December of 2019, but did not have health insurance through the other months of 2019. (Appellant's testimony, Exhibits 2, 3).
3. Appellant's Federal Adjusted Gross Income for 2019 was \$23,953.00 (Exhibit 2).
4. Appellant had health insurance through Mass Health as of November 2019 after having a stroke and being signed up for it at the hospital. (Appellant's testimony, Exhibit 2).

5. Appellant's expenses for food, shelter, clothing, child expenses and other necessities used a significant amount of the income. Appellant's expenses totaled approximately \$1,270.00 per month or \$15,240.00 per year.
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 \$406.00 for coverage. According to Table 3, Appellant was deemed to afford \$58.00.
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; 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 a shut-off notice for basic utilities. (Appellant's Testimony, Exhibit 3).

ANALYSIS AND CONCLUSIONS OF LAW

The issue on appeal is whether the tax penalty assessed by the Massachusetts Department of Revenue for 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 November and December of 2019, but did not have health insurance for the remaining months of 2019. 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 2019. According to Tables 3 and 4 of the HC Schedule for 2019, Appellant, with an adjusted gross income of \$23,953.00 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 \$58.00 per month; according to Table 4, Appellant, who was 53 years old in 2019, from Suffolk County, and filed the 2019 Massachusetts taxes as single with a family size of 1, would have had to pay \$406.00 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. Appellant's expenses for necessities used most of the income. For these reasons, the waiver of the penalty is approved.

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

PENALTY ASSESSED

Number of Months Appealed: 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

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: PA19-874

Appeal Decision Appeal Approved.

Hearing Issue: Appeal of the 2019 Tax Year Penalty

Hearing Date: April 21, 2021

Decision Date: May 31, 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 (7-1-20) (with letter and documents) (16 pages);
- Exhibit 4: Notice of prior hearing date (10-19-20) (2 pages);
- Exhibit 5: Email to vacate dismissal (1 page); and
- Exhibit 6: Additional document from Appellant (4 pages).

FINDINGS OF FACT

The record shows, and I so find:

1. Appellant, age 26 during 2019, 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 2019. Exhibits 2, 3).
3. Appellant's Federal Adjusted Gross Income for 2019 was \$76,232.00 (Exhibit 2).
4. Appellant had health insurance through Mass Health previously, but had lost it when she obtained a contract employment position in 2018. (Appellant's testimony, Exhibit 3).

5. Appellant had been told she would be converted to a permanent position and eligible for health insurance. She was continuously told it was going to happen, but in the end the company chose a different candidate and Appellant felt she had been misled. Appellant also stated that she gave up a different position at that time that would have provided health insurance. (Appellant Testimony, Exhibits 3 and 6).
6. Appellant suffers from a debilitating chronic condition and wanted health insurance. Because she kept believing it was imminent, she did not pursue other avenues of obtaining the health insurance. (Appellant Testimony).
7. Appellant's expenses for food, shelter, clothing, child expenses and other necessities did not use significant amount of the income. Appellant's expenses totaled approximately \$1,530.00 per month or \$18,360.00 per year.
8. Appellant now has health insurance as a student. (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 \$665.00 for coverage as head of household with one dependent. According to Table 3, Appellant was deemed to afford \$508.00.
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 paying for health insurance would have caused a serious deprivation of food, shelter, clothing and other necessities and "other" based on her situation as described above. (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, and Appellant did not receive a shut-off notice for basic utilities. (Appellant's Testimony, Exhibit 3).

ANALYSIS AND CONCLUSIONS OF LAW

The issue on appeal is whether the tax penalty assessed by the Massachusetts Department of Revenue for 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 \$76,232.00 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 \$508.00 per month; according to Table 4, Appellant, who was 26 years old in 2019, from Middlesex County, and filed the 2019 Massachusetts taxes as head of household with a family size of 2, would have had to pay \$665.00 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 she believed that she was going to be getting health insurance through employment imminently throughout 2019. Appellant’s expenses for necessities did not use a significant amount of the income, and the appeal would not be allowed on that basis. However, given Appellant’s other evidence of believing that she would be getting health insurance through the employer and being led to believe that it would be happening at any moment throughout 2019, the penalty would be approved on that basis. 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: PA19-982

Appeal Decision: Appeal Approved

Hearing Issue: Appeal of the 2019 Tax Year Penalty

Hearing Date: May 3, 2021

Decision Date: June 25, 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 3, 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 testimony of the Appellants and the following documents which were admitted into evidence:

Exhibit 1: Appeal Case Information from 2019 Schedule HC (1 page)

Exhibit 2: 8/10/20 Appeal, including 2019 Schedule HC (3 pages)

Exhibit 3: 12/16/20 Hearing Notice (2 pages)

FINDINGS OF FACT

The record shows, and I so find:

1. The Appellant's filing status for 2019 was Married Filing Separate with two dependents. The Appellant's federal AGI in 2019 was \$47,950. The Appellant turned forty-eight years old in 2019. The Appellant resided in Norfolk County in 2019. (Exhibit 1)
2. The Appellant appealed from the assessment of a twelve-month penalty on her 2019 income tax return, checking off nothing on the appeal form, but writing over the "reason for appeal section": "No need to appeal had health insurance." (Exhibit 2)
3. The Appellant had full-year MCC coverage in 2019. (Exhibit 2; Appellant's testimony)

ANALYSIS AND CONCLUSIONS OF LAW

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

In this case, the Appellant clear and convincing evidence through her 2019 Schedule HC that she had health insurance coverage throughout 2019.

Accordingly, the Appellant's twelve-month penalty for 2019 shall be waived in full.

PENALTY ASSESSED

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

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

OR

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

NOTIFICATION OF YOUR RIGHT TO APPEAL TO COURT

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

Hearing Officer

Cc: Connector Appeals Unit

Massachusetts Health Connector Appeals Unit

FINAL APPEAL DECISION: PA20-100

Appeal Decision: Penalty Overturned in Full
Hearing Issue: Appeal of the 2020 Tax Year Penalty
Hearing Date: May 10, 2021
Decision Date: June 3, 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 10, 2021. The procedures to be followed during the hearing were reviewed with Appellant. Appellant was sworn in. Exhibits were marked and admitted in evidence with no objection from Appellant. Appellant testified. The hearing record consists of the testimony of Appellant, and the following documents which were admitted in evidence:

- Exhibit 1: Tax Information sheet from DOR, Schedule HC
- Exhibit 2: Statement of Grounds for Appeal, dated Feb. 22, 2021 and supporting documents
- Exhibit 3: Notice from Appeals Unit, dated April 5, 2021

FINDINGS OF FACT

The record shows, and I so find:

1. Appellant was 49 years old in 2020. Appellant filed a Massachusetts 2020 tax return as single with no dependents claimed (Exhibit 2).
2. Appellant resided in Suffolk County, MA in 2020 (Exhibit 2).
3. Appellant had an Adjusted Gross Income of \$104,919 in 2020 (Exhibit 2).
4. Appellant was employed and covered by employer sponsored health insurance in January and February (Exhibit 1 and Testimony of Appellant).
5. Appellant lost the job and employer sponsored health insurance in March 2020 (Testimony of Appellant).
6. Appellant began a contract position in March 2020 (Testimony of Appellant).
7. Appellant's contract position was supposed to be a contract position for two months and then be a permanent position (Testimony of Appellant).
8. Due to the Covid 19 pandemic, Appellant's job did not become permanent in two months (Testimony of Appellant).
9. Appellant assumed the job would become permanent and that the health insurance coverage would begin (Testimony of Appellant).

10. Appellant continued in the job as a contractor and did not become eligible for employer sponsored health insurance through a permanent position (Testimony of Appellant).
11. Appellant went to the contract company to sign up for health insurance (Testimony of Appellant).
12. Appellant was required to wait until December 9, 2020 for open enrollment so that Appellant could sign up for health insurance (Testimony of Appellant).
13. Appellant did sign up for health insurance in December 2020, and the health insurance coverage began in January 2021 (Testimony of Appellant).
14. Due to circumstances with Appellants condominium, Appellant had to move out of Appellant's condominium in July 2020 (Testimony of Appellant).
15. Beginning in July, Appellant began living out of state and had to pay for the Massachusetts condominium and for rent (Testimony of Appellant).
16. 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.
17. According to Table 3 of Schedule HC for 2020 a person filing as single with no dependents claimed with an adjusted gross income of \$104,919 could afford to pay \$699 per month for private insurance. According to Table 4, Appellant, age 49 and living in Suffolk County could have purchased private insurance for \$361 per month.
18. Private insurance was considered to be affordable for Appellant in 2020 (Schedule HC for 2020).
19. According to Table 2 of Schedule HC for 2020, Appellant, earning more than \$37,470 was not income eligible for government subsidized health insurance.
20. Appellant did not have health insurance for ten months in 2020 (Testimony of Appellant and Exhibit 2).
21. Appellant has been assessed a penalty for seven months for 2020 (Exhibit 2).
22. Appellant filed a hardship appeal on February 22, 2021 (Exhibit 2).

ANALYSIS AND CONCLUSIONS OF LAW

G.L.c. 111M, § 2, also called the "individual mandate," requires every adult resident of Massachusetts to obtain health insurance that meets minimum creditable coverage standards "[s]o long as it is deemed affordable" under the schedule set by the board of directors for the Commonwealth Health Insurance Connector Authority. Residents who do not obtain insurance or who do not obtain insurance that meets the minimum creditable coverage standard are subject to a tax penalty for "each of the months" that the individual did not have health insurance as required by the individual mandate. There is a three-month grace period to allow the taxpayer to obtain health insurance coverage or to make the transition between health insurance policies. See G. L. c. 111M, sec. 2(b) and for Tax Year 2020, Administrative Bulletin 03-10: Guidance Regarding M.G.L. c. 111M and M.G.L. c. 176Q, as implemented by 956 CMR 6.00, which interprets the 63-day gap in coverage to be three months. The Connector's regulations provide for a waiver of the tax penalty in the case of a financial hardship. See 956 CMR 6.08.

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

Appellant was considered able to afford private health insurance in 2020. Since Appellant potentially had access to affordable insurance for 2020, we need to consider whether Appellant experienced a financial hardship as defined by 956 CMR 6.08.

In March 2020, Appellant began a new job and was expecting to become an employee within two months of beginning a contract position and then be eligible for employer sponsored health insurance. Due to the pandemic, Appellant was not hired as an employee. Appellant contacted the contract agency and was told that employer sponsored insurance through the contract agency would not be available until open enrollment in December 2020. In July 2020, Appellant had issues with Appellant's condominium and was forced to locate other housing and move. Appellant enrolled health insurance through the contract agency in December 2020, and Appellant has been insured since January 2021. Due to these circumstances, I find that the penalty assessed against Appellant for 2020 should be waived in its entirety. See Testimony of Appellant, which I find to be credible and 956 CMR 6.08 (3).

PENALTY ASSESSED

Number of Months Appealed: 7

Number of Months Assessed: 0

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

Massachusetts Health Connector Appeals Unit

FINAL APPEAL DECISION: PA20-115

Appeal Decision: Appeal Approved

Hearing Issue: Appeal of the 2020 Tax Year Penalty

Hearing Date: May 17, 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 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 testimony of the Appellant and the following documents which were admitted into evidence:

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

FINDINGS OF FACT

The record shows, and I so find:

1. The Appellant's filing status for 2019 was Single with no dependents. The Appellant's federal AGI in 2019 was \$64,037. The Appellant turned thirty-one years old in 2020. The Appellant resided in Bristol County in 2020. (Exhibit 1)
2. The Appellant appealed from the assessment of a two-month penalty on her 2020 income tax return, without checking off any basis for her appeal on the appeal form. (Exhibit 2)
3. The Appellant had health insurance coverage through her employer from January through July 2020. (Exhibit 1)
4. The Appellant worked in the restaurant industry for the same employer throughout 2020. (Appellant's testimony)
5. The Appellant's employer offered health insurance coverage to full-time employees and considered employees regularly scheduled to work at least 35 hours a week to be full-time employees. (Appellant's testimony)

6. The Appellant worked for her employer as a full-time employee and had health insurance coverage through her employer at the start of 2020. (Appellant's testimony)
7. In March or April 2020, the Appellant's employer began reducing the hours of full-time employees, due to the Covid outbreak; and, in April 2020, the Appellant's employer reduced her hours below 35 hours a week. (Appellant's testimony)
8. The Appellant's employer either overlooked the fact that the Appellant's hours had dropped below 35 or permitted her to continue for a few months more, because her employer-sponsored coverage continued through July 2020. (Appellant's testimony; Exhibit 1)
9. The Appellant's weekly part-time hours of work varied through the remainder of 2020. (Appellant's testimony)
10. The Appellant looked for health insurance coverage during the summer, contacting the Health Connector and a private "health insurance call center." The "health insurance call center" sold her on a plan that she later learned was not traditional health insurance coverage, effective August 1, 2020. (Appellant's testimony; Exhibit 2)
11. The Appellant never submitted an application for health insurance coverage through the Health Connector. (Appellant's testimony)
12. In the fall of 2020, when the Appellant learned that her new coverage was very limited in its benefits, she canceled the coverage and then spoke with her employer about the possibility of getting her employer-sponsored coverage restored somehow. He was sympathetic and said that he would see what he could do. (Appellant's testimony)
13. Later, her employer informed her that he could not do anything for her in 2020, as he had been told that she would have to wait until open enrollment for 2021 coverage. (Appellant's testimony)
14. According to Table 3, Affordability, of the Schedule HC 2019, based on her 2020 AGI and Single with no dependents tax filing status, the Appellant could have afforded to pay up to \$426/monthly for health insurance coverage in 2020.
15. According to Table 4, Premiums, the Appellant could have purchased health insurance coverage in the private market in 2020 for a monthly premium of \$288, based on her age and county of residence.
16. The Appellant would have purchased coverage in the private market in 2020 had she known that it was available. (Appellant's testimony)

ANALYSIS AND CONCLUSIONS OF LAW

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

As the Appellant had employer-sponsored health insurance coverage from January through July 2020 and then a three-month grace period to obtain new coverage, at issue here is the Appellant's failure to have coverage in November and December 2020. While the Appellant never submitted an application for 2020 coverage to the Health Connector, the Appellant made a good faith effort to obtain new coverage after her employer reduced her weekly hours of work and, by doing so, terminated the Appellant's eligibility for her employer-sponsored coverage. All of these events resulted from the Covid crisis that was cresting during this period. This was an especially stressful and chaotic period for the Appellant because of the nature of her work in the restaurant industry and the unreliability of her income, particularly during the height of the Covid epidemic.

Under these circumstances, I conclude that the Appellant has established that health insurance that provided minimum creditable coverage was not affordable for her in November and December 2020 because she experienced a hardship. 956 CMR 6.08(1)

Accordingly, the Appellant's two-month penalty for 2019 shall be waived in full.

PENALTY ASSESSED

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

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

OR

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

NOTIFICATION OF YOUR RIGHT TO APPEAL TO COURT

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

Hearing Officer

Cc: Connector Appeals Unit

Massachusetts Health Connector Appeals Unit

FINAL APPEAL DECISION: PA20-138

Appeal Decision: Penalty Overturned in Full
Hearing Issue: Appeal of the 2020 Tax Year Penalty
Hearing Date: May 28, 2021
Decision Date: June 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 May 26, 2021. The procedures to be followed during the hearing were reviewed with Appellant. Appellant was sworn in. Exhibits were marked and admitted in evidence with no objection from Appellant. Appellant testified.

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

- Exhibit 1: Tax Information sheet from DOR, Schedule HC
- Exhibit 2: Statement of Grounds for Appeal, dated March 5, 2021 and supporting documents
- Exhibit 3: Notice from Appeals Unit, dated April 13, 2021

FINDINGS OF FACT

The record shows, and I so find:

1. Appellant was 31 years old in 2020. Appellant filed a Massachusetts 2020 tax return as single with no dependents claimed (Exhibit 2).
2. Appellant resided in Plymouth County, MA in 2020 (Exhibit 2).
3. Appellant had an Adjusted Gross Income of \$69,197 in 2020 (Exhibit 2).
4. Appellant was unemployed from February to December 2020 (Testimony of Appellant).
5. Appellant received unemployment compensation from February through December 2020 (Testimony of Appellant).
6. Appellant applied for health insurance through the Health Connector and was found eligible for a plan that would cost between \$180 and \$200 per week (Exhibit 2 and Testimony of Appellant).
7. Appellant did not enroll in the Health Connector insurance due to the cost (Testimony of Appellant).
8. Appellant had the following monthly expenses for basic necessities in 2020: Rent \$1,900; Utilities \$130; telephone \$82; Food \$520; supplies \$195; clothing \$25; car payment \$623; car insurance \$101; gasoline \$282. The necessary expenses totaled \$3,858.
9. Appellant had difficulty paying for necessary expenses during the time of unemployment (Testimony of Appellant).
10. Appellant had difficulty finding new employment due to the Covid 19 pandemic (Testimony of Appellant).

11. 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.
12. According to Table 3 of Schedule HC for 2020 a person filing as single with no dependents claimed with an adjusted gross income of \$69,197 could afford to pay \$461 per month for private insurance. According to Table 4, Appellant, age 31 and living in Plymouth County could have purchased private insurance for \$288 per month.
13. Private insurance was considered to be affordable for Appellant in 2020 (Schedule HC for 2020).
14. According to Table 2 of Schedule HC for 2020, Appellant, earning more than \$37,470 was not income eligible for government subsidized health insurance.
15. Appellant did not have health insurance for twelve months in 2020 (Testimony of Appellant and Exhibit 2).
16. Appellant has been assessed a penalty for twelve months for 2020 (Exhibit 2).
17. Appellant filed a hardship appeal on March 5, 2021 (Exhibit 2).

ANALYSIS AND CONCLUSIONS OF LAW

G.L.c. 111M, § 2, also called the “individual mandate,” requires every adult resident of Massachusetts to obtain health insurance that meets minimum creditable coverage standards “[s]o long as it is deemed affordable” under the schedule set by the board of directors for the Commonwealth Health Insurance Connector Authority. Residents who do not obtain insurance or who do not obtain insurance that meets the minimum creditable coverage standard are subject to a tax penalty for “each of the months” that the individual did not have health insurance as required by the individual mandate. There is a three-month grace period to allow the taxpayer to obtain health insurance coverage or to make the transition between health insurance policies. See G. L. c. 111M, sec. 2(b) and for Tax Year 2020, Administrative Bulletin 03-10: Guidance Regarding M.G.L. c. 111M and M.G.L. c. 176Q, as implemented by 956 CMR 6.00, which interprets the 63-day gap in coverage to be three months. The Connector’s regulations provide for a waiver of the tax penalty in the case of a financial hardship. See 956 CMR 6.08.

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

Appellant was considered able to afford private health insurance in 2020. Since Appellant potentially had access to affordable insurance for 2020, we need to consider whether Appellant experienced a financial hardship as defined by 956 CMR 6.08.

Appellant was unemployed during February through December 2020. Appellant struggled to pay for basic expenses during that time period and was had difficulty locating employment during the Covid 19 pandemic. Purchasing health insurance would have caused a serious deprivation of food, shelter clothing or other necessities. See Testimony of Appellant, which I find to be credible and 956 CMR 6.08 (1) (e).

I find the penalty assessed against Appellant for 2020 should be waived in its entirety.

PENALTY ASSESSED

Number of Months Appealed: 12

Number of Months Assessed: 0

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

ADDENDUM

Appellant is advised that this decision is based upon the facts as I have found them in 2020 and Appellant should not assume that a similar decision will be reached if Appellant fails to have health insurance in future years. Appellant may want to contact the Health Connector at 1 877 623-6765 to explore options for health insurance.

Massachusetts Health Connector Appeals Unit

FINAL APPEAL DECISION: PA20-139

Appeal Decision: Penalty Overturned in Full
Hearing Issue: Appeal of the 2020 Tax Year Penalty
Hearing Date: May 26, 2021
Decision Date: June 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 May 26, 2021. The procedures to be followed during the hearing were reviewed with Appellant. Appellant was sworn in. Exhibits were marked and admitted in evidence with no objection from Appellant. Appellant testified. The hearing record consists of the testimony of Appellant, and the following documents which were admitted in evidence:

- Exhibit 1: Schedule HC for Healthcare from DOR
- Exhibit 2: Notice of Appeal and supporting documents, dated March 8, 2021
- Exhibit 3: Correspondence from Health Connector dated April 13, 2021

FINDINGS OF FACT

The record shows, and I so find:

1. Appellant was 36 years old in 2020 and resided in Middlesex County (Exhibit 2).
2. Appellant filed a Massachusetts 2020 tax return as single with no dependents claimed (Exhibit 2).
3. Appellant had an Adjusted Gross Income for 2020 of \$22,701 (Exhibit 2).
4. Appellant struggled with alcoholism and mental health issues in 2020 (Exhibit 2 and Testimony of Appellant).
5. Appellant was homeless in early 2020 (Testimony of Appellant).
6. Appellant spent part of the year living in supportive housing (Testimony of Appellant).
7. Appellant was unemployed for long periods of time in 2020 (Testimony of Appellant).
8. Appellant struggled to pay basic expenses in 2020 (Testimony of Appellant).
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.
10. According to Table 3 of Schedule HC for 2020 a person filing as single with no dependents with an adjusted gross income of \$22,701 could afford to pay \$55 per month for private insurance. According to Table 4,

Appellant, who was 36 and lived in Middlesex county could have purchased private insurance for a cost of \$298 per month.

11. Private insurance was not considered affordable for Appellant in 2020 (Schedule HC for 2020).
12. Appellant, earning less than \$37,240 would have been income eligible for government subsidized health insurance (Schedule HC for 2020).
13. Appellant did not have health insurance for twelve months in 2020 (Testimony of Appellant and Exhibit 2).
14. Appellant has been assessed a penalty for twelve months for 2020 (Exhibit 2).
15. Appellant filed a hardship appeal on March 8, 2021 (Exhibit 3).

ANALYSIS AND CONCLUSIONS OF LAW

G.L.c. 111M, § 2, also called the “individual mandate,” requires every adult resident of Massachusetts to obtain health insurance that meets minimum creditable coverage standards “[s]o long as it is deemed affordable” under the schedule set by the board of directors for the Commonwealth Health Insurance Connector Authority. Residents who do not obtain insurance or who do not obtain insurance that meets the minimum creditable coverage standard are subject to a tax penalty for “each of the months” that the individual did not have health insurance as required by the individual mandate. There is a three-month grace period to allow the taxpayer to obtain health insurance coverage or to make the transition between health insurance policies. See G. L. c. 111M, sec. 2(b) and for Tax Year 2020, Administrative Bulletin 03-10: Guidance Regarding M.G.L. c. 111M and M.G.L. c. 176Q, as implemented by 956 CMR 6.00, which interprets the 63-day gap in coverage to be three months. The Connector’s regulations provide for a waiver of the tax penalty in the case of a financial hardship. See 956 CMR 6.08.

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

Appellant was considered to be income eligible for government subsidized health insurance in 2020, so we must consider whether the purchase of insurance would have caused Appellant to experience a hardship. Appellant struggled with alcoholism and mental health issues in 2020 and was unemployed. Appellant did not have stable housing and struggled to pay for necessary expenses. I find that Appellant suffered a hardship and health insurance was not affordable for the months assessed in 2020. See Schedule HC for 2020, 956 CMR 6.08 (1)(a), and (1)(e), Exhibits 1, 2 and Testimony of Appellant, which I find to be credible.

I find the penalty assessed against Appellant for 2020 should be waived in its entirety.

PENALTY ASSESSED

Number of Months Appealed: 12

Number of Months Assessed: 0

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

ADDENDUM

Appellant is advised that this decision is based upon the facts as I have found them in 2020 and Appellant should not assume that a similar decision will be reached if Appellant fails to have health insurance in future years. Appellant should contact the Health Connector at 1 877 623-6765 to explore options for affordable health insurance.

Massachusetts Health Connector Appeals Unit

FINAL APPEAL DECISION: PA20-140

Appeal Decision: Penalty Overturned in Full
Hearing Issue: Appeal of the 2020 Tax Year Penalty
Hearing Date: May 28, 2021
Decision Date: June 17, 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 26, 2021. The procedures to be followed during the hearing were reviewed with Appellant. Appellant was sworn in. Exhibits were marked and admitted in evidence with no objection from Appellant. Appellant testified.

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

- Exhibit 1: Tax Information sheet from DOR, Schedule HC
- Exhibit 2: Statement of Grounds for Appeal, dated March 8, 2021 and supporting documents
- Exhibit 3: Notice from Appeals Unit, dated April 13, 2021

FINDINGS OF FACT

The record shows, and I so find:

1. Appellant was 39 years old in 2020. Appellant filed a Massachusetts 2020 tax return as single with no dependents claimed (Exhibit 2).
2. Appellant resided in Hampden County, MA in 2020 (Exhibit 2).
3. Appellant had an Adjusted Gross Income of \$22,931 in 2020 (Exhibit 2).
4. Appellant did not have health insurance from January through December 2020 (Exhibit 1 and Testimony of Appellant).
5. Appellant did not have access to employer sponsored health insurance in 2020 (Testimony of Appellant).
6. Appellant looked at government subsidized health insurance which did not begin until 2021 (Testimony of Appellant).
7. Appellant was having trouble making the payments for the 2021 coverage (Testimony of Appellant).
8. Appellant had very high monthly living expenses in 2020, including rent of \$1,700 and a car payment of \$656 and car insurance of \$247. Appellant shared the expenses with another person, but they struggled to make the payments (Testimony of Appellant).
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.

10. According to Table 3 of Schedule HC for 2020 a person filing as single with no dependents claimed with an adjusted gross income of \$22,931 could afford to pay \$55 per month for private insurance. According to Table 4, Appellant, age 39 and living in Hampden County could have purchased private insurance for \$265 per month.

11. Private insurance was not considered to be affordable for Appellant in 2020 (Schedule HC for 2020).

12. According to Table 2 of Schedule HC for 2020, Appellant, earning less than \$37,470 was income eligible for government subsidized health insurance.

13. Appellant did not have health insurance for twelve months in 2020 (Testimony of Appellant and Exhibit 2).

14. Appellant has been assessed a penalty for twelve months for 2020 (Exhibit 2).

15. Appellant filed a hardship appeal in March 2021 (Exhibit 2).

ANALYSIS AND CONCLUSIONS OF LAW

G.L.c. 111M, § 2, also called the “individual mandate,” requires every adult resident of Massachusetts to obtain health insurance that meets minimum creditable coverage standards “[s]o long as it is deemed affordable” under the schedule set by the board of directors for the Commonwealth Health Insurance Connector Authority. Residents who do not obtain insurance or who do not obtain insurance that meets the minimum creditable coverage standard are subject to a tax penalty for “each of the months” that the individual did not have health insurance as required by the individual mandate. There is a three-month grace period to allow the taxpayer to obtain health insurance coverage or to make the transition between health insurance policies. See G. L. c. 111M, sec. 2(b) and for Tax Year 2020, Administrative Bulletin 03-10: Guidance Regarding M.G.L. c. 111M and M.G.L. c. 176Q, as implemented by 956 CMR 6.00, which interprets the 63-day gap in coverage to be three months. The Connector’s regulations provide for a waiver of the tax penalty in the case of a financial hardship. See 956 CMR 6.08.

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

Appellant was considered eligible for government subsidized health insurance in 2020. Since Appellant potentially had access to affordable insurance for 2020, we need to consider whether Appellant experienced a financial hardship as defined by 956 CMR 6.08.

Appellant had very high living expenses, which Appellant shared with another person. Appellant struggled to pay for basic expenses in 2020. Purchasing health insurance would have caused a serious deprivation of food, shelter, clothing or other necessities. See Exhibits 1, 2, Testimony of Appellant, which I find to be credible and 956 CMR 6.08 (1) (e).

I find that the penalty assessed against Appellant for 2020 should be waived in its entirety.

Appellant is advised that this decision is based upon the facts as I have found them in 2020 and Appellant should not assume that a similar decision will be reached if Appellant fails to have health insurance in future years.

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.

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.

ADDENDUM

Appellant indicated that there were some issues with the coverage for 2021. Appellant should immediately contact the Health Connector at 1 877 623-6765 to make sure that the coverage continues.

Massachusetts Health Connector Appeals Unit

FINAL APPEAL DECISION: PA20-141

Appeal Decision: Penalty Overturned in Full
Hearing Issue: Appeal of the 2020 Tax Year Penalty
Hearing Date: May 28, 2021
Decision Date: June 16, 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 26, 2021. The procedures to be followed during the hearing were reviewed with Appellant. Appellant was sworn in. Exhibits were marked and admitted in evidence with no objection from Appellant. Appellant testified.

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

- Exhibit 1: Tax Information sheet from DOR, Schedule HC
- Exhibit 2: Statement of Grounds for Appeal, dated March 8, 2021 and supporting documents
- Exhibit 3: Notice from Appeals Unit, dated April 13, 2021
- Exhibit 4: Final Appeal Decision for 2019, dated July 30, 2020

FINDINGS OF FACT

The record shows, and I so find:

1. Appellant was 30 years old in 2020. Appellant filed a Massachusetts 2020 tax return as single with no dependents claimed (Exhibit 2).
2. Appellant resided in Bristol County, MA in 2020 (Exhibit 2).
3. Appellant had an Adjusted Gross Income of \$33,090 in 2020 (Exhibit 2).
4. Appellant struggled to pay for necessary expenses in 2020 (Testimony of Appellant).
5. Appellant did not have health insurance from January through June 2020, but was covered from July through December 2020 (Exhibit 1).
6. In 2019 and early 2020, Appellant knew that Appellant was ineligible for MassHealth but did not know that there were other affordable options available to Appellant (Exhibit 4 and Testimony of Appellant).
7. Appellant applied for government subsidized health insurance in early 2020, and was covered from July through December 2020 (Exhibit 1 and Testimony of Appellant).
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 a person filing as single with no dependents claimed with an adjusted gross income of \$33,099 could afford to pay \$138 per month for private insurance. According to Table 4, Appellant, age 30 and living in Bristol County could have purchased private insurance for \$269 per month.
10. Private insurance was not considered to be affordable for Appellant in 2020 (Schedule HC for 2020).
11. According to Table 2 of Schedule HC for 2020, Appellant, earning less than \$37,470 was income eligible for government subsidized health insurance.
12. Appellant did not have health insurance for six months in 2020 (Testimony of Appellant and Exhibit 2).
13. Appellant has been assessed a penalty for three months for 2020 (Exhibit 2).
14. Appellant filed a hardship appeal in March 2021 (Exhibit 2).

ANALYSIS AND CONCLUSIONS OF LAW

G.L.c. 111M, § 2, also called the “individual mandate,” requires every adult resident of Massachusetts to obtain health insurance that meets minimum creditable coverage standards “[s]o long as it is deemed affordable” under the schedule set by the board of directors for the Commonwealth Health Insurance Connector Authority. Residents who do not obtain insurance or who do not obtain insurance that meets the minimum creditable coverage standard are subject to a tax penalty for “each of the months” that the individual did not have health insurance as required by the individual mandate. There is a three-month grace period to allow the taxpayer to obtain health insurance coverage or to make the transition between health insurance policies. See G. L. c. 111M, sec. 2(b) and for Tax Year 2020, Administrative Bulletin 03-10: Guidance Regarding M.G.L. c. 111M and M.G.L. c. 176Q, as implemented by 956 CMR 6.00, which interprets the 63-day gap in coverage to be three months. The Connector’s regulations provide for a waiver of the tax penalty in the case of a financial hardship. See 956 CMR 6.08.

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

Appellant was considered eligible for government subsidized health insurance in 2020. Since Appellant potentially had access to affordable insurance for 2020, we need to consider whether Appellant experienced a financial hardship as defined by 956 CMR 6.08.

Appellant struggled to pay for basic expenses in 2020. Appellant learned that Appellant would qualify for government subsidized health insurance in early 2020 and Appellant began coverage in July 2020. Given these circumstances, I find that the penalty assessed against Appellant for 2020 should be waived in its entirety. See Testimony of Appellant, which I find to be credible and 956 CMR 6.08 (1) (e).

PENALTY ASSESSED

Number of Months Appealed: 3

Number of Months Assessed: 0

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

Massachusetts Health Connector Appeals Unit

FINAL APPEAL DECISION: PA20-148

Appeal Decision Appeal Allowed

Hearing Issue: Appeal of the 2020 Tax Year Penalty

Hearing Date: May 27, 2021

Decision Date: June 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

The Appellant appeared at the hearing, which was held by telephone, on May 27, 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 April 13, 2021
- Exhibit 2: Appeal Case Information from form Schedule HC
- Exhibit 3: Statement of Grounds for Appeal, dated March 5, 2021
- Exhibit 4: Written Statement of Appeal, date March 6, 2021
- Exhibit 5: Open Record Documents

FINDINGS OF FACT

The record shows, and I so find:

1. The appellant is thirty years old and is single. He lives in New Jersey but in 2020 he lived in Barnstable, MA until June 2020. Appellant worked in the food business.
2. Appellant's mother was ill in 2020 with brain cancer and Appellant moved to New Jersey to help care for her in June 2020. Appellant provided a 1099 HC form from Blue Cross Blue Shield indicating that Appellant had health insurance from January 1, 2020 through June 30, 2020, the time he lived in Massachusetts.
3. Appellant did have health insurance in 2020 until he moved to New Jersey.
4. The Appellant did submit a Statement of Grounds for Appeal-2020 "During 2020, you incurred a significant, unexpected increase in essential expenses resulting directly from the consequences of the death of a family member" . Appellant had health insurance for the time he lived in Massachusetts in 2020.
5. I take administrative notice of the information set forth in tables 1 through 6 in the Department of Revenue Schedule HC Health Care Instructions and Worksheets (Schedule HC Instructions). Tables 3 & 4 incorporate the affordability schedules adopted by the board of directors of the Commonwealth Health Insurance Connector Authority for 2020. 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 2020.

ANALYSIS AND CONCLUSIONS OF LAW

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

Appellant's mother was ill in 2020 with cancer and Appellant moved to New Jersey to help care for her in June 2020. Appellant provided a 1099 HC form from Blue Cross Blue Shield indicating that Appellant had health insurance from January 1, 2020 through June 30, 2020, the time he lived in Massachusetts.

The Appellant did submit a Statement of Grounds for Appeal-2020 "During 2020, you incurred a significant, unexpected increase in essential expenses resulting directly from the consequences of the

death of a family member” . Appellant had health insurance for the time he lived in Massachusetts in 2020.

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 2020, 150 percent of the FPL was \$18,735.00 for a single person . *Id.* In addition, a lapse in coverage of 63 days or less is not subject to the section 2(b) penalty. See Administrative Bulletin 03-10 (Dec. 7, 2010), available at <https://www.mahealthconnector.org/portal/binary/com.epicentric.contentmanagement.servlet.ContentDeliveryServlet/Health%2520Care%2520Reform/Regulations/documents/Administrative%20Information%20Bulletin%2003-10.pdf>; see also 830 Mass. Code Regs. 111M.2.1(5)(c) (2008). Thus, no penalty is imposed for lapses in coverage consisting of three or fewer consecutive calendar months. *Id.*

Since Appellant’s 2020 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 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 through employer-sponsored plans, government-subsidized programs or on the private insurance market. See 2020 Schedule HC Instructions and Worksheets, *supra*.

Appellant’s mother was ill in 2020 with cancer and Appellant moved to New Jersey to help care for her in June 2020. Appellant provided a 1099 HC form from Blue Cross Blue Shield indicating that Appellant had health insurance from January 1, 2020 through June 30, 2020, the time he lived in Massachusetts.

On these facts, I find that Appellant has shown that he was precluded from purchasing affordable health insurance during 2020. 956 Mass. Code Regs. 6.08(3) (2008). Accordingly, I conclude that he is exempt from a tax penalty for her non-compliance with the individual mandate.

Accordingly, Appellant’s appeal is **ALLOWED**, and the 2020 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 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: PA20151

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 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 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 8, 2021

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 35 years old in 2020. Appellant has a ten-year old child (Exhibit 2, Testimony of Appellant).
2. Appellant resided in Franklin County in 2020 (Testimony of Appellant, Exhibit 2).
3. Appellant had a Federal Adjusted Income of \$31,134 in 2020 (Testimony of Appellant, Exhibit 2).
4. Appellant was employed all year at the same full-time job. He earned \$14.75 an hour and worked 40 hours a week (Testimony of Appellant).
5. Appellant was not offered health insurance through employment (Testimony of Appellant).
6. Appellant had no health insurance in 2020. Appellant has been assessed a penalty for all of the year. Appellant has appealed this assessment, claiming that the cost of purchasing health insurance would have caused Appellant to experience a serious deprivation of basic necessities (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 \$31,134 could afford to pay \$108 per month for health insurance. According to Table 4, Appellant, 35 years old and living in Franklin 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 2).

9. According to Table 2 of Schedule HC for 2020, Appellant, who earned less than \$36,420 per year, would have been eligible 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: Appellant had the following expenses for basic necessities in 2020: rent, including heat-\$700; electricity-\$75; internet-\$30; telephone-\$35; food-\$300; insurance-\$45; gas-\$0.00; clothing-\$85.00. Appellant paid \$258 in child support and \$160 for a personal loan each month. Appellant also spent about \$1,000 during the year on his son (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, claiming that the cost of purchasing health insurance would have caused him a serious deprivation of basic necessities. 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 \$31,134 could afford to pay \$108 per month for health insurance. According to Table 4, Appellant, 35 years old and living in Franklin 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 2020, Tables 3 and 4, Exhibit 2.

Appellant had no access to health insurance through employment in 2020. Appellant had the same job all year; he was not offered health insurance through the job. See the testimony of the appellant which I find to be credible.

Appellant could have had affordable coverage through the ConnectorCare program. His annual Federal Adjusted Income was \$31,134, less than the income limit for one person (\$36,420). He also had no access to employer-sponsored insurance. 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 ConnectorCare program, 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, including heat-\$700; electricity-\$75; internet-\$30; telephone-\$35; food-\$300; insurance-\$45; gas-\$0.00; clothing-\$85.00. Appellant paid \$258 in child support and \$160 for a personal loan each month. Appellant also spent about \$1,000 during the year on his son. See the testimony of Appellant which I find to be credible.

I determine thatThe cost of purchasing coverage would have caused him to experience a serious deprivation of basic necessities. See 956 CMR 6.08(1)(e). Though it looks as if Appellant had some disposable income before taxes, he had expenses relating to the care of his child which were not set. They could vary. He also had child support and a personal loan to pay off. 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: 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 still does not have health insurance, he may wish to apply through the Connector for coverage. If his income is about the same, he 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: PA20-187

Appeal Decision: Penalty Overturned in Full

Hearing Issue: Appeal of the 2020 Tax Year Penalty

Hearing Date: May 26, 2021

Decision Date: June 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 appellant appeared at the hearing which was held by telephone on May 26, 2021, and testified under oath. The hearing record consists of the appellant's testimony and the following documents which were admitted into evidence without his objection:

Ex. 1—Statement of Grounds for Appeal—2020

Ex. 2—Appeal Case Information from Schedule HC ¹

Ex. 3—Notice of Hearing

FINDINGS OF FACT

The record shows, and I so find:

1. The appellant is 53-years-old, is single, and does not have children. In 2020, he resided in Norfolk County, MA. He did not have health insurance in 2020. (Testimony, Ex. 2)
2. The appellant was employed in 2019 until late in the year at which time he was laid off. He had employer health insurance during his employment. He was offered COBRA insurance, but declined because the cost was unaffordable. (Testimony, Ex. 1)
3. Prior to 2019, the appellant was never assessed a penalty for failure to obtain insurance for all or part of each tax year. (Testimony)
4. The appellant was unemployed for all of 2020 and received unemployment compensation. He did not investigate his eligibility for subsidized insurance through the Health Connector because he knew, based on experience, that his income from 2019 would have disqualified him. (Testimony, Ex. 1)

¹ Ex. 2 is a computer printout that extracts information submitted by the appellant on Schedule HC as part of his 2020 Massachusetts income tax return. It also contains information about prior appeals, if any.

5. The appellant was determined eligible for health insurance through MassHealth in January, 2021, and has been enrolled since that time. (Testimony, Ex. 1)
6. The appellant reported an adjusted gross income of \$29,006.00 on his 2020 federal tax return, and reported that he was single with no dependents. (Ex. 2)
7. In 2020, the appellant had regular monthly expenses of approximately \$1793.00 for condominium fees (\$305.00), heat and electricity (\$120.00), real estate taxes (\$158.00), homeowner's insurance (\$85.00), cable and internet package (\$140.00), landline (\$70.00), cell phone (\$45.00), automobile insurance (\$110.00), gasoline (\$160.00), and food (\$600.00). In addition, he spent approximately \$300.00/year on animal care. (Testimony, Ex. 1)

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

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

The appellant submitted a statement of grounds for appeal (Ex. 1), claiming that the individual mandate did not apply to him during 2020 because "other" reasons prevented him from being able to purchase health insurance. He also submitted a letter with his statement in which he stated in part that he was laid off from his job at the end of 2019 and could not afford to purchase COBRA. He stated that he did not investigate his eligibility for subsidized insurance through the Health Connector because he knew that the determination would be based on his 2019 income, and the premium would not be affordable. Finally, he stated that he could not have paid his basic monthly expenses in 2020 if he also had a health insurance premium because he was unemployed for the whole year and his only source of income was his unemployment compensation.

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 2020, Administrative Bulletin 03-10: Guidance Regarding M.G.L. c. 111M and M.G.L. c. 176Q, as implemented by 956 CMR 6.00, interprets the 63-day gap in coverage to be three months. As a result, gaps of three months are not subject to penalty. Since the appellant was uninsured for the entire year, he was assessed and is appealing a penalty of twelve months.

The appellant testified credibly that he was laid off from his job at the end of 2019 and declined COBRA insurance because it was unaffordable. He testified that he was unemployed throughout 2020 and his only source of income was unemployment compensation. He testified that he did not investigate his eligibility for subsidized insurance through the Health Connector because he knew that the determination would be based on his 2019 income which would make the premium beyond his reach. Finally, he testified that he has been enrolled in health insurance through MassHealth since the beginning of 2021.

The evidence provided by the appellant established that his income for 2020, \$29,006.00, was less than 300% of the federal poverty level (FPL), which for 2020 was \$37,470.00 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 \$24,981.00 and \$31,225.00 is deemed to be able to afford a monthly premium of \$101.52 (4.20% of \$29,006.00/12). Table 4 of the Premium Schedule indicates that a 52-year-old individual (the age of the appellant in 2020) in Norfolk County (where the appellant resided in 2020) could have purchased private health insurance for \$420.00 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 2020.

Since the appellant's income was within 300% of the FPL, the appellant should have qualified for subsidized health insurance through the Health Connector, assuming he met all other eligibility criteria, and for which he would have been subject to a subsidized premium of approximately \$101.52 per month, pursuant to the aforementioned Affordability Schedule in Table 3.

Even though private health insurance may have been affordable to the appellant under the law, he may nevertheless not be subject to a penalty for failing to get health insurance for the months in question if he can show that he experienced a hardship during 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 appellant's tax penalty for 2020 could be waived if he experienced financial circumstances such that the expense of purchasing health insurance would have caused him to experience a serious deprivation of food, shelter, clothing or other necessities. See 956 CMR 6.08.

The evidence presented by the appellant in this case is sufficient to establish that he experienced a financial hardship as defined by law so as to waive his penalty for the months in question. The appellant testified that in 2020, he incurred basic monthly expenses of approximately \$1793.00. Although those expenses were less than his regular monthly pre-tax income of approximately \$2417.00, thereby making a subsidized insurance premium of \$101.52 seemingly manageable, the difference of \$624.00/month between income and expenses was an inadequate cushion to cover unanticipated expenses that typically arise. Hence, it is concluded that the totality of the evidence presented by the appellant established that he experienced financial circumstances such that the expense of purchasing health insurance that met minimum creditable coverage standards would have caused him to experience a serious deprivation of food, shelter, clothing or other necessities. See 956 CMR 6.08 (1)(e).

Accordingly, based upon the totality of the evidence, since the appellant could not have afforded private or subsidized health insurance, and was not eligible for employer health insurance, his request for a waiver from the penalty is **granted** for the months in question. The determination that the appellant is eligible for a waiver is with respect to 2020, only and is based upon the extent of information submitted by him in this appeal.

PENALTY ASSESSED

Number of Months Appealed: 12

Number of Months Assessed: 0

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

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: PA20-217

Appeal Decision: Penalty Overturned in Full
Hearing Issue: Appeal of the 2020 Tax Year Penalty
Hearing Date: June 8, 2021
Decision Date: June 25, 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 8, 2021. Appellant also appealed for Appellant spouse. The procedures to be followed during the hearing were reviewed with Appellant. Appellant was sworn in. Exhibits were marked and admitted in evidence with no objection from Appellant. Appellant testified.

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

- Exhibit 1: Schedule HC for Healthcare from DOR
- Exhibit 2: Notice of Appeal, dated March 4, 2021
- Exhibit 3: Correspondence from Health Connector, dated May 11, 2021

FINDINGS OF FACT

The record shows, and I so find:

1. Appellants were 34 and 32 years old in 2020 and resided in Bristol County (Exhibit 1).
2. Appellants filed a Massachusetts 2020 tax return as married filing jointly with one dependent claimed (Exhibit 1).
3. Appellants had an Adjusted Gross Income for 2020 of \$43,955 (Exhibit 1).
4. Appellant worked for about half the year in 2020. Appellant was furloughed for half of the year due to the Covid 19 pandemic (Testimony of Appellant).
5. Appellants struggled to pay for basic necessities in 2020 (Testimony of Appellant).
6. Appellants fell behind in the gas and electricity bills and received shut-off notices (Exhibit 2 and Testimony of Appellant).
7. Appellants began an arrearage management program to catch up with the back bills for gas and electricity (Exhibit 2 and Testimony of Appellant).
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 a couple filing as married filing jointly with one dependent with an adjusted gross income of \$43,955 could afford to pay \$271 per month for private insurance. According to Table 4, Appellants, who were 34 and 32 with one dependent and lived in Bristol county could have purchased private insurance for a cost of \$736 per month.

10. Private insurance was not considered affordable for Appellants in 2020 (Schedule HC for 2020).

11. Appellants, earning less than \$63,990 would have been income eligible for government subsidized health insurance (Schedule HC for 2020).

12. Appellants began health insurance coverage in 2021 (Testimony of Appellant).

13. Appellants did not have health insurance twelve months of 2020 (Testimony of Appellant and Exhibit 1).

14. Appellants have been assessed a penalty for twelve months for 2020 (Exhibit 1).

15. Appellants filed a hardship Appeal on May 11, 2021 (Exhibit 3).

ANALYSIS AND CONCLUSIONS OF LAW

G.L.c. 111M, § 2, also called the “individual mandate,” requires every adult resident of Massachusetts to obtain health insurance that meets minimum creditable coverage standards “[s]o long as it is deemed affordable” under the schedule set by the board of directors for the Commonwealth Health Insurance Connector Authority. Residents who do not obtain insurance or who do not obtain insurance that meets the minimum creditable coverage standard are subject to a tax penalty for “each of the months” that the individual did not have health insurance as required by the individual mandate. There is a three-month grace period to allow the taxpayer to obtain health insurance coverage or to make the transition between health insurance policies. See G. L. c. 111M, sec. 2(b) and for Tax Year 2020, Administrative Bulletin 03-10: Guidance Regarding M.G.L. c. 111M and M.G.L. c. 176Q, as implemented by 956 CMR 6.00, which interprets the 63-day gap in coverage to be three months. The Connector’s regulations provide for a waiver of the tax penalty in the case of a financial hardship. See 956 CMR 6.08.

Appellants have been assessed a tax penalty for twelve months. To determine if the penalty should be waived in whole or in part, we must consider whether affordable insurance was available to Appellants, before we consider whether Appellants suffered a financial hardship. See 956 CMR 6.

Appellants were income eligible for government subsidized health insurance in 2020, so we must consider whether the purchase of insurance would have caused Appellants to experience deprivation of basic necessities. Appellant struggled to pay for necessities and received shut off notices for gas and electricity. I find that Appellant suffered a hardship and health insurance was not affordable for 2020. See Schedule HC for 2020, 956 CMR 6.08 (1)(b), Exhibits 1, 2 and Testimony of Appellant, which I find to be credible.

I find the penalty assessed against Appellants for 2020 should be waived in its entirety.

PENALTY ASSESSED

Number of Months Appealed: 12/12

Number of Months Assessed: 0/0

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

Massachusetts Health Connector Appeals Unit

FINAL APPEAL DECISION: PA20-218

Appeal Decision: Penalty Overturned in Full
Hearing Issue: Appeal of the 2020 Tax Year Penalty
Hearing Date: June 8, 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 June 8, 2021. The procedures to be followed during the hearing were reviewed with Appellant. Appellant was sworn in. Exhibits were marked and admitted in evidence with no objection from Appellant. Appellant testified. At the end of the hearing, the record was left open so that Appellant could submit further documents. Appellant submitted a Form 1099 for Healthcare for 2021 and the document has been labeled Exhibit 4. .

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

- Exhibit 1: Tax Information sheet from DOR, Schedule HC
- Exhibit 2: Statement of Grounds for Appeal, dated March 8, 2021 and supporting documents
- Exhibit 3: Notice from Appeals Unit, dated May 11, 2021
- Exhibit 4: Form 1099 for Healthcare

FINDINGS OF FACT

The record shows, and I so find:

1. Appellant was 60 years old in 2020. Appellant filed a Massachusetts 2020 tax return as single with no dependents claimed (Exhibit 2).
2. Appellant resided in Essex County, MA in 2020 (Exhibit 2).
3. Appellant had an Adjusted Gross Income of \$32,993 in 2020 (Exhibit 2).
4. Appellant was unemployed from January to December 2020 (Testimony of Appellant).
5. Appellant income was from unemployment compensation from January through December 2020 (Testimony of Appellant).
6. Appellant was covered by health insurance that met the Massachusetts creditable coverage standards in January, February and March 2020 (Exhibit 4).
7. Appellant cared for two sick and elderly parents. Appellant's mother passed away in late 2019 and Appellant cared for Appellant's father in 2021 (Exhibit 2 and Testimony of Appellant).

8. Appellant had the following monthly expenses for basic necessities in 2020: Mortgage \$1,545; Utilities \$149; telephone \$65; Food \$433; supplies \$30; car and homeowners insurance \$185; gasoline \$108 and medical expenses \$26. The necessary expenses totaled \$2,541.
9. Appellant had difficulty paying for necessary expenses (Testimony of Appellant).
10. 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.
11. According to Table 3 of Schedule HC for 2020 a person filing as single with no dependents claimed with an adjusted gross income of \$32,993 could afford to pay \$137 per month for private insurance. According to Table 4, Appellant, age 60 and living in Plymouth County could have purchased private insurance for \$432 per month.
12. Private insurance was not considered to be affordable for Appellant in 2020 (Schedule HC for 2020).
13. According to Table 2 of Schedule HC for 2020, Appellant, earning less than \$37,470 was income eligible for government subsidized health insurance.
14. Appellant did not have health insurance for nine months in 2020 (Testimony of Appellant and Exhibit 4).
15. Appellant has been assessed a penalty for twelve months for 2020 (Exhibit 2).
16. Appellant filed a hardship appeal on March 8, 2021, claiming a hardship due to the sudden responsibility of caring for an aging parent (Exhibit 2).

ANALYSIS AND CONCLUSIONS OF LAW

G.L. c. 111M, § 2, also called the “individual mandate,” requires every adult resident of Massachusetts to obtain health insurance that meets minimum creditable coverage standards “[s]o long as it is deemed affordable” under the schedule set by the board of directors for the Commonwealth Health Insurance Connector Authority. Residents who do not obtain insurance or who do not obtain insurance that meets the minimum creditable coverage standard are subject to a tax penalty for “each of the months” that the individual did not have health insurance as required by the individual mandate. There is a three-month grace period to allow the taxpayer to obtain health insurance coverage or to make the transition between health insurance policies. See G. L. c. 111M, sec. 2(b) and for Tax Year 2020, Administrative Bulletin 03-10: Guidance Regarding M.G.L. c. 111M and M.G.L. c. 176Q, as implemented by 956 CMR 6.00, which interprets the 63-day gap in coverage to be three months. The Connector’s regulations provide for a waiver of the tax penalty in the case of a financial hardship. See 956 CMR 6.08.

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

Appellant did have insurance during January, February and March 2020. Appellant was considered eligible for government subsidized health insurance from April through December 2020. Since Appellant potentially had access to affordable insurance for 2020, we need to consider whether Appellant experienced a financial hardship as defined by 956 CMR 6.08.

Appellant was unemployed during 2020. Appellant struggled to pay for basic expenses during that time period. Appellant also had the sudden responsibility for providing full care for an aging parent. Purchasing health insurance would have caused a serious deprivation of food, shelter, clothing or other necessities. See Testimony of Appellant, which I find to be credible and 956 CMR 6.08 (1)(d)(3) and (1)(e).

I find the penalty assessed against Appellant for 2020 should be waived in its entirety.

PENALTY ASSESSED

Number of Months Appealed: 12

Number of Months Assessed: 0

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

ADDENDUM

Appellant is advised that this decision is based upon the facts as I have found them in 2020 and Appellant should not assume that a similar decision will be reached if Appellant fails to have health insurance in future years. Appellant should contact the Health Connector at 1 877 623-6765 to explore options for health insurance.

Massachusetts Health Connector Appeals Unit

FINAL APPEAL DECISION: PA20-221

Appeal Decision Appeal Approved

Hearing Issue: Appeal of the 2020 Tax Year Penalty

Hearing Date: June 16, 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 June 16, 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 May 11, 2021

Exhibit 2: Appeal Case Information from form Schedule HC

Exhibit 3: Statement of Grounds for Appeal Dated February 28, 2021

FINDINGS OF FACT

The record shows, and I so find:

1. The appellant is twenty-seven old and is single. He lives in Hamden County, Massachusetts.
2. Appellant worked in a transportation business. The company he worked for did offer health insurance in 2020 but Appellant opted out of the health insurance because he did not know whether his business would be deemed an essential business and he was concerned he would be laid off from his job. Appellant opted back in to his health insurance in July 2020.
3. Appellant does have health insurance in 2021.
4. The Appellant did submit a Statement of Grounds for Appeal-2020 under the grounds for Appeal, "Other. During 2020 other circumstances, such as applying the Affordability Tables in Schedule HC is inequitable."
5. I take administrative notice of the information set forth in tables 1 through 6 in the Department of Revenue Schedule HC Health Care Instructions and Worksheets (Schedule HC Instructions). Tables 3 & 4 incorporate the affordability schedules adopted by the board of directors of the Commonwealth Health Insurance Connector Authority for 2020. 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 2020.
6. Based on the appellant's federal adjusted gross income and the above referenced tables, I find the appellant would not have been eligible for subsidized health insurance, because Appellant's income of \$54,640.00 was more than \$37,470.00. The monthly premium for health insurance available on the private market in Hamden County for a 26 year old single person was \$241.00. The tables reflect that Appellant could afford \$364.26. This is less than what the appellant is deemed to afford. (Tables 2, 3 & 4 of the Schedule HC Instructions)

ANALYSIS AND CONCLUSIONS OF LAW

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

The Appellant did submit a Statement of Grounds for Appeal-2020 under the grounds for Appeal , “Other. During 2020 other circumstances, such as applying the Affordability Tables in Schedule HC is inequitable.”

The Health Care Reform Act of 2006 requires every adult resident of Massachusetts to obtain and maintain creditable insurance coverage “so long as it is deemed affordable” under the schedule established by the board of the Connector. Mass. Gen. Laws ch. 111M, § 2(a). Massachusetts residents who fail to indicate on their state tax returns that they obtained the mandated creditable coverage are subject to a tax penalty for each month in which that the individual did not have creditable health insurance. *Id.* at § 2(b). However, individuals with incomes up to 150 percent of the Federal Poverty Level (“FPL”) are not subject to any penalty for non-compliance with the individual mandate. See Massachusetts Department of Revenue Technical Information Release (“TIR”) 13-1, available at <http://www.mass.gov/dor/businesses/help-and-resources/legal-library/tirs/tirs-by-years/2013-releases/tir-13-1.html>. For 2020, 150 percent of the FPL was \$18,3735.00 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 2020 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 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 through employer-sponsored plans, government-subsidized programs or on the private insurance market. See 2020 Schedule HC Instructions and Worksheets, *supra*.

Appellant reported a federal AGI of \$54,640.00 in 2020, 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 2020 Massachusetts Schedule HC, Appellant could afford to pay \$364.26 monthly for health insurance. See 2020 Schedule HC Instructions and Worksheets, *supra* at Table 3. Private insurance would have been available to him from the Premium Tables, at a cost of \$241.00 monthly for coverage with zero dependents *Id.* at Table 4.

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

Appellant worked in a transportation business. The company he worked for did offer health insurance in 2020 but Appellant opted out of the health insurance because he did not know whether his business

would be deemed an essential business and he was concerned he would be laid off from his job. Appellant opted back in to his health insurance in July 2020.

On these facts, I find that Appellant has shown that he was precluded from purchasing affordable health insurance during 2020. 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 2020 penalty assessed is **OVERTURNED**.

PENALTY ASSESSED

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

The Connector has notified the Department of Revenue that, pursuant to its decision, you should be assessed a penalty for Tax Year 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: PA20-222

Appeal Decision Appeal Approved

Hearing Issue: Appeal of the 2020 Tax Year Penalty

Hearing Date: June 16, 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 June 16, 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 May 11, 2021

Exhibit 2: Appeal Case Information from form Schedule HC

Exhibit 3: Statement of Grounds for Appeal Dated March 12, 2021

FINDINGS OF FACT

The record shows, and I so find:

1. The appellant is twenty-eight years old and is single. He lives in Middlesex County, Massachusetts.
2. Appellant worked in a restaurant business. The company he worked for did offer health insurance in 2020 but Appellant had to work 33 hours a week to be eligible for such insurance. Appellant was laid off in March of 2020 and did not go back to work until 2021. Appellant tried to obtain health insurance but the cost was \$300.00 per month, which he asserted he could not afford. Appellant states that he is not eligible to apply for insurance until September 2021, when open enrollment occurs.
3. Appellant does not have health insurance in 2021.
4. The Appellant did submit a Statement of Grounds for Appeal-2020 under the grounds for Appeal under, "Other. During 2020 other circumstances, such as applying the Affordability Tables in Schedule HC is inequitable" and "During 2020, the expense of purchasing health insurance would have caused a serious deprivation of food, shelter, clothing or other necessities": and "During 2020, you purchased health insurance that didn't meet 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"
5. I take administrative notice of the information set forth in tables 1 through 6 in the Department of Revenue Schedule HC Health Care Instructions and Worksheets (Schedule HC Instructions). Tables 3 & 4 incorporate the affordability schedules adopted by the board of directors of the Commonwealth Health Insurance Connector Authority for 2020. 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 2020.
6. Based on the appellant's federal adjusted gross income and the above referenced tables, I find the appellant would not have been eligible for subsidized health insurance, because Appellant's income of \$66,592.00 was more than \$37,470.00. The monthly premium for health insurance available on the private market in Middlesex County for a 27 year old single person was \$269.00. The tables reflect that Appellant could afford \$443.94. This is less than what the appellant is deemed to afford. (Tables 2, 3 & 4 of the Schedule HC Instructions)

ANALYSIS AND CONCLUSIONS OF LAW

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

The Appellant did submit a Statement of Grounds for Appeal-2020 under the grounds for Appeal under , “Other. During 2020 other circumstances, such as applying the Affordability Tables in Schedule HC is inequitable” and “During 2020, the expense of purchasing health insurance would have caused a serious deprivation of food, shelter, clothing or other necessities:” and “During 2020, you purchased health insurance that didn’t meet creditable coverage standards because that is what your employer offered , and you felt that your circumstances prevented you from buying other insurance that met the requirements”

The 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 2020, 150 percent of the FPL was \$18,3735.00 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 2020 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 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 through employer-sponsored plans, government-subsidized programs or on the private insurance market. See 2020 Schedule HC Instructions and Worksheets, *supra*.

Appellant reported a federal AGI of \$66,592.00 in 2020, 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 2020 Massachusetts Schedule HC, Appellant could afford to pay

\$443.94 monthly for health insurance. See 2020 Schedule HC Instructions and Worksheets, *supra* at Table 3. Private insurance would have been available to him from the Premium Tables, at a cost of \$269.00 monthly for coverage with zero dependents *Id.* at Table 4.

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

Appellant worked in a restaurant business. The company he worked for did offer health insurance in 2020 but Appellant had to work 33 hours a week to be eligible for such insurance. Appellant was laid off in March of 2020 and did not go back to work until 2021. Appellant tried to obtain health insurance but the cost was \$300.00 per month, which he asserted he could not afford. Appellant states that he is not eligible to apply for insurance until September 2021, when open enrollment occurs.

On these facts, I find that Appellant has shown that he was partially precluded from purchasing affordable health insurance during 2020. 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 **PARTIALLY ALLOWED**, and the 2020 penalty assessed is **PARTIALLY OVERTURNED**.

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: PA20-224

Appeal Decision Appeal Allowed

Hearing Issue: Appeal of the 2020 Tax Year Penalty

Hearing Date: June 16, 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

The Appellant appeared at the hearing, which was held by telephone, on June 16, 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 May 11, 2021
- Exhibit 2: Appeal Case Information from form Schedule HC
- Exhibit 3: Statement of Grounds for Appeal, dated May 10, 2021

FINDINGS OF FACT

The record shows, and I so find:

1. The appellant is twenty-six years old and is single. He lives in Suffolk County. Appellant works in the surveillance industry.
2. Appellant moved to Texas in September 2019 and had health insurance while living in Texas in 2020. Appellant provided proof through the submission of a 1095A of his health insurance for January 2020 through May 2020.
3. Appellant does have health insurance in 2021.
4. The Appellant did submit a Statement of Grounds for Appeal-2020 "Other. During 2020 other circumstance, such as applying the Affordability Tables in Schedule HC to you is inequitable" Appellant had health insurance for the time he lived in Massachusetts in 2020.
5. I take administrative notice of the information set forth in tables 1 through 6 in the Department of Revenue Schedule HC Health Care Instructions and Worksheets (Schedule HC Instructions). Tables 3 & 4 incorporate the affordability schedules adopted by the board of directors of the Commonwealth Health Insurance Connector Authority for 2020. 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 2020.

ANALYSIS AND CONCLUSIONS OF LAW

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

Appellant moved to Texas in September 2019 and had health insurance while living in Texas in 2020. Appellant provided proof through the submission of a 1095A of his health insurance for January 2020 through May 2020.

The Appellant did submit a Statement of Grounds for Appeal-2020 "Other. During 2020 other circumstance, such as applying the Affordability Tables in Schedule HC to you is inequitable" Appellant had health insurance for the time he lived in Massachusetts in 2020.

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 2020, 150 percent of the FPL was \$18,735.00 for a single person. *Id.* In addition, a lapse in coverage of 63 days or less is not subject to the section 2(b) penalty. See Administrative Bulletin 03-10 (Dec. 7, 2010), available at <https://www.mahealthconnector.org/portal/binary/com.epicentric.contentmanagement.servlet.ContentDeliveryServlet/Health%2520Care%2520Reform/Regulations/documents/Administrative%20Information%20Bulletin%2003-10.pdf>; see also 830 Mass. Code Regs. 111M.2.1(5)(c) (2008). Thus, no penalty is imposed for lapses in coverage consisting of three or fewer consecutive calendar months. *Id.*

Since Appellant’s 2020 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 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 through employer-sponsored plans, government-subsidized programs or on the private insurance market. See 2020 Schedule HC Instructions and Worksheets, *supra*.

On these facts, I find that Appellant has shown that he was precluded from purchasing affordable health insurance during 2020. 956 Mass. Code Regs. 6.08(3) (2008). Accordingly, I conclude that he is exempt from a tax penalty for her non-compliance with the individual mandate.

Accordingly, Appellant’s appeal is **ALLOWED**, and the 2020 penalty assessed is **OVERTURNED**.

PENALTY ASSESSED

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

The Connector has notified the Department of Revenue that, pursuant to its decision, you should be assessed a penalty for Tax Year 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: PA20-257

Appeal Decision: Penalty Overturned in Full

Hearing Issue: Appeal of the 2020 Tax Year Penalty

Hearing Date: June 22, 2021

Decision Date: June 25, 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, 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—2020

Ex. 2—Appeal Case Information from Schedule HC ¹

Ex. 3—Notice of Hearing

FINDINGS OF FACT

The record shows, and I so find:

1. The appellant is 37-years-old, is single, and has two children aged four and seven. In 2020, she resided in Essex County, MA. She did not have health insurance in 2020. (Testimony, Ex. 2)
2. Prior to 2020, the appellant last had health insurance in 2019 with MassHealth. That insurance was terminated because the appellant's income was too high. (Testimony)
3. The appellant was employed in 2020. The employer offered health insurance, but she missed the open enrollment period and was locked out until the next enrollment period the following year. She investigated her eligibility for subsidized health insurance through the Health Connector, and determined that she had also missed the open enrollment period, and did not qualify for a Special Enrollment Period. (Testimony)

¹ Ex. 2 is a computer printout that extracts information submitted by the appellant on Schedule HC as part of her 2020 Massachusetts income tax return. It also contains information about prior appeals, if any.

4. Prior to 2020, the appellant was never assessed a penalty for failure to obtain insurance for all or part of a tax year. (Testimony)
5. The appellant was determined eligible for health insurance through the Health Connector for 2021, and has been enrolled since January. Her current monthly premium is \$43.00. (Testimony)
6. The appellant reported an adjusted gross income of \$43,708.00 on her 2020 federal tax return, and reported that she was head of household with two dependents. (Ex. 2)
7. In 2020, the appellant had regular monthly expenses of approximately \$1642.00 for rent (\$700.00), heat (\$125.00), electricity (\$45.00), cell phone (\$90.00), automobile loan (\$262.00), automobile insurance (\$100.00), childcare (\$80.00), gasoline (\$120.00), and food (\$120.00)². In addition, she was repaying a bank loan in the amount of \$300.00/month, and paid approximately \$50.00/month for credit card debt. (Testimony, Ex. 1)

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

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 2020 because she purchased health insurance that didn't meet minimum creditable coverage standards because that is what her employer offered, and she felt that her circumstances prevented her from buying other insurance that met the requirements. She also submitted a letter with her statement in which she stated in part that she is a single mother of two children and could not afford to purchase health insurance.

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 2020, 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 in 2019 she had health insurance through MassHealth, but it was terminated because her income was too high. She testified that she was employed and missed the employer’s open enrollment period for 2020. She testified that she investigated her eligibility for insurance through the Health Connector and determined that she had also missed the open enrollment period and did not qualify for a special enrollment period. Finally, she testified that she was determined eligible for insurance through the Health Connector for 2021 and has been enrolled since January with a monthly premium of \$43.00.

² The appellant used food stamps to purchase food for herself and her family. She sometimes had to pay additional amounts out of pocket over and beyond the stamps.

In her Statement of Grounds for Appeal and her accompanying letter, the appellant specified two separate grounds for her appeal: 1) the cost of health insurance was unaffordable; and 2) she purchased health insurance that did not meet minimum creditable coverage requirements because that is what her employer offered. At the hearing, she testified that she missed her employer's open enrollment period for 2020 and was blocked from enrollment until the next enrollment period the following year. Since the appellant was not enrolled in employer insurance in 2020, it appears that she made an error when she checked off the second ground on the appeal form.

While the appellant's claim that she missed the enrollment period is deemed credible and will be accepted at face value, an affordability analysis will follow since she raised that as a separate ground in her appeal.

The evidence provided by the appellant established that her income for 2020, \$43,708.00, was less than 300% of the federal poverty level (FPL), which for 2020 was \$63,990.00 for a family of three. Table 3 of the Affordability Schedule indicates that an individual filing as head of household with one or more dependents with a federal adjusted gross income between \$42,661.00 and \$53,325.00 is deemed to be able to afford a monthly premium of \$178.47 (4.90% of \$43,708.00/12). Table 4 of the Premium Schedule indicates that a 36-year-old individual (the age of the appellant in 2020) in Essex County (where the appellant resided in 2020) could have purchased private health insurance for \$751.00 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 2020.

Since the appellant's income was within 300% of the FPL, the appellant could 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 \$178.47 per month, pursuant to the aforementioned Affordability Schedule in Table 3.

Even though subsidized health insurance may have been affordable to the appellant under the law, she may nevertheless not be subject to a penalty for failing to get health insurance for the months in question if she can show that she experienced a hardship during 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 appellant's tax penalty for 2020 could be waived if she experienced financial circumstances such that the expense of purchasing health insurance would have caused her to experience a serious deprivation of food, shelter, clothing or other necessities. See 956 CMR 6.08.

The evidence presented by the appellant in this case is sufficient to establish that she experienced a financial hardship as defined by law so as to waive her penalty for the months in question. The appellant testified that in 2020, she incurred basic monthly expenses of approximately \$1992.00, including her credit card debt and loan repayment. Although those expenses were less than her regular monthly pre-tax income of approximately \$3642.00, thereby making a subsidized insurance premium of \$178.47 seemingly manageable, the difference of \$1650.00/month between income and expenses was an inadequate cushion to cover unanticipated expenses that typically arise. Furthermore, the fact that the appellant was receiving food stamps underscores a level of financial distress that the numbers do not necessarily indicate. Hence, it is concluded that the totality of the evidence presented by the appellant established that she experienced financial circumstances such that the expense of purchasing health insurance that met minimum creditable coverage standards would have caused her to experience a serious deprivation of food, shelter, clothing or other necessities. See 956 CMR 6.08 (1)(e). It is also noted that the appellant has been enrolled in insurance since January, 2021, thereby demonstrating that the mandate to purchase insurance was not lost on her.

Accordingly, based upon the totality of the evidence, since the appellant could not have afforded private or subsidized health insurance, and was blocked from enrollment in employer health insurance, her request for a waiver from the penalty is **granted** for the months in question. The determination that the appellant is eligible for a waiver is with respect to 2020, 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 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.

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: PA20-260

Appeal Decision: Penalty Overturned in Full

Hearing Issue: Appeal of the 2020 Tax Year Penalty

Hearing Date: June 22, 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 June 22, 2021, and testified under oath. The hearing record consists of the appellant's testimony and the following documents which were admitted into evidence without his objection:

Ex. 1—Statement of Grounds for Appeal—2020

Ex. 2—Appeal Case Information from Schedule HC ¹

Ex. 3—Notice of Hearing

FINDINGS OF FACT

The record shows, and I so find:

1. The appellant is 45-years-old, is single, and has four children. In 2020, he resided in Essex County, MA from January through July. He did not have health insurance in 2020. (Testimony, Exs. 1,2)
2. Prior to 2020, the last time the appellant had health insurance was in 2016 through MassHealth. He has never been subject to a penalty for failure to obtain health insurance for all or part of any tax year prior to 2020. (Testimony)
3. The appellant was employed in 2020, and the employer did not offer health insurance. He investigated insurance options through the Health Connector and determined that a monthly premium would have cost approximately \$300.00-\$400.00 which he could not afford. (Testimony, Ex. 1)
4. The appellant lived with his girlfriend from January through July in a rental unit and they shared the rent and electric bill. The appellant felt compelled to leave after July because they were constantly

¹ Ex. 2 is a computer printout that extracts information submitted by the appellant on Schedule HC as part of his 2020 Massachusetts income tax return. It also contains information about prior appeals, if any.

arguing and he feared that it could lead to violence. From August through December, he lived in his van and sometimes stayed in the office where he worked. He continued to pay half of the rent and electric bill for the rental unit because the lease and bill were in his name. (Testimony, Ex. 1)

5. The appellant has not enrolled in health insurance in 2021. (Testimony)
6. The appellant reported an adjusted gross income of \$50,772.00 on his 2020 federal tax return, and reported that he was single with no dependents. (Ex. 2)
7. From January through July, 2020, the appellant had regular monthly expenses of approximately \$2688.00 for rent (\$1050.00), electricity (\$300.00), cell phone (\$140.00), automobile loan (\$469.00), automobile insurance (\$249.00), gasoline (\$280.00), and food (\$200.00). (Testimony, Ex. 1)

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

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

The appellant submitted a statement of grounds for appeal (Ex. 1), claiming that the individual mandate did not apply to him during 2020 because he was homeless; more than 30 days in arrears in rent or mortgage payments; or received an eviction or foreclosure notice. He also submitted a letter with his statement in which he stated in part that he was homeless from August through January, 2021 due to a volatile breakup with a former girlfriend and had to live out of his work van during that time period. He further stated that he did not know how to provide proof of those circumstances.

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 2020, Administrative Bulletin 03-10: Guidance Regarding M.G.L. c. 111M and M.G.L. c. 176Q, as implemented by 956 CMR 6.00, interprets the 63-day gap in coverage to be three months. As a result, gaps of three months are not subject to penalty. Since the appellant was uninsured for the entire year, he was assessed and is appealing a penalty of twelve months.

The appellant testified credibly that he was employed in 2020, but his employer did not offer health insurance. He testified that he investigated health insurance options through the Health Connector and determined that he could not afford the cost. He testified that he last had insurance in 2016 through MassHealth, and that he has never paid a penalty for failure to obtain insurance. He testified that he lived with his girlfriend from January through July, 2020, and then felt compelled to move out due to constant arguing which might have possibly ended up violent. He testified that from August through January, 2021, he lived in his van and sometimes in his office. Finally, he testified that he has not enrolled in health insurance in 2021.

With respect to the months of August through December, the appellant may not be subject to a penalty for failing to get health insurance 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, incurring unexpected increases in basic living expenses due to domestic violence or 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 2020 could be waived if he experienced financial circumstances such that the expense of purchasing health insurance would have caused him to experience a serious deprivation of food, shelter, clothing or other necessities. See 956 CMR 6.08.

The appellant offered credible testimony that he moved out of the unit he shared with his girlfriend because they argued all the time and he was worried about the propensity for violence. He testified that he lived in his van and sometimes in his office space for the remainder of the year. He indicated in his letter accompanying his appeal that he did not know how to corroborate his homelessness. Apart from a statement from a witness at his office who might have observed him living there temporarily, there is no documentary evidence that the appellant could have provided to support his claim of homelessness. Under these circumstances, it is concluded that the appellant established through credible testimony that he experienced a financial hardship within the meaning of 956 CMR 6.08(1)(a) as a result of which he should not be subject to a penalty.

With regard to the months of January through July, the evidence provided by the appellant established that his income for 2020, \$50,772.00, was greater than 300% of the federal poverty level (FPL), which for 2020 was \$37,470.00 for an individual. Table 3 of the Affordability Schedule indicates that an individual filing separately with no dependents with a federal adjusted gross income greater than \$49,961.00 is deemed to be able to afford a monthly premium of \$338.48 (8.00% of \$50,772.00/12). Table 4 of the Premium Schedule indicates that a 44-year-old individual (the age of the appellant in 2020) in Essex County (where the appellant resided in 2020) could have purchased private health insurance for \$316.00 per month, less than the monthly amount deemed affordable from Table 3. Thus, according to the foregoing analysis, the appellant could have purchased affordable private health insurance in 2020.

Even though private health insurance may have been affordable to the appellant under the law, he may nevertheless not be subject to a penalty for failing to get health insurance for the months in question if he can show that he experienced a hardship during 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 appellant's tax penalty for 2020 could be waived if he experienced financial circumstances such that the expense of purchasing health insurance would have caused him to experience a serious deprivation of food, shelter, clothing or other necessities. See 956 CMR 6.08.

The evidence presented by the appellant in this case is sufficient to establish that he experienced a financial hardship as defined by law so as to waive his penalty for the months in question. The appellant testified that in 2020, he incurred basic monthly expenses of approximately \$2688.00. Although those expenses were less than his regular monthly pre-tax income of approximately \$4231.00, thereby making an insurance premium of \$316.00/month seemingly manageable, the difference of \$1543.00/month between income and expenses was an inadequate cushion to cover unanticipated expenses that typically arise. Hence, it is concluded that the totality of the evidence presented by the appellant established that he experienced financial circumstances such that the expense of purchasing health insurance that met minimum creditable coverage standards would have caused him to experience a serious deprivation of food, shelter, clothing or other necessities. See 956 CMR 6.08 (1)(e).

Accordingly, based upon the totality of the evidence, it is concluded that since the appellant did not have access to employer health insurance, and could not have afforded private health insurance for first part of the year, and was homeless for the second part of the year, his request for a waiver from the penalty is **granted** for the months in question. The determination that the appellant is eligible for a hardship waiver is with respect to 2020, only and is based upon the extent of information submitted by him in this appeal.

PENALTY ASSESSED

Number of Months Appealed: 12

Number of Months Assessed: 0

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

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

ADDENDUM

The appellant has not had health insurance for several years and is advised not to rely on a similar extension of leniency should he be assessed and appeal a penalty for failure to obtain insurance in the future.

Massachusetts Health Connector Appeals Unit

FINAL APPEAL DECISION: PA20-277

Appeal Decision Appeal Approved

Hearing Issue: Appeal of the 2020 Tax Year Penalty

Hearing Date: June 25, 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 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: Notice of Hearing dated May 24, 2021

Exhibit 2: Appeal Case Information from form Schedule HC

Exhibit 3: Statement of Grounds for Appeal

Exhibit 4: Written Statement of Appeal

FINDINGS OF FACT

The record shows, and I so find:

1. The appellant is fifty-seven years old and is single. He lives in Plymouth County, Massachusetts.
2. Appellant lost his job in March 2018 and was out of work until October 2018. Appellant became delinquent with his first mortgage and became severely delinquent with his second mortgage. Appellant negotiated a modification with his first mortgage. Appellant was finally able to negotiate a modification with his second mortgage in late 2019. Appellant had difficulty paying his bills including his electric bill. Appellant finally received a full time job in 2018 but was not offered health insurance until just recently and had to wait until July 1, 2021 to become eligible for health insurance.
3. Appellant does not yet have health insurance in 2021. His health insurance is scheduled to start on July 1, 2021.
4. The Appellant did submit a Statement of Grounds for Appeal-2020 under the grounds for Appeal, "During 2020, you were homeless, more than 30 days in arrears in rent or mortgage payments, or received an eviction or foreclosure notice." And "During 2020, you received a shut-off notice, were shut-off or were refused delivery of essential utilities" and should have filed under "Other. During 2020 other circumstances, such as applying the Affordability Tables in Schedule HC. Is inequitable" I will hear this appeal under all these grounds.
5. I take administrative notice of the information set forth in tables 1 through 6 in the Department of Revenue Schedule HC Health Care Instructions and Worksheets (Schedule HC Instructions). Tables 3 & 4 incorporate the affordability schedules adopted by the board of directors of the Commonwealth Health Insurance Connector Authority for 2020. 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 2020.
6. Based on the appellant's federal adjusted gross income and the above referenced tables, I find the appellant would not have been eligible for subsidized health insurance, because Appellant's income of \$66,798.00 was more than \$37,470.00. The monthly premium for health insurance available on the private market in Plymouth County for a 56 year old single

person was \$432.00. The tables reflect that Appellant could afford \$445.32 This is less than what the appellant is deemed to afford. (Tables 2, 3 & 4 of the Schedule HC Instructions)

ANALYSIS AND CONCLUSIONS OF LAW

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

The Appellant did submit a Statement of Grounds for Appeal-2020 under the grounds for Appeal , “During 2020, you were homeless, more than 30 days in arrears in rent or mortgage payments, or received an eviction or foreclosure notice.” And “During 2020, you received a shut-off notice, were shut-off or were refused delivery of essential utilities” and should have filed under “Other. During 2020 other circumstances, such as applying the Affordability Tables in Schedule HC. Is inequitable” I will hear this appeal under all these grounds.

The Health Care Reform Act of 2006 requires every adult resident of Massachusetts to obtain and maintain creditable insurance coverage “so long as it is deemed affordable” under the schedule established by the board of the Connector. Mass. Gen. Laws ch. 111M, § 2(a). Massachusetts residents who fail to indicate on their state tax returns that they obtained the mandated creditable coverage are subject to a tax penalty for each month in which that the individual did not have creditable health insurance. *Id.* at § 2(b). However, individuals with incomes up to 150 percent of the Federal Poverty Level (“FPL”) are not subject to any penalty for non-compliance with the individual mandate. See Massachusetts Department of Revenue Technical Information Release (“TIR”) 13-1, available at <http://www.mass.gov/dor/businesses/help-and-resources/legal-library/tirs/tirs-by-years/2013-releases/tir-13-1.html>. For 2020, 150 percent of the FPL was \$18,3735.00 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 2020 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 2200. 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 2020 Schedule HC Instructions and Worksheets, *supra*.

Appellant reported a federal AGI of \$66,798.00 in 2020, 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 2020 Massachusetts Schedule HC, Appellant could afford to pay \$445.32 monthly for health insurance. See 2020 Schedule HC Instructions and Worksheets, *supra* at Table 3. Private insurance would have been available to him from the Premium Tables, at a cost of \$432.00 monthly for coverage with zero dependents *Id.* at Table 4.

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

Appellant lost his job in March 2018 and was out of work until October 2018. Appellant became delinquent with his first mortgage and became severely delinquent with his second mortgage. Appellant negotiated a modification with his first mortgage. Appellant was finally able to negotiate a modification with his second mortgage in late 2019. Appellant had difficulty paying his bills including his electric bill. Appellant finally received a full time job in 2018 but was not offered health insurance until just recently and had to wait until July 1, 2021 to become eligible for health insurance.

On these facts, I find that Appellant has shown that he was precluded from purchasing affordable health insurance during 2020. 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 2020 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 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