

FINAL APPEAL DECISION: PA 20-500

Appeal Decision: The penalty is overturned in part.
Hearing Issue: Appeal of the 2020 Tax Year Penalty
Hearing Date: May 11, 2022
Decision Date: June 14, 2022

AUTHORITY

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

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 15, 2022. The procedures to be followed during the hearing were reviewed with the Appellant who was then sworn in. Exhibits were marked and admitted in evidence with no objection from the Appellant. The Appellant testified.

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

Exhibit 1:	Appeal Case Information from Schedule HC.	(1 P).
Exhibit 2:	Statement of Grounds for Appeal Signed by Appellant on 4/1/2021.	(2 PP).
Exhibit 2(a):	Appellant's Statement in Support of the Appeal dated 4/1/2021	(1 P).
Exhibit 3:	Health Connector's Notice of Hearing dated 2/28/2022	(2 PP).

The record was left open until May 30, 2022. for the Appellant to submit proof of part time residence in Connecticut and any other evidence of hardship. No additional documents were submitted.

The record shows, and I so find:

1. Appellant, who filed a 2020 Massachusetts tax return filed married filing separate with a family size of 2, was age 36 in 2020, lived in Berkshire County, and had zero (0) dependents. (Exhibit 1).
2. Appellant moved to Massachusetts in June 2020 from Connecticut where he did not have or was required to have health insurance. (Appellant's Testimony, Ex. 2(a)).
3. Appellant did not realize that Massachusetts had a mandate. (Appellant's Testimony).

4. Appellant's Spouse worked in Massachusetts and was covered under an Employer Sponsored Insurance ("ESI"). (Appellant's Testimony).
5. Appellant was married prior to 2020. (Appellant's Testimony).
6. Appellant did not investigate obtaining coverage through his Spouse during 2020 and did not know the amount of the premium. (Appellant's Testimony).
7. Appellant's was self-employed and did not have access to his own employer sponsored plan. (Appellant's Testimony).
8. Appellant's Federal Adjusted Gross Income for 2020 was \$86,943. (Exhibit 1).
9. Appellant testified that he did not accurately check off he was a part time Massachusetts resident on his 2020 taxes. (Appellant's Testimony).
10. According to Table 3 Appellant could have afforded \$579.62 per month for health insurance in 2020. According to Table 4 Appellant could have purchased an individual insurance plan for \$265.00 per month.
11. The Appellant would have not been eligible for ConnectorCare coverage in 2020 because the Appellant's income was more than 300% of the poverty level, which was \$50,730.00. (See Table 2 of Schedule HC 2020, Appellant's Testimony).
12. In addition to the foregoing, I take administrative notice of the 2020 Schedule HC Instructions and Worksheets, available at <http://www.mass.gov/dor/docs/dor/health-care/2020>, and in particular, Tables 1-6 which, as discussed below, include the Affordability Schedule and other financial information used in making 2020 individual mandate tax penalty determinations.

ANALYSIS AND CONCLUSIONS OF LAW

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

The Appellant submitted a statement of grounds for appeal (Ex. 2) with the appeal but did not indicate the grounds for his appeal. The Appellant adduced testimony that he moved to Massachusetts in June 2020 and was not able to join his Spouses plan after he determined that he was responsible for having health insurance. See 956 CMR 6.08(1)(a).

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

See G. L. c. 111M, sec. 2(b) and for Tax Year 2010, Administrative Bulletin 03-10: Guidance Regarding M.G.L. c. 111M and M.G.L. c. 176Q, as implemented by 956 CMR 6.00, which interprets the 63-day gap in coverage to be three months. The Connector's regulations provide for a waiver of the tax penalty in the case of 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, \$86,943.00 was more than 300% of the federal poverty level, which for 2020 was \$50,730.00 for a family size of two (2). According to Table 3 of Schedule HC for 2020, the Appellant could have afforded \$579.62 per month. According to Table 4, Appellant, age 36 and living in Berkshire County during the time he was being penalized for not having insurance, could have purchased insurance for \$265 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. The Appellant testified he was self-employed and did not have access to ESI. The Appellant testified he was unable to access Employer Sponsored Insurance ("ESI") through his spouse because when he found out he was required to have insurance it was past the open enrollment period. (Appellant's Testimony). Notwithstanding above, I find the Appellant did have access to ESI through his Spouse.

Where the Appellant did have access affordable coverage through ESI but did not have access to 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 him to experience a serious deprivation of food, shelter, clothing or other necessities. See 956 CMR 6.08.

The evidence presented by the Appellant in this case is insufficient to establish that he experienced a reason or financial hardship pursuant to 956 CMR 6.08(1)(a), as defined by law so as to waive his penalty for the months in question. I find the Appellant failed to meet his burden that he could not afford the cost of \$579.62 to afford the cost of purchasing private insurance. I find this would not have caused the Appellant to experience a serious deprivation of food, shelter clothing, or other necessities. (Appellant Testimony).

Based upon the facts summarized and on the totality of the evidence, it is concluded that the Appellant's request for a waiver from the penalty is denied. However, to mitigate the harshness of a full penalty, the penalty is reduced to four (4) months.

Appellant should note that any waiver granted him 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 his eligibility for subsidized health insurance through the Health Connector at www.mahealthconnector.org or by contacting customer service at 1-877-623-6765.

FINAL APPEAL DECISION: PA 20-1217

Appeal Decision: The penalty is overturned in full.
Hearing Issue: Appeal of the 2020 Tax Year Penalty
Hearing Date: May 20, 2022
Decision Date: June 14, 2022

AUTHORITY

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

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 20, 2022. The procedures to be followed during the hearing were reviewed with the Appellant who was then sworn in. Exhibits were marked and admitted in evidence with no objection from the Appellant. The Appellant testified.

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

Exhibit 1:	Appeal Case Information from Schedule HC.	(1 P).
Exhibit 2:	Appellant's Statement supporting Vacate Dismissal received 4/5/2022.	(2 PP).
Exhibit 3:	Health Connector's Notice of Hearing dated 4/8/2022	(2 PP).

The record was left open until May 30, 2022, to submit evidence of shutoff notices and other hardship. On May 31, 2022, the Appellant submitted:

Exhibit 4: Email along with utility invoice from May-June 2020 reflecting 3 months arrears. (2PP).

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 30 in 2020, lived in Worcester County, and had zero (0) dependents. (Exhibit 1).
2. Appellant's Federal Adjusted Gross Income for 2020 was \$67,491. (Exhibit 1).
3. Appellant had Employer Sponsored Insurance ("ESI") and was employed full time until he was laid off because of Covid. (Appellant's Testimony).

4. Appellant stated he thought he was going to be covered for two (2) months after he was laid off and did not realize he was not covered until he went to the Doctors. (Appellant's Testimony).
5. Appellant stated he did not have any income for approximately four (4) months after he was laid off until his unemployment insurance claim was processed. (Appellant's Testimony).
6. Appellant did not investigate obtaining insurance through the Connectorcare because he thought he had ESI coverage and was actively looking for employment. (Appellant's Testimony).
7. Appellant obtained ESI when he obtained new employment in October 2020. (Appellant's Testimony, Ex. 1).
8. Appellant has been assessed a tax penalty for four (4) months in 2020. The Appellant has appealed this assessment (Exhibits 1, 2).
9. Appellant had the following average monthly living expenses in 2020: Rent: \$ Mortgage: \$2,000, Oil: \$250, Electric: \$275, Water: \$100, Car Payment: \$299, Car Insurance: \$75, Cell Phone: \$60, Internet: \$100, Food: \$400, totaling: \$3,599. (Appellant's Testimony).
10. Appellant had out of pocket medical expenses in the amount of \$690, car expenses: \$1,375 as well as other household maintenance expenses. (Appellant's Testimony).
11. Appellant testified he received two 2 shutoff notices from National Grid and was able to avoid a shutoff by entering into a payment plan. (Appellant's Testimony, Exhibit 4 invoice reflecting arrears).
12. According to Table 3 Appellant could have afforded \$449.94 per month for health insurance in 2020. According to Table 4 Appellant could have purchased insurance for \$269.00 per month.
13. The Appellant would not have been eligible for ConnectorCare coverage in 2020 because the Appellant's income was more than 300% of the poverty level, which was \$37,470.00. (See Table 2 of Schedule HC 2020, Appellant's Testimony).
14. 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 four (4) months in 2020. Appellant has appealed the penalty. (See Exhibits 1 and 2).

The Appellant testified that the individual mandate did not apply to him during 2020 because 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.

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, \$67,491.00 was more than 300% of the federal poverty level, which for 2020 was \$37,470.00 for a single person. According to Table 3 of Schedule HC for 2020, the Appellant could have afforded \$449.94 per month. According to Table 4, Appellant, age 30 and living in Worcester County during the time he was being penalized for not having insurance, could have purchased insurance for \$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. The Appellant did not have access to Employer Sponsored Insurance (“ESI”). during the time he was unemployed. (Appellant’s Testimony).

Where the Appellant did not have access affordable coverage through ESI but did have access to affordable coverage through private insurance, 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 him 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: \$ Mortgage: \$2,000, Oil: \$250, Electric: \$275, Water: \$100, Car Payment: \$299, Car Insurance: \$75, Cell Phone: \$60, Internet: \$100, Food: \$400, totaling: \$3,599. (Appellant’s Testimony).

The evidence presented by the Appellant in this case is sufficient to establish that he experienced a financial hardship and other hardships pursuant to 956 CMR 6.08(1)(a), (e), (3), as defined by law so as to waive his penalty for the months in question. I find the Appellant met his burden that he could not afford the cost of \$449.94 given that he did not have income for approximately four (4) months after he was laid off. His monthly expenses of \$3,599, lack of income, and documentation reflecting utility arrears would have caused the Appellant to experience a serious deprivation of food, shelter clothing, or other necessities. (Appellant Testimony).

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

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

PENALTY ASSESSED

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

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

Massachusetts Health Connector Appeals Unit

FINAL APPEAL DECISION: PA21-1745

Appeal Decision: Appeal Approved

Hearing Issue: Appeal of the 2021 Tax Year Penalty

Hearing Date: May 16, 2022

Decision Date: June 13, 2022

AUTHORITY

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

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 16, 2022.

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 11, 2022	2 pages
Exhibit 2	Appeal Case Info. fr. Sch. HC for 2021	1 page
Exhibit 3	Statement of Grounds for Appeal	5 pages
Exhibit 4	Supporting Letter	2 pages

FINDINGS OF FACT

The record shows, and I so find:

1. The Appellant turned 56 years old in November 2021. 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 Plymouth County, MA in 2021. (Appellant's Testimony).
3. The Appellant's Federal Adjusted Gross Income (AGI) for 2021 was \$82,338.00 as shown on Schedule HC for 2021. (Exhibit 2).
4. The Appellant did not have health insurance that met Minimum Creditable Coverage (MCC) during nine (9) months of tax year 2021 according to Appeal Case Information from Schedule HC for 2020. (Exhibit 2 and Appellant's Testimony).
5. The Appellant has been assessed a six (6)-month tax penalty for 2021, which they have appealed. (Exhibits 2 & 3).
6. I take administrative notice of the financial information set forth in Tables 1 through 6 of the DOR 2021 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 2021.
7. In accordance with Table 3 of Schedule HC for 2021, the Appellant filing the Federal tax return as a single individual, with no dependents claimed, with an annual adjusted gross income of \$82,338.00, could afford to pay \$548.92 per month for government-sponsored health insurance. In accordance with Table 4, the Appellant, age 56, living in Plymouth County, could have purchased private market health insurance for \$401.00 per month. (Table 4, Schedule HC for 2020). Thus, private insurance was affordable for the Appellant in 2021.
8. Employer-sponsored insurance (ESI) was available to Appellant from January through March 2021. (Appellant's Testimony).
9. The Appellant was not income-eligible for ConnectorCare coverage in 2021 because their adjusted gross income of \$82,338.00 was more than 300% of the Federal poverty level, which was \$38,280.00 in 2020 (Schedule HC, Table 2). (Appellant's Testimony and Exhibit 2).
10. The Appellant was a union carpenter who had worked for the same scaffolding companies for more than 30 years. They served as general foreman for the companies at the beginning of 2020 and earned about \$140,00.00. (Exhibit 4 and Appellant's Testimony).
11. As of the end of March 2020, the Appellant was laid off from their job because of the Covid-19 pandemic. (Exhibit 4 and Appellant's Testimony).
12. In March 2021, as Appellant was losing their health insurance coverage, the companies told Appellant that they were eliminating their position because of lack of work. Appellant had always had ESI throughout their more than 30-year tenure with

the companies. Appellant experienced the dual traumas of losing their long-time job and their health insurance coverage.

13. Appellant did not understand the private insurance marketplace or the Connector marketplace or how to determine if they qualified for insurance during their period of unemployment, given that they had always had ESI for 30 years. (Appellant's Testimony, which I credit).
14. Appellant immediately began looking for a new job. They were forced to take one working for a company that caused them to receive a fifty percent reduction in salary, to about \$70,000.00 annually. (Exhibit 4 and Appellant's Testimony).
15. The Appellant did not qualify for insurance through their new employer until December 31, 2021. They currently have MCC-compliant health insurance through the new employer. (Exhibit 4 and Appellant's Testimony).
16. Their annual living expenses as of 2021 had been based on a salary of \$140,000.00 and included monthly expenses of 5,180.00: Mortgage - \$2,500.00, Heat - \$200.00, Electricity - \$150.00, Car insurance - \$180.00, Car payments - \$650.00, Phone - \$100.00, Gas - \$300.00, Food - \$900.00, and Credit Card debt - \$200.00. (Appellants' 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.

The Appellant explained in his testimony that during 2021, the expense of purchasing health insurance would have caused a serious deprivation of food and other living necessities.

To determine if the six (6)-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.

In accordance with Table 3 of Schedule HC for 2021, the Appellant filing the Federal tax return as a single individual, with no dependents claimed, with an annual adjusted gross income of \$82,338.00, could afford to pay \$548.92 per month for government-sponsored health insurance. In accordance with Table 4, the Appellant, age 56, living in Plymouth County, could have purchased private market health insurance for \$401.00 per month. (Table 4, Schedule HC for 2020). Thus, private insurance was affordable for the Appellant in 2021.

Employer-sponsored insurance (ESI) was available to Appellant from January through March 2021. (Appellant's Testimony).

The Appellant was not income-eligible for ConnectorCare coverage in 2021 because their adjusted gross income of \$82,338.00 was more than 300% of the Federal poverty level, which was \$38,280.00 in 2020 (Schedule HC, Table 2). (Appellant's Testimony and Exhibit 2).

The Appellant was a union carpenter who had worked for the same scaffolding companies for more than 30 years. They served as general foreman for the companies at the beginning of 2020 and earned about \$140,00.00. (Exhibit 4 and Appellant's Testimony).

As of March 2020, the Appellant was laid off from their job because of the Covid-19 pandemic. (Exhibit 4 and Appellant's Testimony).

In March 2021, as Appellant was losing their health insurance coverage, the companies told Appellant that they were eliminating their position because of lack of work. Appellant had always had ESI throughout their more than 30-year tenure with the companies. Appellant experienced the dual traumas of losing their long-time job and their health insurance coverage.

Appellant did not understand the private insurance marketplace or the Connector marketplace or how to determine if they qualified for insurance during their period of unemployment, given that they had always had ESI for 30 years. (Appellant's Testimony, which I credit).

Appellant immediately began looking for a job. They were forced to take one working for a company that caused them to receive a fifty percent reduction in salary, to about \$70,000.00 annually. (Exhibit 4 and Appellant's Testimony).

The Appellant did not qualify for insurance through their new employer until December 31, 2021. They currently have MCC-compliant health insurance through their new employer. (Exhibit 4 and Appellant's Testimony).

Their annual living expenses as of 2021 had been based on a salary of \$140,000.00 and included monthly expenses of \$5,180.00: Mortgage - \$2,500.00, Heat - \$200.00, Electricity - \$150.00, Car insurance - \$180.00, Car payments - \$650.00, Phone - \$100.00, Gas - \$300.00, Food - \$900.00, and Credit Card debt - \$200.00. (Appellants' Testimony).

Based on all the credible evidence contained in this administrative record and the totality of the circumstances, I conclude that during 2021 the Appellant experienced hardship and uncertainty within the meaning of 956 CMR 6.08 (1) and (3), which they could not have predicted. Their monthly living expenses of \$5,180.00 or \$62,160.00 annually had been based on an annual salary of \$140,000.00. However, after Appellant lost that job, their new job paid half the annual amount or \$70,000.00. Thus, Appellant could not reasonably afford to pay for health insurance at a cost of \$6,588.00 annually and their living expenses in 2021. Having had ESI through their employer for more than 30 years, Appellant did not understand the private insurance or ConnectorCare marketplaces. Further, the Appellant currently has ESI through their new employer. For all these reasons, payment for the six (6)-month penalty assessment for the Appellant 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 2021. 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: 6 Number of Months Assessed: 0

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

NOTIFICATION OF YOUR RIGHT TO APPEAL TO COURT

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

Hearing Officer

cc: Connector Appeals Unit

Massachusetts Health Connector Appeals Unit

FINAL APPEAL DECISION: PA21-1752

Appeal Decision: Appeal Approved
Hearing Issue: Appeal of the 2021 Tax Year Penalty
Hearing Date: May 25, 2022
Decision Date: June 26, 2022

AUTHORITY

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

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

Both the Appellant listed as the Primary Taxpayer (Primary Taxpayer) and their spouse (Appellant Spouse) (together, Appellants). appeared at the hearing on May 25, 2022, which was held by telephone.

The hearing record consists of the testimony of the Primary Taxpayer and the following documents which were admitted into evidence without objection:

Exhibit 1	Hearing Notice dated April 13, 2022	2
Exhibit 2	Appeal Case Info. from Sch. HC for 2021	1
Exhibit 3	Statement of Grounds for Appeal	5
Exhibit 4	Supporting Letter	1
Exhibit 5	Evolve Member Card, Feb. 21, 2022, and Letter	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.

FINDINGS OF FACT

The record shows, and I so find:

1. The Primary Taxpayer turned 50 years old in June 2021. The Primary Taxpayer filed their Federal Income Tax Return as a married person, filing jointly, with no dependents claimed. (Exhibit 2).
2. The Appellant Spouse turned 50 years old in December 2021. (Exhibit 2).
3. The Primary Taxpayer and Appellant Spouse (together, Appellants) lived in Barnstable County, MA during 2020. (Exhibit 2).
4. The Appellants' Federal Adjusted Gross Income for 2020 was \$204,483.00. (Exhibit 2).
5. Neither the Primary Taxpayer or the Appellant Spouse had MCC-compliant health insurance coverage during twelve (12) months of tax year 2021 according to Appeal Information from Schedule HC for 2021. (Exhibit 2).
6. Each Appellant was assessed a tax penalty of twelve (12) months according to Appeal Case Information from Schedule HC for 2021, and each appeals their respective assessment. (Exhibit 2).
7. 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 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. In accordance with Table 3 of Schedule HC for 2021, the Primary Taxpayer filing the Federal tax return as a married person, filing jointly, with no dependents claimed, with an annual adjusted gross income of \$204,483.00, could afford to pay \$1,363.22 per month for government-sponsored health insurance. In accordance with Table 4, the Primary Taxpayer, age 50, living in Barnstable County, could have purchased private market health insurance for \$779.00 per month. (Table 4, Schedule HC for 2021). Thus, private insurance was affordable for the Appellants in 2021.
9. Employer-sponsored insurance was not available to the Primary Taxpayer during 2021. (Primary Taxpayer's Testimony).
10. The Appellants were not income-eligible for government-subsidized ConnectorCare coverage in 2021 because their federal Adjusted Gross Income of \$204,483.00 was more than the Federal poverty level of \$51,720.00 for a family of two. (Schedule HC for 2021).

11. The Primary Taxpayer had been employed as a quality control engineer by the same worldwide company for 37 years. They had always had insurance through their employer until the Primary Taxpayer lost their job because of the Covid-19 pandemic in November 2020. (Primary Taxpayer's Testimony, which I credit).
12. Upon losing their job and their health insurance, the Primary Taxpayer reached out to the Health Connector and also began searching for private health insurance them self. (Primary Taxpayer's Testimony).
13. A representative from Evolve Health contacted the Primary Taxpayer, who mistakenly believed that Evolve was affiliated with the Connector and believed they were told that insurance through Evolve was MCC-compliant. The Primary Taxpayer signed for insurance through Evolve Health, paying about \$278.00 per month or \$3,434.80 annually. (Primary Taxpayer's Testimony, which I credit).
14. When the Appellants went to file their 2021 taxes, they were surprised to learn that it was not MCC-compliant, contrary to what they had been told. (Primary Taxpayer's Testimony).
15. The Appellant Spouse went to their employer at the time who redirected them to the Connector. Upon contacting the Connector, the Appellants learned that they had missed the Open Enrollment period. Thereafter, the Appellant Spouse approached their employer again, who eventually overrode an initial denial decision and allowed Appellant Spouse to sign up for insurance for the two of them. Appellants currently have MCC-complaint health insurance through Appellant Spouse's employer. (Appellants' Testimony).
16. Appellants' 2021 monthly living expenses of \$5,505.08 included: Mortgage 1 - \$2,160.00, Mortgage 2 (later assumed by daughter) - \$1,901.00, Heat - \$83.00, Electricity - \$125.00, Food - \$200.00, Car insurance - \$46.67, Gas - \$200.00, Phone - \$167.00, Cable/internet - \$133.00, Credit Card Debt - \$113.00 and Loans - \$376.41. (Appellants' Taxpayer'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.

The Appellant checked the box on the Statement of Grounds for Appeal saying that after they lost their job because of the Covid-19 pandemic, the expense of purchasing health insurance would have caused a serious deprivation of food and other living expenses. (Exhibit 3 and 4).

I take administrative notice of the financial information set forth in Tables 1 through 6 of the DOR 2021 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 2021. Table 2 sets forth income at 300% of the Federal poverty level and Tables 5 and 6 set forth tax penalties in effect for 2021.

To determine if the Appellants' twelve-month penalties 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 Taxpayers through employment, through private insurance, or through a government-sponsored program. If insurance was available, it must be determined if such insurance was not affordable to the Appellants because the Appellants experienced a hardship as defined in 956 CMR 6.08.

In accordance with Table 3 of Schedule HC for 2021, the Primary Taxpayer filing the Federal tax return as a married person, filing jointly, with no dependents claimed, with an annual adjusted gross income of \$204,483.00, could afford to pay \$1,363.22 per month for government-sponsored health insurance. In accordance with Table 4, the Primary Taxpayer, age 50, living in Barnstable County, could have purchased private market health insurance for \$779.00 per month. (Table 4, Schedule HC for 2021). Thus, private insurance was affordable for the Appellants in 2021.

Employer-sponsored insurance was not available to the Primary Taxpayer during 2021. (Primary Taxpayer's Testimony). (Primary Taxpayer's Testimony)

The Appellants were not income-eligible for government-subsidized ConnectorCare coverage in 2021 because their federal Adjusted Gross Income of \$204,483.00 was more than the Federal poverty level of \$51,720.00 for a family of two. (Schedule HC for 2020).

The Primary Taxpayer had been employed as a quality control engineer by the same worldwide company for 37 years. They always had insurance through their employer until Appellant lost their job because of the Covid-19 pandemic in November 2020. (Primary Taxpayer's Testimony, which I credit).

Upon losing their job and their health insurance, the Primary Taxpayer reached out to the Health Connector and also began searching for private health insurance them self. (Primary Taxpayer's Testimony).

A representative from Evolve Health contacted the Primary Taxpayer, who mistakenly believed that Evolve was affiliated with the Connector and believed they were told that insurance through Evolve was MCC-compliant. The Primary taxpayer signed for insurance through Evolve Health, paying about \$278.00 per month or \$3,434.80 (Primary Taxpayer's Testimony, which I credit).

When the Appellants went to file their 2021 taxes, they were surprised to learn that it was not MCC-compliant, contrary to what they had been told. (Primary Taxpayer's Testimony).

The Appellant Spouse then went to their employer at the time who redirected them to the Connector. Upon contacting the Connector, the Appellants learned that they had missed the Open Enrollment period. Thereafter, they Appellant Spouse approached their employer again, who eventually overrode an initial denial decision and allowed Appellant Spouse to sign up for insurance for the two of them. Appellants currently have MCC-complaint health insurance through Appellant Spouse's employer. (Appellants' Testimony).

Appellants' 2021 monthly living expenses of \$5,505.08 included: Mortgage 1 - \$2,160.00, Mortgage 2 (later assumed by daughter) - \$1,901.00, Heat - \$83.00, Electricity - \$125.00, Food - \$200.00, Car insurance - \$46.67, Gas - \$200.00, Phone - \$167.00, Cable/internet - \$133.00, Credit Card Debt - \$113.00 and Loans - \$376.41. (Appellants' Taxpayer's Testimony).

Based on the totality of the circumstances and evidence contained in the administrative record, I find that Appellants had contacted the Connector and also searched for private health insurance after the Primary Taxpayer lost their job and intended to enroll in MCC-compliant insurance. Thus, I conclude based on the equities and the uncertain financial situation that Appellants faced in 2021, that have demonstrated they would have experienced hardship if they had paid for health insurance during 2021. Accordingly, the 12-month penalty should be waived in its entirety for each of them. 956 CMR 6.08 (1) and (3). Further, Appellants currently have MCC-compliant health insurance coverage.

For all these reasons, each Appellant's twelve-month penalty is waived entirely.

The Appellants should note that the waiver of their penalties is based upon facts that I have determined to be true in 2021. The Appellants should not assume that a similar determination will be made for subsequent tax years should they again be assessed a tax penalty for failure to have health insurance that is MCC-compliant in Massachusetts, as the individual mandate requires.

PENALTY ASSESSED

Appellant Primary Taxpayer:

No. of Months Appealed: 12 No. of Months Assessed: 0

Appellant Spouse:

No. of Months Appealed: 12 No. 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 2011.

NOTIFICATION OF YOUR RIGHT TO APPEAL TO COURT

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

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

Hearing Officer

Cc: Connector Appeals Unit

Massachusetts Health Connector Appeals Unit

Tax Penalty Appeal Decision—Docket No. PA21-1795

Appeal Decision: Appeal Approved -- 2021 tax penalty overturned.

Hearing Issue: Appeal of the 2021 Tax Year Penalty

Hearing Date: June 16, 2022

Decision Date: June 28, 2022

AUTHORITY

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

JURISDICTION

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

HEARING RECORD

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

1. DOR Appeal Case Information from Schedule HC (1 page);
2. Appellant's Statement of Grounds for Appeal – 2021, with Appellant's handwritten notations on page 2 (5 pages); and
3. Health Connector's Notice of Hearing (2 pages).

FINDINGS OF FACT

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

1. The Appellant appealed from the Department of Revenue's assessment of a 12 month penalty for 2021. The basis for the penalty was that the Appellant was not insured at any time in 2021. Exhibits 1 and 2. Based on Exhibit 1 and the Appellant's hearing testimony, I find that the penalty assessment is accurate.
2. On the preprinted appeal form the Appellant checked "other" as the ground for her appeal. In handwriting she added the following statement: "Contract worker. No guarantee of work." Exhibit 2, page 2. In her appeal hearing testimony the Appellant described her financial compensation as "very inconsistent." I find that the Appellant's statements are an accurate portrayal of her situation. Testimony.
3. For a number of years the Appellant has worked for a national nonprofit organization, the Humane Society of the United States," that has its headquarters and its principal base of operations in Maryland and is dedicated to the promotion of animal welfare. Testimony.
4. While the Humane Society is the Appellant's income source, whether she would be characterized as an employee or an independent contractor is not certain. As noted earlier, the Appellant described herself as a "contract worker." Exhibit 2, page 2.
5. An "on call" worker might best describe the Appellant's working relationship with the Humane Society. The Appellant, along with others, responds when called to address various types of emergencies that adversely affect animal welfare (the Appellant typically refers to dogs when she describes her work.) The Appellant's work site may be

anywhere in the United States (e.g., Texas, Virginia, California, or Maryland), and she will remain on site until the emergency is abated or the animals are relocated to a safer site (often the Humane Society's facility in Maryland that the Appellant refers to as the "Center").

Testimony.

6. The Appellant may remain on site for a number of months. The Appellant is paid while she is on call ("deployed" is the term she uses). She returns home and she is not paid when she is not on call.
Testimony.
7. The Appellant did not perform any work in Massachusetts in 2021, which is typical for her. On occasion the Appellant may complete a written report in Massachusetts after she returns from a deployment in another state. Testimony.
8. In 2021 the Humane Society initiated modifications to its compensation system (which the Appellant refers to as "Forum"). The workers would now be entitled to overtime compensation, but with a (perhaps unexpected) twist – overtime would be paid only if the worker had been deployed during the first week of the month.
9. For the Appellant the implementation of the new compensation system plus a substantial number of deployments in 2021 increased her 2021 federal adjusted gross income (\$76,374 AGI) to levels that she had not experienced previously. Testimony and Exhibit 1.
10. The inconsistent and unanticipated nature of the Appellant's compensation is illustrated by comparing the periods immediately before and after 2021 (the year at question in this appeal).

(a) In 2021 the Appellant was deployed two out of every four weeks and typically worked 10-15 hour days so that she qualified for overtime

pay. Her AGI reported on her state income tax return was \$76,374. Testimony and Exhibit 1.

(b) For 2022, the Appellant was not deployed at all during the first quarter (January, February, and March) or in April and May. Accordingly she received no compensation until June when she was deployed, and she estimates her year-to-date earnings as \$3 thousand - \$5 thousand. Testimony.

(c) For 2020 the Appellant's income was between \$30 and \$40 thousand (part of which might involve a gift from her father). Testimony.

11. The Appellant filed a Massachusetts personal income tax return for 2021 as a single person with no dependents. The Appellant's federal adjusted gross income (AGI) for 2021 was \$76,374. The Appellant was 37 years old at the beginning of 2021. As noted earlier, the Appellant's income was for work that she performed in other states. Testimony and Exhibit 1.

12. The Appellant's Mother owns the home in Plymouth County that the Appellant listed as the address on her state income tax return. The Appellant returns to Massachusetts and lives with her Mother when she is not deployed with the Humane Society. Testimony and Exhibit 1. See also Exhibit 2, page 2, and Exhibit 3, page 1 (same address on appeal and hearing notice).

13. The Appellant's medical insurance situation is unclear. She concedes that she did not purchase insurance in Massachusetts in 2021, but she points out that she only knew late in the year that her AGI would be substantially more than she anticipated and that she could not purchase the coverage retroactively. Even if the Appellant had purchased health insurance it is unclear on this appeal record if it would have covered treatment while the Appellant was deployed in other

states. The Appellant described one situation where she needed emergency care on-site that was covered by the Humane Society but that she was financially responsible for the necessary follow-up care. Testimony.

14. The Appellant's 2021 AGI (\$76,374) was more than 300% of the federal poverty level (\$38,280 for a one person household). DOR Table 2. On this basis I infer that it is likely that the Appellant would not satisfy the financial eligibility requirements for government-subsidized health insurance in 2021. On the other hand, the Appellant's income for 2020 and her projected income for 2022 is less than 300% of the federal poverty, indicating that she may be eligible for government-subsidized health insurance. See Findings of Fact, Nos. 9, 10, and 14. above. The Appellant has applied for MassHealth benefits in the past, but her application was denied. Testimony.
15. Under DOR Table 3 the Appellant could afford to pay \$509.16 per month (8.00% of her income) for health insurance coverage in 2021 based on her increased AGI in 2021. Under DOR Table 4 (Region 2) the Appellant could obtain individual health insurance coverage at her age and location for \$275 per month 2021. The hearing record is insufficient to consider whether the Appellant's work record and payroll payments were distributed evenly through the year.
16. Except as set forth in the foregoing findings of fact, I adopt the facts set forth in Exhibit 1 as my own findings of fact. Exhibit 1 is a computer printout prepared by the Massachusetts Department of Revenue (DOR) that extracts information submitted by the Appellant on Schedule HC as part of the Appellant's 2021 Massachusetts income tax return.
17. I take administrative notice of the financial information set forth in Tables 1 through 6 of the DOR 2021 Massachusetts Schedule HC Health

Care Instructions and Worksheet. Tables 3 and 4 incorporate the affordability schedules adopted by the board of directors for the Commonwealth Health Insurance Connector Authority (Health Connector or Connector) for 2021. See 956 Code Mass. Regs. 6.05. Table 1 sets forth income levels less than 150% of the federal poverty level that are exempt from the assessment of a state tax penalty. Table 2 sets forth income eligibility standards for various family sizes at 300% of the federal poverty level, which is the income eligibility standard for the ConnectorCare government subsidized health insurance program. Tables 5 and 6 set forth the tax penalties in effect for 2020. (The DOR instructions are published online at <http://www.mass.gov/dor/2018ScheduleHCInstructions> and are also available in the state income tax forms supplied to taxpayers. See also DOR Technical Information Release (TIR) 12-7: Individual Mandate Penalties for Tax Year 2021.)

ANALYSIS AND CONCLUSIONS OF LAW

The case is before me on the Appellant's appeal from the state Department of Revenue's (DOR) assessment of a 12 month tax penalty because the Appellant did not have health insurance coverage in 2021. See Exhibits 1 and 2. The issue to be decided is whether the penalty should be waived, either in whole or in part.

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

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

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

The Health Connector’s regulations also provide for a “hardship” appeal from the assessment of a penalty. 956 Code Mass. Regs. 6.07 and 6.08. The grounds for a hardship appeal are summarized in the Statement of Grounds for Appeal – 2021 that the Appellant signed and filed in this case. See Exhibit 2.

The issues presented by this appeal are highly unusual. After hearing the evidence that was available during this appeal process I feel that a satisfactory resolution of the Appellant’s insurance situation for future years (2022 and beyond) could only be reached through further in depth discussion among the Appellant, the Health Connector, and the Humane Society along with a review of insurance policies and practices. Since Massachusetts is now the only state that imposes a financial penalty on individuals who do not obtain health insurance it is likely that the Humane Society is not aware of the problem that the Appellant encountered in 2021 and might make further adjustments to its compensation system – including providing health insurance as a job benefit – to resolve the problem.

In the meantime, it is necessary to resolve the Appellant’s appeal from the 12 month penalty assessed by the DOR because the Appellant did not

purchase health insurance in Massachusetts in 2021. The Appellant aptly characterized her appeal as based on the “other” ground in the preprinted appeal form (Exhibit 2, page 2). After hearing the evidence that was presented I agree that the Appellant could not have anticipated that her income would be so much greater in 2021 than it was in either 2020 or 2022 and that she should not be held to a retroactive application of the affordability standards set forth in DOR Tables 3 and 4. See, e.g., Findings of Fact, No. 10, above.

Accordingly, I conclude that for 2021 it is appropriate to waive the entire 12 month penalty under the Health Connector’s financial hardship regulation. See 956 Code Mass. Regs. 6.08 .

PENALTY ASSESSED

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

The Connector has notified the Department of Revenue that, pursuant to its decision, you should be assessed a penalty for Tax Year 2021 for the amount equal to one half of the lowest cost health insurance plan available to you for each month you have been assessed the penalty, as listed above, plus applicable interest back to the due date of the return without regard to extension.

OR

If the number of months assessed is zero (0) because your penalty has been overturned, the Connector has notified the Department of Revenue that you should NOT be assessed a penalty for Tax Year 2021.

NOTIFICATION OF YOUR RIGHT TO APPEAL TO COURT

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

/s/ Hearing Officer

Cc: Massachusetts Health Connector Appeals Unit

Massachusetts Health Connector Appeals Unit

Tax Penalty Appeal Decision—Docket No. PA21-1796 (PD)

Appeal Decision: Appeal Approved -- 2021 tax penalty overturned.

Hearing Issue: Appeal of the 2021 Tax Year Penalty

Hearing Date: June 16, 2022

Decision Date: June 29, 2022

AUTHORITY

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

JURISDICTION

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

HEARING RECORD

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

1. DOR Appeal Case Information from Schedule HC (1 page);
2. Appellant's Statement of Grounds for Appeal – 2021 (6 pages);
3. UnitedHealthcare Membership Card (1 page);
4. ExchangeGuard Essential Billing Record (3 pages);
5. Health Connector's Letter Denying Coverage (2 pages, dated 2/22/22); and

6. Health Connector's Notice of Hearing (2 pages, dated 5/6/22).

FINDINGS OF FACT

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

1. The Appellant appealed from the Department of Revenue's assessment of a 12 month penalty for 2021. Exhibit 1, which was prepared by the DOR from the Appellant's state income tax return, indicated that the Appellant was not insured for any month in 2021 as the basis for the penalty assessment. As the reason for her appeal, the Appellant stated, on the preprinted appeal form, that in 2021 she had "purchased health insurance that did not meet minimum creditable coverage standards [MCC]." Exhibit 2, page 2, no. 6.
2. The Appellant presented credible evidence on appeal that she had purchased health insurance that covered all of 2021. The principal evidence was an ExchangeGuard Essential billing statement issued to the Appellant that covered the period that started on May 15, 2020, and ended on May 1, 2022. Exhibit 4, page 1. For the 2021 calendar year Exhibit 4 showed that the Appellant had made three payments: (i) \$138.34 for January 1 – February 28; (ii) \$172.24 for March 1 – May 13; and \$529.32 for May 14 – December 31. Exhibit 4, pages 2 and 3, and Testimony.
3. The Appellant also presented a UnitedHealthcare membership card that took effect on May 15, 2020 – the same date as the Exchange Guard Essential coverage described above. Exhibit 3. The Appellant explained that ExchangeGuard Essential provided the UnitedHealthcare membership card to her. She also confirmed that she had made limited but successful use of her health insurance at a hospital. Testimony.

4. The Appellant insured herself through ExchangeGuard Essential when she arrived in Massachusetts on an international student visa. For 2021 the Appellant was employed full-time by an employer that did not offer her health insurance as a job benefit. Consequently, she continued her coverage through ExchangeGuard Essential. Testimony. See also Exhibit 4.
5. The Appellant first learned that her health insurance coverage did not satisfy the Massachusetts minimum creditable coverage standards in early 2022 when she sought to prepare her 2021 Massachusetts income tax return using a TurboTax software program. Testimony. See also Exhibit 2, pages 1 and 2 (appeal of 2021 tax penalty assessment dated March 7, 2022).
6. The Appellant also contacted an ExchangeGuard Essential representative in early 2022 about her health insurance status in 2021. The representative informed her that the insurance policy did not satisfy the Massachusetts MCC requirements but that it hoped to comply soon. The representative also informed the Appellant that she may have to pay a tax penalty for 2021. Testimony.
7. The Appellant also filed an application with the Health Connector seeking coverage that met MCC standards. By a letter dated February 22, 2022, the Health Connector denied her application because she was “outside of the Open Enrollment period” and “You need a qualifying event to enroll at this time.” Exhibit 5, page 1, and Testimony.
8. The Appellant filed a Massachusetts personal income tax return for 2021 as a single person with no dependents. The Appellant’s federal adjusted gross income (AGI) for 2021 was \$27,315. Exhibit 1.

9. The Appellant was 27 years old at the beginning of 2021 and resided in [name of city or town omitted] in Suffolk County, Massachusetts. Exhibit 1.
10. The Appellant's 2021 AGI (\$27,315) was less than 300% of the federal poverty level (\$38,280 for a one person household). DOR Table 2. On this basis I infer that it is likely that the Appellant would satisfy the financial eligibility requirements for government-subsidized health insurance.
11. Based on DOR Table 3 the Appellant could afford to pay 4.20 % of her income -- or \$95.60 per month -- for health insurance coverage in 2021. (The calculation is 4.20 % multiplied by \$27,315 AGI = \$1,147.23 per year divided by 12 months = \$95.60 per month.)
12. Based on DOR Table 4 (Region 2) the Appellant could obtain individual health insurance coverage at her age and location for \$263 per month in 2021.
13. The Appellant did not have a summary of benefits from either UnitedHealthcare or ExchangeGuard Essential. Exhibit 4, page 1, states that ExchangeGuard Essential has a \$100,000 policy maximum and a -0- deductible.
14. Except as set forth in the foregoing findings of fact, I adopt the facts set forth in Exhibit 1 as my own findings of fact. Exhibit 1 is a computer printout prepared by the Massachusetts Department of Revenue (DOR) that extracts information submitted by the Appellant on Schedule HC as part of the Appellant's 2021 Massachusetts income tax return.
15. I take administrative notice of the financial information set forth in Tables 1 through 6 of the DOR 2021 Massachusetts Schedule HC Health

Care Instructions and Worksheet. Tables 3 and 4 incorporate the affordability schedules adopted by the board of directors for the Commonwealth Health Insurance Connector Authority (Health Connector or Connector) for 2021. See 956 Code Mass. Regs. 6.05. Table 1 sets forth income levels less than 150% of the federal poverty level that are exempt from the assessment of a state tax penalty. Table 2 sets forth income eligibility standards for various family sizes at 300% of the federal poverty level, which is the income eligibility standard for the ConnectorCare government subsidized health insurance program. Tables 5 and 6 set forth the tax penalties in effect for 2020. (The DOR instructions are published online at <http://www.mass.gov/dor/2018ScheduleHCInstructions> and are also available in the state income tax forms supplied to taxpayers. See also DOR Technical Information Release (TIR) 12-7: Individual Mandate Penalties for Tax Year 2021.)

ANALYSIS AND CONCLUSIONS OF LAW

The case is before me on the Appellant's appeal from the state Department of Revenue's (DOR) assessment of a 12 month tax penalty because the Appellant did not have health insurance coverage in 2021 that met the state minimum credibility coverage standards [MCC]. See Exhibits 1 and 2. The issue to be decided is whether the penalty should be waived, either in whole or in part.

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

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

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

The Health Connector’s regulations also provide for a “hardship” appeal from the assessment of a penalty. 956 Code Mass. Regs. 6.07 and 6.08. The grounds for a hardship appeal are summarized in the Statement of Grounds for Appeal – 2021 that the Appellant signed and filed in this case. See Exhibit 2.

The Appellant in this case sought to comply with the state-imposed individual mandate by obtaining health insurance coverage through ExchangeGuard Essential and UnitedHealthcare. As the documentary evidence makes clear, the Appellant paid for coverage for the period that began on May 15, 2020, and ended on May 12, 2022, which includes all of 2021 (the year at issue in this penalty assessment and appeal).

My view of the evidence is that the Appellant is essentially blameless. She contracted for and paid for health insurance for 2021. The insurers did not inform her at the beginning of the policy period (either May 2020 or January 2021) that the insurance policy that they were selling did not meet the Massachusetts minimum credible coverage requirements [MCC]. (My

understanding is that the Massachusetts Insurance Commissioner requires the insurers must give such advance notice.)

The Appellant unearthed the MCC problem only in early 2022 in the process of preparing her state income tax return for 2021. By then, of course, it was too late to undo the 2021 insurance transaction retroactively and replace it with MCC compliant coverage.

The Appellant, nevertheless, did seek to do more. Most importantly she contacted the ExchangeGuard Essential representative who informed her that the coverage did not satisfy the MCC requirements and that she might have to pay a penalty.

The Appellant also promptly filed an application for coverage by the Health Connector. Her application was rejected on February 22, 2022, because she had filed her application after the open enrollment period ended (leaving her vulnerable to a repeat problem in 2022). Nevertheless, it appears that the Appellant would satisfy the Health Connector's financial eligibility requirements if the application had been filed before the open enrollment deadline. See Findings of Fact, Nos. 10, 11, and 12, above.

That leaves resolution of this appeal from the 2021 penalty assessment.

What we know is that the Appellant sought to insure herself as required by Massachusetts law and that she sought to resolve the MCC problem when it surfaced in 2022. We know that she paid the premiums that were charged for 2021, which would be duplicated by imposing a tax penalty for the same year. Though we know little about the 2021 coverage we do know that it had a \$100,000 policy maximum and did not have a deductible. The Appellant also successfully used the insurance coverage. See, e.g., 956 Code Mass. Regs. 5.03.

We also know from the evidence in this appeal (including DOR Tables 2, 3 and 4) that the Appellant's income was less than 300% of the federal poverty level. Based on her income, it appears that the Appellant would qualify for government-subsidized health insurance, yet she could not obtain relief from the Health Connector in February 2022, because the open enrollment period had already expired.

After considering all the circumstances I conclude that it is appropriate to waive the entire 12 month penalty assessed for 2021. See, e.g., 956 Code Mass. Regs. 6.08 (1) and 6.08(3).

PENALTY ASSESSED

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

The Connector has notified the Department of Revenue that, pursuant to its decision, you should be assessed a penalty for Tax Year 2021 for the amount equal to one half of the lowest cost health insurance plan available to you for each month you have been assessed the penalty, as listed above, plus applicable interest back to the due date of the return without regard to extension.

OR

If the number of months assessed is zero (0) because your penalty has been overturned, the Connector has notified the Department of Revenue that you should NOT be assessed a penalty for Tax Year 2021.

NOTIFICATION OF YOUR RIGHT TO APPEAL TO COURT

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

/s/ Hearing Officer
Cc: Massachusetts Health Connector Appeals Unit

Massachusetts Health Connector Appeals Unit

Tax Penalty Appeal Decision—Docket No. PA21-1812 (LA)

Appeal Decision: Appeal Approved -- 2021 tax penalty overturned.

Hearing Issue: Appeal of the 2021 Tax Year Penalty

Hearing Date: June 23, 2022

Decision Date: June 27, 2022

AUTHORITY

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

JURISDICTION

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

HEARING RECORD

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

1. DOR Appeal Case Information from Schedule HC (1 page);
2. Appellant’s Statement of Grounds for Appeal – 2021 (5 pages);
3. Appellant’s Letter in Support of Appeal (1 page);
4. Former Employer’s Separation Record (1 page, dated 10/8/20);
5. New Employer’s Hiring Record (1 page, dated 2/18/21); and
6. Health Connector’s Notice of Hearing (2 pages, dated 5/16/22).

FINDINGS OF FACT

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

1. The Appellant appealed from the Department of Revenue's assessment of a 12 month penalty for 2021. The basis for the penalty was that the Appellant was not insured at any time in 2021. Exhibits 1 and 2. The DOR penalty assessment will be discussed in further detail below.
2. The Appellant filed a Massachusetts personal income tax return for 2021 as a single person with no dependents. The Appellant's federal adjusted gross income (AGI) for 2021 was \$27,626. Exhibit 1.
3. The Appellant was 31 years old at the beginning of 2021 and resided in [name of city or town omitted] in Essex County, Massachusetts. Exhibit 1.
4. The Appellant's AGI was more than 150% of the federal poverty level (19,140). On this basis I conclude that the Appellant was not automatically exempt from the assessment of a tax penalty in 2021. DOR Table 1.
5. The Appellant's 2021 AGI (\$27,626) was less than 300% of the federal poverty level (\$38,280 for a one person household). DOR Table 2. On this basis I infer that it is likely that the Appellant would satisfy the financial eligibility requirements for government-subsidized health insurance.
6. Based on DOR Table 3 the Appellant could afford to pay 4.20% of her income -- or \$97 per month -- for health insurance coverage in 2021. (The calculation is 4.20 % multiplied by \$27,626 AGI = \$1,160.29 per year divided by 12 months = \$96.69 per month.)
7. Based on DOR Table 4 (Region 2) the Appellant could obtain individual health insurance coverage at her age and location for \$268 per month in 2021.
8. The Appellant separated from her former employer effective October 9, 2020, which resulted in the loss of her health insurance benefits through her employer. Exhibit 4, Exhibit 3, and Testimony.
9. The Appellant filed for unemployment insurance benefits. For reasons that are unknown during the coronavirus pandemic (COVID-19) the Appellant did not receive periodic unemployment insurance benefits in late 2021 or early 2022.

Instead, she received a lump sum check for her benefits in June 2021 (i.e., after she obtained a new job). Testimony.

10. The Appellant applied for MassHealth benefits on or about November 12, 2020, after her separation from her former employer and the consequent loss of her employer-sponsored health insurance benefits. For reasons that are unknown during the coronavirus pandemic (COVID-19) the Appellant's application was denied. Exhibit 3 and Testimony. The Appellant's contacts with MassHealth representatives indicated that she should be eligible, and she filed an Affidavit of Zero Income, as requested. The Appellant never received MassHealth benefits. Exhibit 3 and Testimony. See also Findings of Fact, No. 5, above.
11. The Appellant obtained a new job starting March 8, 2021, with a "{full complement of benefits following your eligibility waiting period}" (as reflected in a written job offer dated February 18, 2021). Exhibit 5. The Appellant's employer-sponsored health insurance benefits were effective May 1, 2021. Exhibit 3 and Testimony.
12. I find based on all the evidence, including Exhibits 3, 4, and 5 and the Appellant's appeal hearing testimony that I found to be credible, that the Appellant had health insurance coverage for the months of May through December 2021 (8 months). I infer that the DOR penalty assessment in Exhibit 1 is based on an error the Appellant made in the preparation of her 2021 state income tax return.
13. The Appellant did not have health insurance for the months of January through April 2021 (4 months), during the period that she had applied for MassHealth benefits and for unemployment insurance benefits following her separation in October 2020 from her former employer
14. Except as set forth in the foregoing findings of fact, I adopt the facts set forth in Exhibit 1 as my own findings of fact. Exhibit 1 is a computer printout prepared by the Massachusetts Department of Revenue (DOR) that extracts information submitted by the Appellant on Schedule HC as part of the Appellant's 2021 Massachusetts income tax return.
15. I take administrative notice of the financial information set forth in Tables 1 through 6 of the DOR 2021 Massachusetts Schedule HC Health Care Instructions

and Worksheet. Tables 3 and 4 incorporate the affordability schedules adopted by the board of directors for the Commonwealth Health Insurance Connector Authority (Health Connector or Connector) for 2021. See 956 Code Mass. Regs. 6.05. Table 1 sets forth income levels less than 150% of the federal poverty level that are exempt from the assessment of a state tax penalty. Table 2 sets forth income eligibility standards for various family sizes at 300% of the federal poverty level, which is the income eligibility standard for the ConnectorCare government subsidized health insurance program. Tables 5 and 6 set forth the tax penalties in effect for 2020. (The DOR instructions are published online at <http://www.mass.gov/dor/2018ScheduleHCInstructions> and are also available in the state income tax forms supplied to taxpayers. See also DOR Technical Information Release (TIR) 12-7: Individual Mandate Penalties for Tax Year 2021.)

ANALYSIS AND CONCLUSIONS OF LAW

The case is before me on the Appellant's appeal from the state Department of Revenue's (DOR) assessment of a 12 month tax penalty for 2021. See Exhibits 1 and 2. The issue to be decided is whether the penalty should be waived, either in whole or in part.

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

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

applying Mass. Gen. Laws 111M, sec. 2(b). See also DOR Instructions, at page HC-3. A tax penalty will not be assessed during the 3-month administrative grace period.

The Health Connector’s regulations also provide for a “hardship” appeal from the assessment of a penalty. 956 Code Mass. Regs. 6.07 and 6.08. The grounds for a hardship appeal are summarized in the Statement of Grounds for Appeal – 2021 that the Appellant signed and filed in this case. See Exhibit 2.

The 12 month penalty that was assessed in this case based on the Appellant’s 2021 state income tax return is at odds with the evidence presented in the Appellant’s appeal. I find that the evidence presented on appeal establishes that the Appellant had health insurance coverage through her new employer starting in May 2021 and that she was insured for the remainder of 2021. Consequently, no penalty should be assessed for the eight month period May through December 2021. See, e.g., Findings of Fact, No. 12, above.

The Appellant was not insured for the four month period at the beginning of 2021 (January – April). Since DOR provides a three month grace period no penalty should be assessed for the months of January, February and March. I waive the penalty assessed for April 2021 since the Appellant had been unemployed since October 2020, her application for unemployment insurance benefits had been derailed for an unknown reason during the coronavirus pandemic in late 2020 – early 2021, and her application for MassHealth coverage had also been derailed for unknown reasons even though it appears likely that she qualified for coverage while she was between jobs and employer-sponsored health insurance coverage. See, e.g., 956 Code Mass. Regs. 6.08 (1) (e). See Findings of Fact, No. 13, above.

In addition, the objective standards sets forth in DOR Tables 3 and 4 support the Appellant’s contention that she could not afford health insurance coverage while she was between jobs. Based on her reported income the Appellant could afford to pay only \$96.69 per month but health insurance would cost \$268 per month. See Findings of Fact, Nos. 6 and 7, above.

In sum, the 12 month penalty assessment for 2021 is waived in its entirety.

PENALTY ASSESSED

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

The Connector has notified the Department of Revenue that, pursuant to its decision, you should be assessed a penalty for Tax Year 2021 for the amount equal to one half of the lowest cost health insurance plan available to you for each month you have been assessed the penalty, as listed above, plus applicable interest back to the due date of the return without regard to extension.

OR

If the number of months assessed is zero (0) because your penalty has been overturned, the Connector has notified the Department of Revenue that you should NOT be assessed a penalty for Tax Year 2021.

NOTIFICATION OF YOUR RIGHT TO APPEAL TO COURT

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

/s/ Hearing Officer

Cc: Massachusetts Health Connector Appeals Unit

Massachusetts Health Connector Appeals Unit

Tax Penalty Appeal Decision—Docket No. PA21-1817 (BR)

Appeal Decision: Appeal Approved -- 2021 tax penalty overturned.

Hearing Issue: Appeal of the 2021 Tax Year Penalty

Hearing Date: June 23, 2022

Decision Date: June 28, 2022

AUTHORITY

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

JURISDICTION

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

HEARING RECORD

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

1. DOR Appeal Case Information from Schedule HC (1 page);
2. Appellant's Statement of Grounds for Appeal – 2021 (4 pages);
3. Appellant's Letter in Support of Appeal (2 pages, date 3/14/22);
4. 2020 Form MA 1099-HC for Former Employer (1 page);
5. 2021 Form MA 1099-HC for New Employer (1 page);
6. 2020 IRS Form W-2 for Technical School Part-Time Work (1 page);
7. 2021 Earnings Statement for Part-Time Electrical Work (1 page, dated 5/28/21 Pay Day);
8. 2021 IRS Form W-2 for New Employer (Truck Company) (1 page);
9. 2021 IRS Form W-2 for Part-Time Work (Technical School) (1 page);
10. Electricity Payments for 2021 (1 page);

11. Rent Payments for 2021 (26 pages);
12. Vehicle Payments for 2021 (2 pages);
13. 2020 IRS Form W-2 for Excavation Company (1 page);
14. 2021 IRS Form W-2 for Electric Company (1 page); and
15. Health Connector's Notice of Hearing (2 pages).

FINDINGS OF FACT

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

1. The Appellant appealed from the Department of Revenue's assessment of a 5 month penalty for 2021. The basis for the penalty was that the Appellant was not insured for the months of January through August (8 months) and was insured for the months of September through December 2021 (4 months). Exhibits 1 and 2. Based on Exhibit 1 and the Appellant's hearing testimony, I find that the penalty assessment is accurate. (The calculation is 12 months minus 4 months insured = 8 months uninsured minus 3-month administrative grace period = 5 penalty months.)
2. The Appellant filed a Massachusetts personal income tax return for 2021 as a single person with no dependents. The Appellant's federal adjusted gross income (AGI) for 2021 was \$49,736. Exhibit 1.
3. The Appellant was 29 years old at the beginning of 2021 and resided in [name of city or town omitted] in Middlesex County, Massachusetts. Exhibit 1.
4. The Appellant's 2021 AGI (\$49,779) was more than 300% of the federal poverty level (\$38,280 for a one person household). DOR Table 2. On this basis I infer that it is likely that the Appellant would not satisfy the financial eligibility requirements for government-subsidized health insurance during the portion of 2021 when he was employed full-time.
5. The Appellant is employed as an equipment operator in the construction industry. In 2020 the Appellant's gross income was \$10,939 due to the advent of the coronavirus pandemic (COVID-19). Exhibit 3. See Exhibit 6 (\$962 reported on 2020

IRS Form W-2 for part-time work at Technical School, and Exhibit 13 (\$9,977 reported on 2020 IRS Form W-2 for full-time work at Excavating Company).

6. In 2020 the Appellant was enrolled in his former employer's Tufts health plan for the months of January – April, but he was not insured for the remainder of 2020 when he was no longer employed. Exhibit 4 (2020 Form MA 1099-HC). The Appellant did not apply for unemployment insurance benefits in 2020, relying on his "small savings" to cover his living expenses. Exhibit 3 and Testimony.
7. The Appellant did not have a regular job at the beginning of 2021 as the coronavirus pandemic continued. The Appellant received unemployment insurance benefits and he had part-time work as a school hockey coach and at a friend's electric company. Exhibit 3 and Testimony. See Exhibits 7 and 9.
8. The Appellant obtained a new job starting on July 6, 2021. The Appellant enrolled in the Blue Cross health plan offered by his new employer as soon as the required waiting period ended. Exhibit 3, page 2, and Testimony. The Appellant was insured starting in September through the remainder of 2021. Exhibit 5 (2021 MA Form 1099-HC) and Testimony.
9. The Appellant earned \$34 per hour in 2021 at his new job, and the new job accounted for the bulk of his earnings in 2021. Testimony and Exhibit 8 (\$36,567.91 reported on 2021 IRS Form W-2 for new trucking company job); Exhibit 9 (\$962 reported on 2021 IRS Form W-2 for part-time technical school coaching job); and Exhibit 14 (\$12,206.25 reported on 2021 IRS Form W-2 for part-time electric company job).
10. Except as set forth in the foregoing findings of fact, I adopt the facts set forth in Exhibit 1 as my own findings of fact. Exhibit 1 is a computer printout prepared by the Massachusetts Department of Revenue (DOR) that extracts information submitted by the Appellant on Schedule HC as part of the Appellant's 2021 Massachusetts income tax return.
11. I take administrative notice of the financial information set forth in Tables 1 through 6 of the DOR 2021 Massachusetts Schedule HC Health Care Instructions and Worksheet. Tables 3 and 4 incorporate the affordability schedules adopted by the board of directors for the Commonwealth Health Insurance Connector

Authority (Health Connector or Connector) for 2021. See 956 Code Mass. Regs. 6.05. Table 1 sets forth income levels less than 150% of the federal poverty level that are exempt from the assessment of a state tax penalty. Table 2 sets forth income eligibility standards for various family sizes at 300% of the federal poverty level, which is the income eligibility standard for the ConnectorCare government subsidized health insurance program. Tables 5 and 6 set forth the tax penalties in effect for 2020. (The DOR instructions are published online at <http://www.mass.gov/dor/2018ScheduleHCInstructions> and are also available in the state income tax forms supplied to taxpayers. See also DOR Technical Information Release (TIR) 12-7: Individual Mandate Penalties for Tax Year 2021.)

ANALYSIS AND CONCLUSIONS OF LAW

The case is before me on the Appellant's appeal from the state Department of Revenue's (DOR) assessment of a 5 month tax penalty because the Appellant did not have health insurance coverage for the months of January through August in 2021. See Exhibits 1 and 2. The issue to be decided is whether the penalty should be waived, either in whole or in part.

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

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

The Health Connector’s regulations also provide for a “hardship” appeal from the assessment of a penalty. 956 Code Mass. Regs. 6.07 and 6.08. The grounds for a hardship appeal are summarized in the Statement of Grounds for Appeal – 2021 that the Appellant signed and filed in this case. See Exhibit 2.

In this case, the Appellant was not working full-time between May 2021 (the advent of the coronavirus pandemic) and July 2021 (when he started a new job). The Appellant was enrolled in the health insurance benefits offered by his former employer and his new employer before and after these dates when he was employed. The Appellant had only minimal earnings from part-time jobs while he was effectively out of work in 2020 and 2021, and he collected unemployment insurance benefits for part of 2021.

The Appellant was enrolled in the health insurance plans offered by his former and his current employers while he was working. For 2021 (the year in question in this appeal) that meant that the Appellant did not have health insurance for the months of January through August. These dates are verified by the 2020 and 2021 Forms MA 1099-HC that the Appellant submitted in support of this appeal. See Exhibits 4 and 5.

In support of his appeal the Appellant asserts that he was not able to afford health insurance for the months in 2020 and 2021 when he was not employed. This assertion is supported by the Appellant’s documented electricity payments (Exhibit 10), rent payments (Exhibit 11); and vehicle payments (Exhibit 12). The Appellant also points to the fact that he was insured for all months when he was employed and eligible for employer-sponsored health plans.

After considering all the circumstances I conclude that the Appellant is entitled to relief under the Health Connector’s financial hardship regulation. Accordingly, I waive the entire five month penalty that the DOR assessed for 2021. See, e.g., 956 Code Mass. Regs. 6.08 (1) (e) ([The Appellant] experienced financial circumstances such that the expense of purchasing health insurance that met minimum creditable coverage standards would have caused him to experience a serious deprivation of food, shelter, clothing or other necessities.”).

PENALTY ASSESSED

Number of Months Appealed: 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 2021 for the amount equal to one half of the lowest cost health insurance plan available to you for each month you have been assessed the penalty, as listed above, plus applicable interest back to the due date of the return without regard to extension.

OR

If the number of months assessed is zero (0) because your penalty has been overturned, the Connector has notified the Department of Revenue that you should NOT be assessed a penalty for Tax Year 2021.

NOTIFICATION OF YOUR RIGHT TO APPEAL TO COURT

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

/s/ Hearing Officer

Cc: Massachusetts Health Connector Appeals Unit

Massachusetts Health Connector Appeals Unit

FINAL APPEAL DECISION: PA20-1120

Appeal Decision Appeal Approved.

Hearing Issue: Appeal of the 2020 Tax Year Penalty

Hearing Date: March 30, 2022

Decision Date: June 14, 2022

AUTHORITY

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

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 30, 2022. 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 (3-1-21) (2 pages);
- Exhibit 2: Information from Schedule HC TY 2020 (1 page);
- Exhibit 3: Statement of Grounds for Appeal (7-1-21) (with letter and documents) (10 pages); and
- Exhibit 4: Final Appeal Decision TY 2014 (11-19-15) (4 pages).

FINDINGS OF FACT

The record shows, and I so find:

1. Appellant, age 57 during 2020, from Suffolk County, filed single on the tax return with a family size of 1. (Exhibit 2).
2. Appellant did not have health insurance for 2020. (Appellant's testimony, Exhibits 2, 3).
3. Appellant's Federal Adjusted Gross Income for 2020 was \$42,641.00 (Exhibit 2).
4. Appellant's father died in 2018, and Appellant had to take care of funeral costs, and also had eviction notices in 2019. In addition, during 2020, Appellant's work as a nurse was more sporadic due to patients assigned to Appellant being in the hospital and therefore not in Appellant's care at their residences. (Appellant's testimony, Exhibit 3).

5. 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.
6. Appellant could not afford health insurance based on the tables in Schedule HC. According to Table 4, the health insurance would cost \$432.00 for coverage. According to Table 3, Appellant was deemed to afford \$265.00.
7. Private insurance was not affordable for the Appellant in 2020. (Schedule HC for 2020).
8. Appellant's AGI was over 300% of the Federal Poverty Level, and Appellant therefore would not have qualified for subsidized health insurance through the Health Connector. (Schedule HC for 2020).
9. Appellant claimed that they should be granted a waiver based on the grounds that they had eviction notices, was evicted in 2019, and also that they incurred significant expenses related to the death of their father. In addition, they experienced a reduction in income due to sporadic work hours. (Testimony of Appellant, Exhibit 3).
10. Appellant did not incur significant and unexpected increases in essential expenses as a result of domestic violence or the sudden responsibility for providing full care for an aging parent or other family member; but did incur such expenses due to the death of a spouse, family member, or partner who shared household expenses. Appellant did not incur additional expenses as a result of a fire, flood, or other natural or man-made disaster in 2020 (Exhibit 3).
11. Appellant was not homeless, but was thirty days or more behind in rent in 2019, and received eviction notices and was evicted. 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 2020 should be waived in whole, in part, or not at all.

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

Appellant did not have health insurance for 2020. They have been assessed a tax penalty for twelve months. Appellant appealed the assessment. See Exhibits 2, and 3. To determine if the penalty should be waived in whole or in part, we must consider whether affordable insurance which met minimum

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

Private insurance was not affordable for the Appellant during 2020. According to Tables 3 and 4 of the HC Schedule for 2020, Appellant, with an adjusted gross income of \$42,641.00 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 \$265.00 per month; according to Table 4, Appellant, who was 57 years old in 2020, from Suffolk County, and filed the 2020 Massachusetts taxes as single with a family size of 1, would have had to pay \$432.00 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 received eviction notices and was evicted in 2019. In addition, Appellant incurred expenses related to the death of their father. In addition, Appellant had a reduction in income due to sporadic work hours in 2020. For these reasons, the waiver of the penalty is approved.

Appellant should note that the waiver of the penalty is based upon the facts that I have determined to be true for the 2020 appeal. They should not assume that a similar determination will be made in the future should they again be assessed a penalty for failure to have health insurance which meets the Commonwealth's minimum creditable coverage standards.

PENALTY ASSESSED

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

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

NOTIFICATION OF YOUR RIGHT TO APPEAL TO COURT

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

Hearing Officer

Cc: Connector Appeals Unit

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

Massachusetts Health Connector Appeals Unit

FINAL APPEAL DECISION: PA21-1785

Appeal Decision Appeal Allowed

Hearing Issue: Appeal of the 2021 Tax Year Penalty

Hearing Date: June 14, 2022

Decision Date: June 23, 2022

AUTHORITY

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

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 14, 2022. 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 6, 2022
- Exhibit 2: Appeal Case Information from form Schedule HC
- Exhibit 3: Statement of Grounds for Appeal Dated May 7, 2022

FINDINGS OF FACT

The record shows, and I so find:

1. The appellant is twenty-seven years old and is single. He lived in Suffolk County, Massachusetts. He now lives in California.
2. Appellant was working as a teaching assistant in Boston. Appellant moved to California in August 2021. Appellant provided proof of health insurance by submitting documents that indicated that he was covered for health insurance by an out of country insurance company. Appellant testified that he purchased said insurance and was informed that the insurance would cover his health insurance in Massachusetts.
3. Appellant does not have health insurance in 2022 and did not have health insurance in 2021.
4. The Appellant did submit a Statement of Grounds for Appeal-2020 under the grounds for Appeal "Other. During 2021 other circumstances, such as: applying the Affordability Tables in Schedule HC to you is inequitable".
5. I take administrative notice of the information set forth in tables 1 through 6 in the Department of Revenue Schedule HC Health Care Instructions and Worksheets (Schedule HC Instructions). Tables 3 & 4 incorporate the affordability schedules adopted by the board of directors of the Commonwealth Health Insurance Connector Authority for 2021. 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 2021.
6. Based on the appellant's federal adjusted gross income and the above referenced tables, I find the appellant may have been eligible for subsidized health insurance, because Appellant's income of \$20,983.00 was less than \$37,470.00. The monthly premium for health insurance available on the private market in Suffolk County for a 26 year old single person was \$269.00. The tables reflect that Appellant could afford \$50.70. This is more than what the appellant is deemed to afford. (Tables 2, 3 & 4 of the Schedule HC Instructions)

ANALYSIS AND CONCLUSIONS OF LAW

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

The Appellant did submit a Statement of Grounds for Appeal-2021 under the grounds for Appeal “Other. During 2021 other circumstances, such as: applying the Affordability Tables in Schedule HC to you is inequitable”.

The Health Care Reform Act of 2006 requires every adult resident of Massachusetts to obtain and maintain creditable insurance coverage “so long as it is deemed affordable” under the schedule established by the board of the Connector. Mass. Gen. Laws ch. 111M, § 2(a). Massachusetts residents who fail to indicate on their state tax returns that they obtained the mandated creditable coverage are subject to a tax penalty for each month in which that the individual did not have creditable health insurance. *Id.* at § 2(b). However, individuals with incomes up to 150 percent of the Federal Poverty Level (“FPL”) are not subject to any penalty for non-compliance with the individual mandate. See Massachusetts Department of Revenue Technical Information Release (“TIR”) 13-1, available at <http://www.mass.gov/dor/businesses/help-and-resources/legal-library/tirs/tirs-by-years/2013-releases/tir-13-1.html>. For 2021, 150 percent of the FPL was \$19,140.00 for a single person with zero dependents. 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 2021 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 2021. 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 2021 Schedule HC Instructions and Worksheets, *supra*.

Appellant reported a federal AGI of \$20,983.00 in 2021, 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 2021 Massachusetts Schedule HC, Appellant could afford to pay \$50.70 monthly for health insurance. See 2021 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 was working as a teaching assistant in Boston. Appellant moved to California in August 2021. Appellant provided proof of health insurance by submitting documents that indicated that he was covered for health insurance by an out of country insurance company. Appellant testified that he purchased said insurance and was informed that the insurance would cover his health insurance in Massachusetts.

On these facts, I find that Appellant has shown that he was precluded from purchasing affordable health insurance during 2021. 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 2021 penalty assessed is **OVERTURNED**.

PENALTY ASSESSED

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

The Connector has notified the Department of Revenue that, pursuant to its decision, you should be assessed a penalty for Tax Year 2021 for the amount equal to one half of the lowest cost health insurance plan available to you for each month you have been assessed the penalty, as listed above, plus applicable interest back to the due date of the return without regard to extension.

OR

If the number of months assessed is zero (0) because your penalty has been overturned, the Connector has notified the Department of Revenue that you should NOT be assessed a penalty for Tax Year 2021.

NOTIFICATION OF YOUR RIGHT TO APPEAL TO COURT

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

Hearing Officer

Cc: Connector Appeals Unit

Massachusetts Health Connector Appeals Unit

FINAL APPEAL DECISION: PA21-1802

Appeal Decision Appeal Allowed

Hearing Issue: Appeal of the 2021 Tax Year Penalty

Hearing Date: June 21, 2022

Decision Date: June 25, 2022

AUTHORITY

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

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 21, 2022. 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 16, 2022
- Exhibit 2: Appeal Case Information from form Schedule HC
- Exhibit 3: Statement of Grounds for Appeal dated March 10, 2022
- Exhibit 4: Writtten Statement of Appeal

FINDINGS OF FACT

The record shows, and I so find:

1. The appellant is fifty-five years old and is single. He lives in Worcester County, Massachusetts.
2. Appellant is a construction worker. Appellant's health insurance comes through his job. In order to qualify for health insurance, he must work a certain number of hours each year. Appellant fell 52 hours short in 2021 due to the Covid pandemic. Appellant did not find out about his lack of hour until after the open enrollment period had passed.
3. Appellant does have health insurance in 2022 and did have health insurance in 2021 for part of the year.
4. The Appellant did submit a Statement of Grounds for Appeal-2021 under the grounds for Appeal "Other. During 2021 other circumstances, such as applying the Affordability Tables in Schedule HC to you is inequitable".
5. I take administrative notice of the information set forth in tables 1 through 6 in the Department of Revenue Schedule HC Health Care Instructions and Worksheets (Schedule HC Instructions). Tables 3 & 4 incorporate the affordability schedules adopted by the board of directors of the Commonwealth Health Insurance Connector Authority for 2021. 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 2021.
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 \$65,323.00 was more than \$38,280.00. The monthly premium for health insurance available on the private market in Worcester County is \$413.00. The tables reflect that the Appellant could afford \$435.46 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-2021 under the grounds for Appeal “ During 2021 other circumstances, such as applying the Affordability Tables in Schedule HC to you is inequitable”.

The Health Care Reform Act of 2006 requires every adult resident of Massachusetts to obtain and maintain creditable insurance coverage “so long as it is deemed affordable” under the schedule established by the board of the Connector. Mass. Gen. Laws ch. 111M, § 2(a). Massachusetts residents who fail to indicate on their state tax returns that they obtained the mandated creditable coverage are subject to a tax penalty for each month in which that the individual did not have creditable health insurance. *Id.* at § 2(b). However, individuals with incomes up to 150 percent of the Federal Poverty Level (“FPL”) are not subject to any penalty for non-compliance with the individual mandate. See Massachusetts Department of Revenue Technical Information Release (“TIR”) 13-1, available at <http://www.mass.gov/dor/businesses/help-and-resources/legal-library/tirs/tirs-by-years/2013-releases/tir-13-1.html>. For 2021, 150 percent of the FPL was \$19,140.00 for a single person with zero dependents. 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 2021 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 2021. 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 2021 Schedule HC Instructions and Worksheets, *supra*.

Appellant reported a federal AGI of \$65,323.00 in 2021, 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 2021 Massachusetts Schedule HC, Appellant could afford to pay \$435.46 monthly for health insurance. See 2021 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 \$413.00 monthly for coverage with zero dependents *Id.* at Table 4.

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

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

Appellant is a construction worker. Appellant’s health insurance comes through his job. In order to qualify for health insurance, he must work a certain number of hours each year. Appellant fell 52 hours short in 2021 due to the Covid pandemic. Appellant did not find out about his lack of hour until after the open enrollment period had passed.

On these facts, I find that Appellant has shown that he was precluded from purchasing affordable health insurance during 2021. 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 2021 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 2021 for the amount equal to one half of the lowest cost health insurance plan available to you for each month you have been assessed the penalty, as listed above, plus applicable interest back to the due date of the return without regard to extension.

OR

If the number of months assessed is zero (0) because your penalty has been overturned, the Connector has notified the Department of Revenue that you should NOT be assessed a penalty for Tax Year 2021.

NOTIFICATION OF YOUR RIGHT TO APPEAL TO COURT

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

Hearing Officer

Cc: Connector Appeals Unit

Massachusetts Health Connector Appeals Unit

FINAL APPEAL DECISION: PA21-1803

Appeal Decision Appeal Allowed

Hearing Issue: Appeal of the 2021 Tax Year Penalty

Hearing Date: June 21, 2022

Decision Date: June 25, 2022

AUTHORITY

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

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 21, 2022. 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 16, 2022

Exhibit 2: Appeal Case Information from form Schedule HC

Exhibit 3: Statement of Grounds for Appeal

FINDINGS OF FACT

The record shows, and I so find:

1. The appellant is sixty-one years old and is single. He lives in Essex County, Massachusetts.
2. Appellant is a school bus driver. Appellant and his wife were involved in a divorce proceeding, which resulted in criminal proceedings against him from which he was found not guilty and these proceedings took up a lot of time and expense. Appellant's job was seriously affected by the Covid pandemic.
3. Appellant does not have health insurance in 2022 and did not have health insurance in 2021.
4. The Appellant did submit a Statement of Grounds for Appeal-2021 under the grounds for Appeal " During 2021, the expense of purchasing health insurance would have caused a serious deprivation of food, shelter, clothing or other necessities".
5. I take administrative notice of the information set forth in tables 1 through 6 in the Department of Revenue Schedule HC Health Care Instructions and Worksheets (Schedule HC Instructions). Tables 3 & 4 incorporate the affordability schedules adopted by the board of directors of the Commonwealth Health Insurance Connector Authority for 2021. 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 2021.
6. Based on the appellant's federal adjusted gross income and the above referenced tables, I find the appellant may have been eligible for subsidized health insurance, because Appellant's income of \$36,083.00 was less than \$38,280.00. The monthly premium for health insurance available on the private market in Essex for a 60 year old single person was \$401.00. The tables reflect that Appellant could afford \$150.34 This is more than what the appellant is deemed to afford. (Tables 2, 3 & 4 of the Schedule HC Instructions)

ANALYSIS AND CONCLUSIONS OF LAW

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

The Appellant did submit a Statement of Grounds for Appeal-2021 under the grounds for Appeal “ During 2021, the expense of purchasing health insurance would have caused a serious deprivation of food, shelter, clothing or other necessities”.

The Health Care Reform Act of 2006 requires every adult resident of Massachusetts to obtain and maintain creditable insurance coverage “so long as it is deemed affordable” under the schedule established by the board of the Connector. Mass. Gen. Laws ch. 111M, § 2(a). Massachusetts residents who fail to indicate on their state tax returns that they obtained the mandated creditable coverage are subject to a tax penalty for each month in which that the individual did not have creditable health insurance. *Id.* at § 2(b). However, individuals with incomes up to 150 percent of the Federal Poverty Level (“FPL”) are not subject to any penalty for non-compliance with the individual mandate. See Massachusetts Department of Revenue Technical Information Release (“TIR”) 13-1, available at <http://www.mass.gov/dor/businesses/help-and-resources/legal-library/tirs/tirs-by-years/2013-releases/tir-13-1.html>. For 2021, 150 percent of the FPL was \$19,140.00 for a single person with zero dependents. 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 2021 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 2021. 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 2021 Schedule HC Instructions and Worksheets, *supra*.

Appellant reported a federal AGI of \$36,083.00 in 2021, 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 2021 Massachusetts Schedule HC, Appellant could afford to pay \$150.34 monthly for health insurance. See 2021 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 \$401.00 monthly for coverage with zero dependents *Id.* at Table 4.

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

Appellant is a school bus driver. Appellant and his wife were involved in a divorce proceeding, which resulted in criminal proceedings against him from which he was found not guilty and these proceedings took up a lot of time and expense. Appellant's job was seriously affected by the Covid pandemic.

On these facts, I find that Appellant has shown that he was precluded from purchasing affordable health insurance during 2021. 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 2021 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 2021 for the amount equal to one half of the lowest cost health insurance plan available to you for each month you have been assessed the penalty, as listed above, plus applicable interest back to the due date of the return without regard to extension.

OR

If the number of months assessed is zero (0) because your penalty has been overturned, the Connector has notified the Department of Revenue that you should NOT be assessed a penalty for Tax Year 2021.

NOTIFICATION OF YOUR RIGHT TO APPEAL TO COURT

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

Hearing Officer

Cc: Connector Appeals Unit

Massachusetts Health Connector Appeals Unit

FINAL APPEAL DECISION: PA18-1181

Appeal Decision Appeal Approved.

Hearing Issue: Appeal of the 2018 Tax Year Penalty

Hearing Date: March 30, 2022

Decision Date: June 22, 2022

AUTHORITY

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

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 30, 2022. 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 (3-1-22) (2 pages);
- Exhibit 2: Information from Schedule HC TY 2018 (1 page); and
- Exhibit 3: Statement of Grounds for Appeal (6-13-21) (with letter and document) (2 pages).

FINDINGS OF FACT

The record shows, and I so find:

1. Appellants, ages 35 during 2018, from Essex County, filed married filing jointly on the tax return with a family size of 3. (Exhibit 2).
2. One of Appellants did have health insurance for the entire year and has no penalty. The other Appellant did not have health insurance for 2018. (Appellant's testimony, Exhibits 2, and 3).
3. Appellant's Federal Adjusted Gross Income for 2018 was \$39,648.00 (Exhibit 2).
4. Appellant and Appellant's spouse are separated. Appellant was homeless, and staying with various friends.

5. Appellant's employer does not offer health insurance. Appellant's expenses used most of the income. Appellant's expenses totaled approximately \$3,200 per month, or \$38,400 for the year. (Appellant's testimony, Exhibit 3).
6. Appellant now has health insurance through the Connector. (Appellant's testimony).
7. I take administrative notice of the financial information set forth in Tables 1 through 6 in the DOR 2018 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 2018. Table 2 sets forth income at 300% of the Federal poverty level and Tables 5 and 6 set forth tax penalties in effect for 2018.
8. Appellant could not afford health insurance based on the tables in Schedule HC. According to Table 4, the health insurance would cost \$290.00 for individual coverage and \$736.00 for family coverage. According to Table 3, Appellant was deemed to afford \$246.00 for individual coverage and \$114.00 for family coverage.
9. Private insurance was not affordable for the Appellant in 2018 (Schedule HC for 2018).
10. Appellant's AGI was over 300% of the Federal Poverty Level for family of 1, but under 300% for a family of 3, and Appellant therefore may have qualified for subsidized health insurance through the Health Connector. (Schedule HC for 2018). (Appellant Testimony).
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; or fire, flood, or other natural or man-made disaster in 2018 (Exhibit 3).
13. Appellant did not fall more than thirty days behind in rent payments in 2018, nor did Appellant receive a shut-off notice for basic utilities. However, Appellant was homeless and living on friend's couches during 2018. (Appellant Testimony, Exhibit 3).

ANALYSIS AND CONCLUSIONS OF LAW

The issue on appeal is whether the tax penalty assessed by the Massachusetts Department of Revenue for 2018 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 2018. Appellant's spouse did have health insurance for 2018. They have been assessed a tax penalty for twelve months for Appellant and zero penalty for Appellant's spouse. 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 2018. According to Tables 3 and 4 of the HC Schedule for 2018, Appellant, with an adjusted gross income of \$39,648.00 was deemed not to have been able to afford health insurance on the private market. According to Table 3, Appellant could have afforded to pay \$246.00 per month for individual coverage, and \$114.00 for family coverage; according to Table 4, Appellant, who was 35 years old in 2018, lived in Essex County and filed the 2018 Massachusetts taxes as married filing jointly with a family size of 3, would have had to pay \$290.00 for individual coverage or \$736.00 for family coverage per month for insurance on the private market. See CMR 6.05 (1)(2), Schedule HC Tables 3 and 4, and Exhibit 2.

With regard to the hardship waiver of the penalty, Appellant claimed that paying for health insurance would have caused a serious deprivation of food, shelter, clothing and other necessities. Expenses for food, shelter, clothing and other necessities did use a significant amount of the income. Appellant now has health insurance through the Health Connector. For these reasons, the waiver of the penalty is allowed.

PENALTY ASSESSED

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

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

NOTIFICATION OF YOUR RIGHT TO APPEAL TO COURT

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

Hearing Officer

Cc: Connector Appeals Unit

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: PA191082

Appeal Decision: The penalty is waived.

Hearing Issue: Appeal of the 2019 Tax Year Penalty

Hearing Date: March 28, 2022

Decision Date: June 10, 2022

AUTHORITY

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

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 28, 2022. 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 Appellant on September 2, 2020, with several shut-off notices from utilities attached
- Exhibit 2: Appeal Information sheet Schedule HC, 2019
- Exhibit 2a: Appeal Information Sheet from Schedule HC 2019 showing Appellant's failure to appear at hearings on January 19, 2021 and July 7, 2021
- Exhibit 2b: Letter from Appellant requesting new hearing date, dated July 27, 2021 with emails attached
- Exhibit 3: Connector notice of hearing sent to Appellant, dated February 28, 2022 for March 28, 2022 hearing
- Exhibit 3a: Connector notice of hearing sent to Appellant, dated December 16, 2020 for January 19, 2021 hearing
- Exhibit 4: Final Appeal Decision, Tax Year 2018, dated December 30, 2019

FINDINGS OF FACT

The record shows, and I so find:

1. Appellant, who filed a 2019 Massachusetts tax return as a single person with no dependents claimed, was 56 years old in 2019 (Exhibit 2, Testimony of Appellant).
2. Appellant lived in Suffolk County in 2019 (Exhibit 2, Testimony of Appellant).
3. Appellant's Federal Adjusted Gross Income for 2019 was \$82,088 (Exhibit 2, Testimony of Appellant).

4. Appellant worked as a server at banquets in 2019. Appellant was employed all of 2019, but the amount of work she had varied from week to week. Some weeks, she worked at two events and other weeks, she worked at as many as six. Her income was based upon gratuities which varied from job to job. Appellant was only paid when she had an event to work at (Testimony of Appellant).

5. In 2018, Appellant and other workers went on strike. The strike lasted 55 days. At the end, the workers were offered a new contract which included health insurance as a benefit starting in July, 2019. Appellant assumed she would obtain coverage in July, but the company she worked for never offered the coverage (Testimony of Appellant).

6. Appellant had no health insurance in 2019. Appellant has been assessed a tax penalty for the entire year. Appellant has appealed this assessment (Testimony of Appellant, Exhibits 1 and 2).

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

8. According to Table 3 of Schedule HC for 2019, the appellant with no dependents claimed with an adjusted gross income of \$82,088 could afford to pay \$547 per month for health insurance. According to Table 4, Appellant, age 56 and living in Suffolk County, could have purchased insurance for \$418 per month. Individual coverage was affordable for the appellant in 2019 (Schedule HC for 2019, Exhibit 2).

9. According to Table 2 of Schedule HC for 2019, Appellant earning more than \$36,420 per year would have been ineligible for the ConnectorCare program based upon income (Table 2 of Schedule HC-2019, 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 fire, flood, or other natural or man-made disaster in 2019 (Testimony of Appellant).

11. Appellant did not fall more than thirty days behind in rent payments in 2019 (Testimony of Appellant).

12. Appellant received shut off notices for gas and electricity in April, May, July, and October in 2019. In each a date had been set for discontinuation of the utility (Testimony of Appellant).

13. Appellant had the following monthly expenses for basic necessities in 2019: rent-\$800; electricity- \$100; gas for cooking and hot water- \$ 40; telephone -\$60; food, household and personal care items-\$365; clothing-\$100; public transportation-\$45. In addition, Appellant had to pay between \$500 and \$600 a month for old credit card debt (Testimony of Appellant).

14. By the date of this hearing, Appellant had had health insurance through the Connector for at least a year (Testimony of Appellant).

ANALYSIS AND CONCLUSIONS OF LAW

G.L c. 111M, § 2, also called the “individual mandate,” requires every adult resident of Massachusetts to obtain 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.

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 had no health insurance that met the Commonwealth’s minimum creditable coverage standards all year. Appellant has been assessed a penalty for twelve months. Appellant has appealed the penalty. See Exhibits 1 and 2, and the testimony of the appellant which I find to be credible.

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.

According to Table 3 of Schedule HC for 2019, the appellant with no dependents claimed with an adjusted gross income of \$82,088 could afford to pay \$547 per month for health insurance. According to Table 4, Appellant, age 56 and living in Suffolk County, could have purchased insurance for \$418 per month. Individual coverage was affordable for the appellant in 2019. See Schedule HC for 2019, Exhibit 2.

Appellant was not offered health insurance through employment in 2019. Though the workers went on strike in 2018 and were given a contract which included health insurance as a benefit, the company Appellant worked for did not offer health insurance in 2019. See the testimony of the appellant which I find to be credible.

Appellant was not eligible for ConnectorCare coverage. The appellant earned more than the \$36,420, income limit for an individual. See Schedule HC, Table 2 for 2019 and Exhibit 2. There is no evidence in the record that Appellant was eligible for any other government-sponsored program.

Since Appellant had access to affordable insurance through the individual 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.

Appellant had the following monthly expenses for basic necessities in 2019: rent-\$800; electricity- \$100; gas for cooking and hot water- \$ 40; telephone -\$60; food, household and personal care items-\$365; clothing-\$100; public transportation-\$45. In addition, Appellant had to pay between \$500 and \$600 a month for old credit card debt. See the testimony of the appellant which I find to be credible.

While it appears from her adjusted gross income income of \$82,088, and her monthly expenses for basic necessities that Appellant had enough income to pay for her basic necessities and purchase health insurance, we need to take into account that Appellant’s income varied greatly from week to week. Appellant was only paid for banquet events that she worked at; some weeks, she worked at two events and some she worked at as many as six. Appellant clearly had times when she did not have enough money on hand to cover her expenses. She received at least four shut-off notices for gas and electricity during the year. See Exhibit 1 attachments and the testimony of the appellant which I find to be credible.

I determine that the Appellant could not afford the cost of purchasing health insurance that met the Commonwealth’s standards (at least \$418 a month) because of financial hardship. Pursuant to See 956 CMR

6.08(1)(b), the receipt of shut-off notices for basic utilities constitutes a financial hardship. As noted above, Appellant received at least four such termination notices. Because of financial hardship, I determine that Appellant's penalty should be waived in its entirety.

I also note that as of the date of this hearing, the appellant had health insurance through the Connector.

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

PENALTY ASSESSED

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

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

NOTIFICATION OF YOUR RIGHT TO APPEAL TO COURT

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

Cc: Connector Appeals Unit

Hearing Officer

Massachusetts Health Connector Appeals Unit

FINAL APPEAL DECISION: PA19-1189

Appeal Decision Appeal Approved.

Hearing Issue: Appeal of the 2019 Tax Year Penalty

Hearing Date: March 30, 2022

Decision Date: June 14, 2022

AUTHORITY

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

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 30, 2022. 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 (3-1-21) (2 pages);
- Exhibit 2: Information from Schedule HC TY 2019 (1 page);
- Exhibit 3: Statement of Grounds for Appeal (7-1-21) (with letter and documents) (10 pages);
- Exhibit 4: Final Appeal Decision TY 2014 (11-19-15) (4 pages); and
- Exhibit 5: Notice of prior hearing date and dismissal (8 pages).

FINDINGS OF FACT

The record shows, and I so find:

1. Appellant, age 56 during 2019, from Suffolk County, filed single on the tax return with a family size of 1. (Exhibit 2).
2. Appellant did not have health insurance for 2019. (Appellant's testimony, Exhibits 2, 3).
3. Appellant's Federal Adjusted Gross Income for 2019 was \$51,380.00 (Exhibit 2).
4. Appellant's father died in 2018, and Appellant had to take care of funeral costs, and also had eviction notices in 2019. (Appellant's testimony, Exhibit 3).
5. I take administrative notice of the financial information set forth in Tables 1 through 6 in the DOR 2019 Massachusetts Schedule HC Health Care Instructions and Worksheets. Tables 3 and 4

incorporate affordability and premium schedules adopted by the Board of Directors for the Commonwealth Health Insurance Connector Authority for 2019. Table 2 sets forth income at 300% of the Federal poverty level and Tables 5 and 6 set forth tax penalties in effect for 2019.

6. Appellant could not afford health insurance based on the tables in Schedule HC. According to Table 4, the health insurance would cost \$418.00 for coverage. According to Table 3, Appellant was deemed to afford \$342.00.
7. Private insurance was not affordable for the Appellant in 2019. (Schedule HC for 2019).
8. Appellant's AGI was over 300% of the Federal Poverty Level, and Appellant therefore would not have qualified for subsidized health insurance through the Health Connector. (Schedule HC for 2019).
9. Appellant claimed that they should be granted a waiver based on the grounds that they had eviction notices, was evicted, and also that they incurred significant expenses related to the death of their father. (Testimony of Appellant, Exhibit 3).
10. Appellant did not incur significant and unexpected increases in essential expenses as a result of domestic violence or the sudden responsibility for providing full care for an aging parent or other family member; but did incur such expenses due to the death of a spouse, family member, or partner who shared household expenses. Appellant did not incur additional expenses as a result of a fire, flood, or other natural or man-made disaster in 2019 (Exhibit 3).
11. Appellant was not homeless, but was thirty days or more behind in rent in 2019, and received eviction notices and was evicted. 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 \$51,380.00 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 \$342.00 per month; according to Table 4, Appellant, who was 56 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 \$418.00 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 received eviction notices and was evicted. In addition, Appellant incurred expenses related to the death of their father. 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: PA19-1194

Appeal Decision Appeal Approved.

Hearing Issue: Appeal of the 2019 Tax Year Penalty

Hearing Date: March 30, 2022

Decision Date: June 14, 2022

AUTHORITY

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

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 30, 2022. 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 (3-1-22) (2 pages);
- Exhibit 2: Information from Schedule HC TY 2019 (1 page); and
- Exhibit 3: Statement of Grounds for Appeal (6-13-21) (with letter and document) (2 pages).

FINDINGS OF FACT

The record shows, and I so find:

1. Appellant, age 36 during 2019, from Essex County, filed married filing jointly on the tax return with a family size of 3. (Exhibit 2).
2. Appellant did not have health insurance for 2019, but Appellant's spouse had health insurance. (Appellant's testimony, Exhibits 2, 3).
3. Appellant's Federal Adjusted Gross Income for 2019 was \$41,344.00 (Exhibit 2).
4. Appellant and Appellant's spouse are separated. Appellant was homeless, and staying with various friends.
5. Appellant's employer does not offer health insurance. Appellant's expenses used most of the income. Appellant's expenses totaled approximately \$3,200 per month, or \$38,400 for the year. (Appellant's testimony, Exhibit 3).

6. Appellant now has health insurance through the Connector. (Appellant's testimony).
7. I take administrative notice of the financial information set forth in Tables 1 through 6 in the DOR 2019 Massachusetts Schedule HC Health Care Instructions and Worksheets. Tables 3 and 4 incorporate affordability and premium schedules adopted by the Board of Directors for the Commonwealth Health Insurance Connector Authority for 2019. Table 2 sets forth income at 300% of the Federal poverty level and Tables 5 and 6 set forth tax penalties in effect for 2019.
8. Appellant could not afford health insurance based on the tables in Schedule HC. According to Table 4, the health insurance would cost \$286.00 for individual coverage. According to Table 3, Appellant was deemed to afford \$256.00.
9. Private insurance was not affordable for the Appellant in 2019. (Schedule HC for 2019).
10. Appellant's AGI was over 300% of the Federal Poverty Level, and Appellant therefore would not have qualified for subsidized health insurance through the Health Connector. (Schedule HC for 2019).
11. Appellant claimed that they should be granted a waiver based on the grounds that paying for health insurance would have caused a serious deprivation of food, shelter, clothing and other necessities. (Testimony of Appellant, Exhibit 3).
12. Appellant did not incur significant and unexpected increases in essential expenses as a result of domestic violence or the sudden responsibility for providing full care for an aging parent or other family member; and did not incur such expenses due to the death of a spouse, family member, or partner who shared household expenses. Appellant did not incur additional expenses as a result of a fire, flood, or other natural or man-made disaster in 2019 (Exhibit 3).
13. Appellant was homeless, was not thirty days or more behind in rent in 2019, and did not receive eviction notices. Appellant did not receive a shut-off notice for basic utilities. (Appellant's Testimony, Exhibit 3).

ANALYSIS AND CONCLUSIONS OF LAW

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

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

Appellant did not have health insurance for 2019. Appellant's spouse had health insurance for the entire year of 2019. They have been assessed a tax penalty for twelve months for Appellant and zero months for Appellant's spouse. 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 \$41,344.00 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 \$256.00 per month; according to Table 4, Appellant, who was 36 years old in 2019, from Essex County, and filed the 2019 Massachusetts taxes as married filing jointly with a family size of 3, would have had to pay \$286.00 for coverage per month for individual coverage 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 homeless, and that paying for health insurance would have caused a serious deprivation of food, shelter, clothing and other necessities. Appellant now has health insurance through the Health Connector. For these reasons, the waiver of the penalty is approved.

Appellant should note that the waiver of the penalty is based upon the facts that I have determined to be true for the 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: 12/0 Number of Months Assessed: 0/0

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

NOTIFICATION OF YOUR RIGHT TO APPEAL TO COURT

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

Hearing Officer

Cc: Connector Appeals Unit

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

Massachusetts Health Connector Appeals Unit

FINAL APPEAL DECISION: PA20-1118

Appeal Decision: Appeal Granted

Hearing Issue: Appeal of the 2020 Tax Year Penalty

Hearing Date: April 6, 2022

Decision Date: June 9, 2022

AUTHORITY

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

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 April 6, 2022. 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 2020 Schedule HC (1 page)
- Exhibit 2: 7/20/21 Appeal (6 pages)
- Exhibit 3: Experian Debt Summary/Credit Report (2 pages)
- Exhibit 4: 3/8/22 Hearing Notice (2 pages)

FINDINGS OF FACT

The record shows, and I so find:

1. The Appellant's filing status for 2020 was Single with no dependents and a family size of one. The Appellant's federal AGI in 2020 was \$46,912. The Appellant turned twenty-nine years old in 2020. (Exhibit 1)
2. On July 20, 2021, the Appellant appealed from the assessment of a three-month penalty for not having health insurance coverage in 2020, stating that purchasing health insurance coverage in 2020 would have caused him a serious deprivation of basic necessities. (Exhibit 2)
3. The Appellant was a part-year resident in 2020, residing in Massachusetts from January 1, 2020, to December 3, 2020. (Exhibit 1)
4. The Appellant moved to Massachusetts in January 2020 to take a new job that paid him \$16/hourly. (Appellant's testimony)
5. The Appellant's new employer offered health insurance coverage to employees for a monthly payment of \$114.18. (Appellant's testimony)

6. The Appellant did not enroll in the employer-sponsored coverage because he could not afford to pay the monthly premium, after making minimum credit card payments and car loan payments. (Appellant's testimony)
7. At the start of 2020, the Appellant had credit card debt and credit line debt of nearly \$175,000, as well as student loan and car loan debt of \$106,000. (Appellant's testimony; Exhibit 3)
8. The Appellant maintained a credit card balance of \$2,500 throughout 2020, and all his credit cards were maxed out. (Appellant's testimony)
9. In late July 2020, the Appellant got a new job that doubled his income and offered health insurance coverage after a 90-day waiting period. (Appellant's testimony; Exhibit 2)
10. The Appellant enrolled in the coverage offered by his new employer as soon as he could, and the coverage was effective during October, November, and December 2020. (Appellant's testimony; Exhibit 2)
11. According to Table 2 of the 2020 Schedule HC Health Care, the Appellant did not qualify for government-subsidized health insurance in 2020, as his income was more than \$37,470 for a family size of one.
12. According to Table 3, Affordability, the Appellant could have afforded to pay up to \$297/monthly for health insurance coverage in 2020.
13. According to Table 4, the Appellant could have purchased health insurance coverage in the private market in 2020 for a monthly premium of \$269, based on his age and county of residence in 2020.
14. The Appellant could not have afforded to pay a monthly premium of \$316 for health insurance coverage in 2020. (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 did not begin residing in Massachusetts until January 2020, the individual mandate did not apply to him until April 1, 2020.

The Appellant has submitted compelling documentary evidence that he could not have afforded health insurance coverage at any cost during the period from April 2020 until July 2020, when he got a new job that paid him twice as much as his former job and offered him affordable health insurance coverage after a waiting period. The Appellant could not have afforded health insurance coverage prior to getting this new job in late July 2020 due to his low income during that period and his compelling need to use what income he received at that time to make minimum payments on his enormous credit card and student loan debt. The Appellant enrolled in his employer-sponsored coverage as soon as he was eligible, following the three-month waiting period, and had this health insurance coverage during the last three months of 2020.

Under these circumstances, I conclude that purchasing health insurance coverage that provided minimum creditable coverage was not affordable for him from April through July 2020, because 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. 956 CMR 6.08(1)(e).

Accordingly, the Appellant's three-month penalty for 2020 shall be waived in full.

PENALTY ASSESSED

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

The Connector has notified the Department of Revenue that, pursuant to its decision, you should be assessed a penalty for Tax Year 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: PA20-1123

Appeal Decision: Appeal Approved

Hearing Issue: Appeal of the 2020 Tax Year Penalty

Hearing Date: April 6, 2022

Decision Date: June 20, 2022

AUTHORITY

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

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 April 6, 2022. The Appellant offered testimony under oath or affirmation. At the end of the hearing, the record was left open until May 8, 2022, for the Appellant to submit additional evidence. The Appellant did not submit any additional evidence, and the record was closed on May 8, 2022. The hearing record consists of the testimony of the Appellant and the following documents which were admitted into evidence:

- Exhibit 1: Appeal Case Information from 2020 Schedule HC (1 page)
- Exhibit 2: 7/26/21 Appeal (14 pages)
- Exhibit 3: 1/28/22 Request to Re-Open (8 pages)
- Exhibit 4: 3/8/22 Hearing Notice (2 pages)
- Exhibit 5: 4/6/22 Open-Record Request (1 page)

FINDINGS OF FACT

The record shows, and I so find:

1. The Appellant's filing status for 2020 was Single with no dependents. The Appellant's federal AGI in 2020 was \$63,019. The Appellant turned sixty-two years old in 2020. (Exhibit 1)
2. The Appellant resided in Middlesex County in 2020. (Exhibit 1)
3. The Appellant appeals from the assessment of a twelve-month penalty on her 2020 income tax return, checking off "Other" on her appeal form, and stating that she had health insurance coverage through her out-of-state employer until February 15, 2020, when she lost her job. (Exhibit 2)
4. The Appellant had worked for an out-of-state employer prior to 2020 and had health insurance coverage, a Blue Cross Blue Shield plan, through this employer in years prior to 2020. (Appellant's testimony; Exhibit 3)

5. The Appellant continued her employer-sponsored coverage at the start of 2020, until mid-February 2020, when she was laid off and lost her job and health insurance coverage. (Appellant’s testimony)
6. The Appellant was unemployed for the rest of 2020. (Appellant’s testimony)
7. According to Table 2 of the 2020 Schedule HC Health Care, the Appellant did not qualify for government-subsidized health insurance in 2020, as her income was more than \$37,470 for a family size of one.
8. According to Table 3, Affordability, the Appellant could have afforded to pay up to \$420/monthly for health insurance coverage in 2020, based on her tax filing status and 2020 AGI.
9. According to Table 4, Premiums, the Appellant could have purchased health insurance coverage in the private market in 2020 for a monthly premium of \$432, based on her age and county of residence in 2020.

ANALYSIS AND CONCLUSIONS OF LAW

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

While the Appellant’s employer-based, out-of-state health insurance coverage during the first two months of 2020 did not meet MCC standards, it was affordable for the Appellant and offered substantial coverage. When the Appellant lost her job in February 2020, and her out-of-state coverage, and remained unemployed for the rest of 2020, there was no affordable alternative available to her for coverage during the rest of 2020. The Appellant did not qualify for government-subsidized coverage based on her 2020 AGI of \$63,019, and the Appellant could not afford to pay the \$432/monthly premium for private health insurance coverage in 2020.

Therefore, I conclude that the Appellant has established that she could not afford health insurance coverage that met MCC standards in 2020, under 956 CMR 6.08(1)(e).

Accordingly, the Appellant’s twelve-month penalty for 2020 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 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: PA20-1137

Appeal Decision: Appeal Denied in Part

Hearing Issue: Appeal of the 2020 Tax Year Penalty

Hearing Date: April 6, 2022

Decision Date: June 14, 2022

AUTHORITY

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

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 April 6, 2022. 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 2020 Schedule HC (1 page)
- Exhibit 2: 8/21/21 Appeal (6 pages)
- Exhibit 3: 3/8/22 Hearing Notice (2 pages)

FINDINGS OF FACT

The record shows, and I so find:

1. The Appellant's filing status for 2020 was Single with no dependents. The Appellant's federal AGI in 2020 was \$43,048. The Appellant turned twenty-six years old in 2020. (Exhibit 1)
2. The Appellant resided in Hampden County in 2020. (Exhibit 1)
3. The Appellant appeals from the assessment of a twelve-month penalty on his 2020 income tax return, checking off "Other" on his appeal form, and stating that he lost his job early in 2020, travelled to Colorado in early spring, experienced mental health issues there, and did not return to Massachusetts until the fall of 2020. (Exhibit 2)
4. The Appellant was employed at the beginning of 2020, and his employer offered health insurance coverage for a monthly premium in the \$300's. (Appellant's testimony)
5. The Appellant had the use of a company vehicle while he was employed. (Appellant's testimony)
6. The Appellant declined his employer's health insurance coverage because he felt that he could not afford the monthly premium. (Appellant's testimony)
7. The Appellant was laid off from his job in March 2020. (Appellant's testimony)

8. After losing his job, the Appellant accumulated about \$15,000 in debt during the rest of 2020, including borrowing \$8,000 to purchase a Jeep. (Appellant’s testimony)
9. In April 2020, the Appellant went to Colorado to visit his sister. (Appellant’s testimony)
10. The Appellant had a mental health breakdown while in Colorado and was hospitalized there for about seven weeks. (Appellant’s testimony)
11. Someone else paid for the Appellant’s stay in the hospital in Colorado. (Appellant’s testimony)
12. The Appellant did not return to Massachusetts until October/November 2020. (Appellant’s testimony; Exhibit 2)
13. According to Table 2 of the 2020 Schedule HC Health Care, the Appellant did not qualify for government-subsidized health insurance in 2020, as his income was more than \$37,470 for a family size of one.
14. According to Table 3, Affordability, the Appellant could have afforded to pay up to \$267/monthly for health insurance coverage in 2020, based on his tax filing status and his 2020 AGI.
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 \$241, based on his age and county of residence in 2020.

ANALYSIS AND CONCLUSIONS OF LAW

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

I am not persuaded by the Appellant’s argument that he could not have afforded health insurance coverage during the first two months of 2020. The Appellant was working full time during that period, earning a significant portion of his income for 2020. The Appellant would have paid the monthly premiums for this coverage for the first two months of 2020 by the end of December 2019 and by the end of January 2020, before the pandemic struck and the Appellant lost his job. During that time, the Appellant had a full-time job that paid him a regular income. I do not find credible the Appellant’s testimony that he earned only \$500/weekly from this employer as this amount is inconsistent with his 2020 AGI of \$43,048 and the fact that the Appellant was not employed for most of the rest of the 2020. Even assuming that he could not have afforded his employer’s coverage, health insurance coverage in the private market was available to the Appellant for a monthly premium of \$241.

Therefore, I conclude that the Appellant has not established that he could not afford health insurance coverage in January 2020 and February 2020, under 956 CMR 6.08(1)(e).

However, as the Appellant lost his job in March 2020 and left Massachusetts in April 2020 to visit his sister in Colorado; experienced difficult health issues while there, requiring hospitalization; and, had taken on substantial debt while away in the spring and summer of 2020 and after returning home in the fall of 2020, I conclude that the Appellant could not have afforded health insurance coverage during the last ten months of 2020., under 956 CMR 6.08(1)(e).

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

PENALTY ASSESSED

Number of Months Appealed: 12 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.

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: PA201166

Appeal Decision: The penalty is overturned in full.

Hearing Issue: Appeal of the 2020 Tax Year Penalty

Hearing Date: March 30, 2022

Decision Date: June 24, 2022

AUTHORITY

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

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, 2022. 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 appellants. Appellant testified. At the end of the hearing, the record was left open to give time to the Connector to submit an additional document. The document was received, marked as an exhibit, and admitted in evidence. The record is now closed.

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

- Exhibit 1: Letter signed by Appellant received by Connector on October 19, 2021 requesting hearing
- Exhibit 2: Appeal Case Information from Schedule HC 2020
- Exhibit 3: Notice of Hearing sent to Appellant dated February 28, 2022 for March 30, 2022 hearing
- Exhibit 4: Letter from Appellant dated February 8, 2022 requesting new hearing date
- Exhibit 5: Connector letter to Appellants dated January 25, 2021 with Form 1095-A attached

FINDINGS OF FACT

The record shows, and I so find:

1. Appellants, who filed a 2020 Massachusetts tax return jointly with four dependents claimed, were 51 and 42 years old in 2020. Their dependents were their four minor children (Exhibit 2, Testimony of Appellant).
2. Appellants lived in Essex County in 2020 (Exhibit 2, Testimony of Appellant).
3. Appellants' Federal Adjusted Gross Income for 2020 was \$84,080 (Exhibit 2, Testimony of Appellant).

4. One of the appellants was employed January and February of 2020. Appellant was laid off on March 16, 2020 and was unemployed the rest of the year. The appellant applied for unemployment compensation and started to receive benefits of \$700 a week in April or May. Appellant earned about \$36,000 during 2020. Appellant was not offered health insurance while he was employed (Testimony of Appellant).
5. The other appellant was employed all year as a nursing assistant. This appellant earned about \$48,000 during the year. This appellant was offered health insurance through her job, but she did not obtain coverage through work (Testimony of Appellant).
6. Both appellants had health insurance in May and June, 2020 through the Connector. They have each been assessed a tax penalty for four months. Appellants have appealed the assessment. Their four minor children had MassHealth coverage all year (Testimony of Appellant, Exhibit 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 appellants with four dependents claimed with an adjusted gross income of \$84,080 could afford to pay \$532 per month for health insurance. According to Table 4, Appellants, 51 and 42 years old and living in Essex County, could have purchased insurance for \$999 per month. Coverage through the individual market was unaffordable for the appellants in 2020 (Schedule HC for 2020, Exhibit 2).
9. According to Table 2 of Schedule HC for 2020, Appellants, with four dependents, earning less than \$103,770, the income limit for a family of six, would have been eligible for the ConnectorCare program based upon income (Exhibit 2, Table 2 of Schedule HC-2020, 956 CMR 12.00 et. seq.).
10. Appellants did not incur significant and unexpected increases in essential expenses as a result of domestic violence; the death of a spouse, family member, or partner who shared household expenses; the sudden responsibility for providing full care for an aging parent or other family member, or a fire, flood, or other natural or human-caused event that led to substantial personal damage (Testimony of Appellant).
11. Appellants did not fall more than thirty days behind in mortgage payments in 2020 (Testimony of Appellant).
12. Appellants received more than one shut-off notice for electricity, a basic utility, during 2020 (Testimony of Appellant).
13. Appellants had the following monthly expenses for basic necessities in 2020: mortgage, including property taxes, and home owners insurance- \$1,300; water and sewer-\$30; heat-\$350; electricity-\$225; telephone and internet-\$160; food and household and personal items-\$1,175; car insurance-\$106; gas-\$1,200; public transportation for children to get to school-\$85; clothing-\$70; old credit card debt-\$200. In addition, one of the appellant's father passed away during 2020. Appellants paid \$2,000 for the funeral. Before the parent passed away, the appellant went to visit his father. In total, the appellants spent close to \$2,000 on travel to visit parents who lived out of the United States. They also gave \$4,000 to their parents during the year for support (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. The appellants have each been assessed a tax penalty for four months.

Appellants have appealed the penalty. See Exhibits 1 and 2, and Massachusetts General Laws Chapter 111M, Section 2.

G.L. c. 111M, § 2, also called the “individual mandate,” requires every adult resident of Massachusetts to obtain insurance coverage “[s]o long as it is deemed affordable” under the schedule set by the board of directors for the Commonwealth Health Insurance Connector Authority. Residents who do not obtain insurance are subject to a tax penalty for “each of the months” that the individual did not have health insurance as required by the individual mandate. There is a three-month grace period to allow the taxpayer to obtain health insurance coverage or to make the transition between health insurance policies. See G. L. c. 111M, sec. 2(b) and for Tax Year 2010, Administrative Bulletin 03-10: Guidance Regarding M.G.L. c. 111M and M.G.L. c. 176Q, as implemented by 956 CMR 6.00, which interprets the 63-day gap in coverage to be three months. The Connector’s regulations provide for a waiver of the tax penalty in the case of a financial hardship. See 956 CMR 6.08. 45 CFR Section 155.305 and 26 CFR Section 1.36B-2 provide eligibility requirements for advance premium tax credits.

To determine if the 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 2020, the appellants with four dependents claimed with an adjusted gross income of \$84,080 could afford to pay \$532 per month for health insurance. According to Table 4, Appellants, 51 and 42 years old and living in Essex County, could have purchased insurance for \$999 per month. Coverage through the individual market was unaffordable for the appellant in 2020. See Schedule HC for 2020, Tables 3 and 4, and Exhibit 2.

One of the appellants was not offered health insurance through employment in January and February. The rest of the year, this appellant was unemployed. The other appellant was offered health insurance through employment, but did not opt to enroll in the offered coverage. See the testimony of the appellant which I find to be credible. There was no evidence produced as to the cost of the coverage for the appellants and whether it was affordable for the appellants, or as to whether the coverage met the Commonwealth’s minimum creditable coverage standards.

According to Table 2 of Schedule HC for 2020, Appellants, with four dependents, earning less than \$103,770, the income limit for a family of six, would have been eligible for the ConnectorCare program based upon income. See Exhibit 2, Table 2 of Schedule HC-2020, 956 CMR 12.00 et. seq. The appellants did have coverage through the Connector in May and June. It is unclear from the record why the appellants lost or dropped this coverage. The four minor children of the appellants were covered by MassHealth in 2020.

Assuming that Appellants had access to affordable insurance through the ConnectorCare program, we need to determine if the appellants experienced a financial hardship such the coverage would have been unaffordable for them. See 956 CMR 6.08 et. seq.

In 2020, one of the appellants was unemployed from March through December. The other was employed. Their expenses, including those for four minor children, came to almost \$5,200 a month. Their gross income came to about \$7,000. However, in addition to their expenses for basic necessities, the appellants spent about \$8,000 visiting an ill parent who resided outside of the United States and paying for funeral expenses when the ill parent passed away. In addition, the appellant received more than one shut-off notice for their electricity. See the testimony of the appellant which I find to be credible.

Considering the facts noted above, I determine that pursuant to 956 CMR 6.08(1)(b) and 6.08(3), the appellants experienced financial hardships that caused the cost of health insurance to be unaffordable for them. 956 CMR

6.08(1)(b) provides that the receipt of shut-off notices for basic utilities constitutes a financial hardship. 956 CMR 6.08(3) allows for the consideration of financial issues not specifically mentioned in the regulations raised by an appellant during an appeal. In this matter I am taking into consideration the funeral and travel expenses which the appellant testified about.

The penalty for both appellants is waived in its entirety.

Appellants should note that any waiver granted here is for 2020 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: 8 Number of Months Assessed: 0

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

NOTIFICATION OF YOUR RIGHT TO APPEAL TO COURT

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

Cc: Connector Appeals Unit

Hearing Officer

Massachusetts Health Connector Appeals Unit

FINAL APPEAL DECISION: PA201176

Appeal Decision: The penalty is overturned in full.

Hearing Issue: Appeal of the 2020 Tax Year Penalty

Hearing Date: March 30, 2022

Decision Date: June 20, 2022

AUTHORITY

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

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 30, 2022. The procedures to be followed during the hearing were reviewed with Appellant who was then sworn in. Exhibits were marked and admitted in evidence with no objection from the appellant. Appellant testified.

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

Exhibit 1: Statement of Grounds for Appeal signed by Appellant on October 25, 2021 with letter and emails attached

Exhibit 2: Appeal Case Information from Schedule HC 2020

Exhibit 3: Notice of Hearing sent to Appellant dated January 20, 2022 for February 18, 2022 hearing

Exhibit 3a: Notice of Hearing sent to Appellant dated February 28, 2022 for March 30, 2022 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 34 years old in 2020 (Exhibit 2, Testimony of Appellant).
2. Appellant resided in Bristol County in 2020 (Testimony of Appellant, Exhibit 2).
3. Appellant had a Federal Adjusted Income of \$45,813 in 2020 (Testimony of Appellant, Exhibit 2).
4. Appellant was employed all year. She was hired on December 31, 2019. The appellant earned \$14 an hour and worked 40 hours a week. Appellant also had a second part-time job for which she was paid \$170 a week gross (Testimony of Appellant).
5. Appellant was offered health insurance, but only after the appellant worked for 90 days. At the end of 90 days, Appellant tried to obtain the health insurance offered, but because of the pandemic, the appellant could not enroll in person. She tried to enroll on-line but was unable to. The only person in the Human Resources Department left and Appellant was unable to figure out how to enroll. Her manager did not know what Appellant should do. Then

the manager left and the new manager was unable to help the appellant. Appellant was unable to enroll. Appellant was not offered health insurance through her part-time job (Testimony of Appellant).

6. Appellant obtained coverage through her job as of April 1, 2022 (Testimony of the Appellant).

7. Appellant had no health insurance in 2020. Appellant has been assessed a penalty for the entire year. The appellant has appealed this assessment (Testimony of Appellant, Exhibits 1 and 2).

8. I take administrative notice of the financial information set forth in Tables 1 through 6 in the DOR 2020 Massachusetts Schedule HC Health Care Instructions and Worksheets. Tables 3 and 4 incorporate affordability and premium schedules adopted by the Board of Directors for the Commonwealth Health Insurance Connector Authority for 2020. Table 2 sets forth income at 300% of the Federal poverty level and Tables 5 and 6 set forth tax penalties in effect for 2020.

9. According to Table 3 of Schedule HC for 2020, the appellant with no dependents claimed with an adjusted gross income of \$45,813 could afford to pay \$290 per month for health insurance. According to Table 4, Appellant, 34 years old and living in Bristol County, could have purchased insurance for \$288 per month for a plan for an individual. Insurance on the individual market was affordable for the appellant (Schedule HC for 2020 Tables 3 and 4, Exhibit 2).

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

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

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

13. Appellant fell more than thirty days behind in rent payments once in 2020 (Testimony of Appellant).

14. Appellant had the following monthly expenses for basic necessities in 2020: rent and heat-\$575; electricity-on average \$85; telephone and internet-\$163; food, household items, and personal care items-\$1,180; clothing-\$70; car insurance-\$280; gas-\$260. The appellant paid \$190 a month for personal debt, including student loans (Testimony of Appellant).

15. During 2020, Appellant provided care and financial support to her mother who was ill. In addition to providing personal care, Appellant gave her mother \$130 a month (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 that meets minimum creditable standards set by the Commonwealth “[s]o long as it is deemed affordable” under the schedule set by the board of directors for the Commonwealth Health Insurance Connector Authority. Residents who do not obtain insurance are subject to

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

Appellant was uninsured all of 2020. Appellant has been assessed a penalty for twelve months. The appellant has appealed the assessment. See Exhibits 1, 2.

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

According to Table 3 of Schedule HC for 2020, the appellant with no dependents claimed with an adjusted gross income of \$45,813 could afford to pay \$290 per month for health insurance. According to Table 4, Appellant, 34 years old and living in Bristol County, could have purchased insurance for \$288 per month for a plan for an individual. Insurance on the individual market was affordable for the appellant. See Schedule HC for 2020 Tables 3 and 4, and Exhibit 2.

Appellant was ineligible for enrollment in the ConnectorCare program. The appellant’s annual Federal Adjusted Income was \$45,813, more than the income limit for one person (\$37,470). See 956 CMR 12.00 et. seq., Exhibit 2, and Table 2 of Schedule HC 2020. There is no evidence in the record that Appellant was eligible for any other government sponsored program.

Appellant, though originally offered health insurance through her job after she had been on the job for 90 days, was unable to access coverage through employment. At the end of 90 days, Appellant tried to obtain the health insurance offered, but because of the pandemic, the appellant could not enroll in person. She tried to enroll on-line but was unable to. The only person in the Human Resources Department left and Appellant was unable to figure out how to enroll. Her manager did not know what Appellant should do. Then the manager left and the new manager was unable to help the appellant. Appellant was not offered health insurance through her part-time job. See the testimony of the appellant which I find to be credible.

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

Appellant had the following expenses for basic necessities in 2020: rent and heat-\$575; electricity-on average \$85; telephone and internet-\$163; food, household items, and personal care items-\$1,180; clothing-\$70; car insurance-\$280; gas-\$260. The appellant paid \$190 a month for personal debt, including student loans. If we take into account the amounts Appellant spent on her mother and on personal debt payments, Appellant’s expenses amounted to approximately \$3,000 a month. See the testimony of Appellant which I find to be credible.

Appellant’s Federal Adjusted Gross Income in 2020 was \$45,813. Appellant’s pay before taxes and other deductions came to about \$3,700 per month. If Appellant purchased health insurance through the individual market for nearly \$300 a month, the appellant would have had little or no money left over after paying for the coverage and

her basic necessities. She might have had a monthly deficit depending on her deductions from her pay. Based upon these facts, I determine that pursuant to 956 CMR 6.08(1)(e), the cost of insurance would have caused Appellant to experience a serious deprivation of basic necessities. This constitutes financial hardship, making health insurance unaffordable for the appellant. In addition, Appellant fell more than 30 days behind in her rent payments in 2020. Pursuant to 956 CMR 6.08(1)(a), Appellant had a financial hardship which, again, would have made the cost of insurance unaffordable for the appellant.

Based on the facts and determinations noted above, Appellant's penalty is waived in its entirety.

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

PENALTY ASSESSED

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

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

NOTIFICATION OF YOUR RIGHT TO APPEAL TO COURT

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

Cc: Connector Appeals Unit

Hearing Officer

Massachusetts Health Connector Appeals Unit

FINAL APPEAL DECISION: PA21-1736

Appeal Decision: Appeal Approved

Hearing Issue: Appeal of the 2021 Tax Year Penalty

Hearing Date: May 13, 2022

Decision Date: June 20, 2022

AUTHORITY

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

JURISDICTION

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

HEARING RECORD

The Appellants appeared at the hearing, which was held by telephone, on May 13, 2022. The Appellants 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 2021 Schedule HC (1 page)
- Exhibit 2: 2/26/22 Appeal (10 pages)
- Exhibit 3: 4/8/22 Hearing Notice (2 pages)

FINDINGS OF FACT

The record shows, and I so find:

1. The Appellants' filing status for 2021 was Married Filing Jointly with no dependents. The Appellants' federal AGI in 2021 was \$45,106. (Exhibit 1)
2. The Appellant resided in Worcester County in 2020. (Exhibit 1)
3. The Appellants appeal from the assessment of a three-month penalty against the Appellant/wife on their 2021 income tax return, checking off "Other" on their appeal form. (Exhibit 2)
4. On May 19, 2021, the Appellant/wife was issued an immigrant visa at the US Embassy in her country of origin. (Exhibit 2)
5. On June 2, 2021, the Appellant arrived in Massachusetts and joined her husband in residence there. (Exhibit 2)
6. The Appellant applied for health insurance coverage in June 2021, and had health insurance coverage during the last six months of 2021. (Appellant's testimony; Exhibit 1)

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. For persons who moved into Massachusetts during 2021, the individual mandate applied to them beginning on the first day of the third month following the month they became a resident of Massachusetts.

In this case, as the Appellant did not become a resident of Massachusetts until June 2, 2021, when she arrived in Massachusetts from abroad, joining her husband who was already a resident here. Soon after arriving, the Appellant obtained health insurance coverage that was effective from July 1, 2021, through December 2021.

Accordingly, the Appellant/wife’s three-month penalty for 2021 shall be waived in full.

PENALTY ASSESSED

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

The Connector has notified the Department of Revenue that, pursuant to its decision, you should be assessed a penalty for Tax Year 2021 for the amount equal to one half of the lowest cost health insurance plan available to you for each month you have been assessed the penalty, as listed above, plus applicable interest back to the due date of the return without regard to extension.

OR

If the number of months assessed is zero (0) because your penalty has been overturned, the Connector has notified the Department of Revenue that you should NOT be assessed a penalty for Tax Year 2021.

NOTIFICATION OF YOUR RIGHT TO APPEAL TO COURT

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

Hearing Officer

Cc: Connector Appeals Unit

Massachusetts Health Connector Appeals Unit

FINAL APPEAL DECISION: PA21-1737

Appeal Decision: Appeal Approved

Hearing Issue: Appeal of the 2021 Tax Year Penalty

Hearing Date: May 13, 2022

Decision Date: June 29, 2022

AUTHORITY

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

JURISDICTION

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

HEARING RECORD

The Appellants appeared at the hearing, which was held by telephone, on May 13, 2022. The Appellants offered testimony under oath or affirmation. At the end of the hearing, the record was left open until May 27, 2022, for the Appellant to submit additional evidence. The Appellant submitted additional evidence on May 23, 2021, and again on June 19, 2022, and 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 2021 Schedule HC (1 page)
- Exhibit 2: 2/28/22 Appeal (5 pages)
- Exhibit 3: 4/8/22 Hearing Notice (2 pages)
- Exhibit 4: 5/27/22 Open-Record Request (1 page)
- Exhibit 5: 5/23/22 2021 Expense Report (1 page)
- Exhibit 6: 6/19/22 Email from Appellant (1 page)

FINDINGS OF FACT

The record shows, and I so find:

1. The Appellant's filing status for 2021 was Single with no dependents. The Appellant's federal AGI in 2021 was \$84,606. The Appellant turned forty-six years old in 2021. (Exhibit 1)
2. The Appellant resided in Norfolk County in 2021. (Exhibit 1)
3. The Appellant appeals from the assessment of a twelve-month penalty against him on his 2021 income tax return, checking off on his appeal form that purchasing health insurance in 2021 would have caused him a serious deprivation of basic necessities; and, that during 2021 he incurred an unexpected increase in essential expenses resulting directly from the consequences of certain personal events. (Exhibit 2)
4. The Appellant did not incur an unexpected increase in essential expenses in 2021 resulting directly from the consequences of certain personal events. (Appellant's testimony)

5. The Appellant did not have access to employer-sponsored health insurance coverage in 2021. (Appellant’s testimony)
6. The Appellant’s average monthly expenses in 2021 for basic necessities included: rent, \$1,600; electricity; \$225; natural gas, \$80; trash removal, \$55; car payment, \$600; gas, \$800; auto insurance, \$385; auto maintenance/repairs, \$510; credit card payment, \$550; food, \$1,250; cell phone, \$380; cable/internet, \$200; clothing, \$166; and, food/vet for two dogs, \$225, for a total of \$7,026/monthly and \$78,192 for the year. (Exhibit 5)
7. According to Table 2, Eligibility for Government-Subsidized Health Insurance, the Appellant did not qualify for GSI as his 2021 AGI exceeded \$38,280 for a family size of one.
8. According to Table 3, Affordability, of the 2021 Massachusetts Schedule HC Health Care, the Appellant could have afforded to pay a monthly premium of up \$564 for health insurance coverage in 2021.
9. According to Table 4, Premiums, the Appellant could have purchased health insurance coverage in the private market in 2021 for a monthly premium of \$336, based on his age and county of residence in 2021.
10. The Appellant was unaware in 2021 that he could purchase health insurance coverage directly in the private market and that health insurance coverage was available to him in the private market for a monthly premium of \$336. (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.

I am persuaded by the Appellant’s contention that purchasing health insurance coverage in 2021 would have caused him a serious deprivation of basic necessities. I credit his testimony that he was unaware that he could have purchased health insurance coverage directly in the private; that he could have afforded coverage for \$336/monthly; and, that he would have purchased the coverage had he known it was available to him. However, paying a monthly premium of \$564 for health insurance coverage was more than he could afford to pay in light of his monthly costs for basic necessities and the significant variability of many of those costs.

Accordingly, the Appellant’s twelve-month penalty for 2021 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 2021 for the amount equal to one half of the lowest cost health insurance plan available to you for each month you have been assessed the penalty, as listed above, plus applicable interest back to the due date of the return without regard to extension.

OR

If the number of months assessed is zero (0) because your penalty has been overturned, the Connector has notified the Department of Revenue that you should NOT be assessed a penalty for Tax Year 2021.

NOTIFICATION OF YOUR RIGHT TO APPEAL TO COURT

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

Hearing Officer

Cc: Connector Appeals Unit

Massachusetts Health Connector Appeals Unit

FINAL APPEAL DECISION: PA21-1749

Appeal Decision: Appeal Approved

Hearing Issue: Appeal of the 2021 Tax Year Penalty

Hearing Date: May 19, 2022

Decision Date: June 27, 2022

AUTHORITY

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

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 19, 2022. 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 2021 Schedule HC (1 page)
- Exhibit 2: 2/28/22 Appeal (7 pages)
- Exhibit 3: 4/11/22 Hearing Notice (2 pages)

FINDINGS OF FACT

The record shows, and I so find:

1. The Appellant's filing status for 2021 was Head of Household with two dependents. The Appellant's federal AGI in 2021 was \$49,252. (Exhibit 1)
2. The Appellant turned forty-six years old in 2021. (Exhibit 1)
3. The Appellant resided in Hudson, New Hampshire in 2021. (Exhibit 1; Appellant's testimony)
4. The Appellant was employed by a small law firm in Massachusetts during 2021. (Appellant's testimony)
5. The Appellant appeals from the assessment of a twelve-month penalty against her on her 2021 income tax return, checking off "Other" on the appeal form, as the basis for her appeal. (Exhibit 2)
6. The Appellant checked off "Other" because it was the only box on the appeal form that made sense to her since she lived out of state during all of 2021. (Appellant's testimony)
7. The Appellant resided in New Hampshire throughout 2021. (Appellant's testimony; Exhibit 2)

ANALYSIS AND CONCLUSIONS OF LAW

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

In this case, while the Appellant worked in Massachusetts in 2021, the Appellant has presented substantial and credible evidence to support her position that she was not a resident of Massachusetts during 2021. The Appellant stated this in her 2021 tax return and, in her appeal, submitted monthly utility bills for her New Hampshire residence for the beginning and the end of 2021. I am persuaded by this evidence and conclude that no tax penalty should be assessed against the Appellant for 2021.

Accordingly, the Appellant’s twelve-month penalty for 2021 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 2021 for the amount equal to one half of the lowest cost health insurance plan available to you for each month you have been assessed the penalty, as listed above, plus applicable interest back to the due date of the return without regard to extension.

OR

If the number of months assessed is zero (0) because your penalty has been overturned, the Connector has notified the Department of Revenue that you should NOT be assessed a penalty for Tax Year 2021.

NOTIFICATION OF YOUR RIGHT TO APPEAL TO COURT

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

Hearing Officer

Cc: Connector Appeals Unit

Massachusetts Health Connector Appeals Unit

FINAL APPEAL DECISION: PA21-1758

Appeal Decision: Penalty Overturned in Full
Hearing Issue: Appeal of the 2021 Tax Year Penalty
Hearing Date: May 26, 2022
Decision Date: June 20, 2022

AUTHORITY

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

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, 2022. 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 4, 2022
- Exhibit 3: Correspondence from Health Connector dated April 13, 2022

FINDINGS OF FACT

The record shows, and I so find:

1. Appellant was 28 years old in 2021. Appellant filed a Massachusetts 2021 tax return as single with no dependents claimed (Exhibit 1).
2. Appellant resided in Suffolk County, MA in 2021 (Exhibit 1 and Testimony of Appellant).
3. Appellant had an Adjusted gross income of \$57,364 for 2021 (Exhibit 1 and Testimony of Appellant).
4. During 2021, Appellant went to school part-time and worked full-time (Testimony of Appellant).
5. Appellant was covered by employer sponsored health insurance from January through May 2021 (Exhibit 1 and Testimony of Appellant).
6. Appellant changed jobs in June 2021 (Testimony of Appellant).
7. Employer sponsored health insurance was available from Appellant's job that began in June 2021 for \$600 per month (Testimony of Appellant).
8. Appellant did not enroll in the employer sponsored health insurance due to the cost (Testimony of Appellant).
Appellant
9. Appellant had moved to Massachusetts in 2020 and was not immediately aware of the requirement to have health insurance coverage (Testimony of Appellant).
10. When Appellant became aware of the requirement to have health insurance, Appellant looked for affordable coverage and Appellant began coverage in 2022 (Testimony of Appellant).

11. I take administrative notice of the financial information set forth in Tables 1 through 6 in the DOR 2021 Massachusetts Schedule HC Health Care Instructions and Worksheets. Tables 3 and 4 incorporate affordability and premium schedules adopted by the Board of Directors for the Commonwealth Health Insurance Connector Authority for 2021. Table 2 sets forth income at 300% of the Federal poverty level and Tables 5 and 6 set forth tax penalties in effect for 2021.
12. According to Table 3 of Schedule HC for 2021 a person filing as single with no dependents with an adjusted gross income of \$57,364 could afford to pay \$382 per month for private insurance. According to Table 4, Appellant, age 28 and living in Suffolk County could have purchased private insurance for \$263 per month.
13. Private insurance was considered to be affordable for Appellant in 2021 (Schedule HC for 2021).
14. The employer sponsored health insurance offered to Appellant in June 2021, for \$600 per month was not considered to be affordable for Appellant (Schedule HC for 2021).
15. According to Table 2 of Schedule HC for 2021, Appellant, earning \$57,364 would not have been income eligible for government subsidized health insurance.
16. Appellant did not have health insurance for seven months of 2021 (Testimony of Appellant and Exhibit 1).
17. Appellant has been assessed a penalty for four months for 2021 (Exhibit 2).
18. Appellant filed an appeal on March 4, 2022 (Exhibit 2).

ANALYSIS AND CONCLUSIONS OF LAW

G.L.c. 111M, § 2, also called the “individual mandate,” requires every adult resident of Massachusetts to obtain health insurance that meets minimum creditable coverage standards “[s]o long as it is deemed affordable” under the schedule set by the board of directors for the Commonwealth Health Insurance Connector Authority. Residents who do not obtain insurance or who do not obtain insurance that meets the minimum creditable coverage standard are subject to a tax penalty for “each of the months” that the individual did not have health insurance as required by the individual mandate. There is a three-month grace period to allow the taxpayer to obtain health insurance coverage or to make the transition between health insurance policies. See G. L. c. 111M, sec. 2(b) and for Tax Year 2021, Administrative Bulletin 03-10: Guidance Regarding M.G.L. c. 111M and M.G.L. c. 176Q, as implemented by 956 CMR 6.00, which interprets the 63-day gap in coverage to be three months. The Connector’s regulations provide for a waiver of the tax penalty in the case of a financial hardship. See 956 CMR 6.08.

Appellant has been assessed a tax penalty for four 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.

When Appellant began a new job in June 2021, the employer sponsored health insurance that was offered was not considered affordable for Appellant and would have caused Appellant to suffer a financial hardship. However, private insurance was considered affordable for Appellant. Since Appellant was new to Massachusetts and since Appellant sought health insurance in late 2021, I find the penalty assessed against Appellant for 2021 should be waived in its entirety. See Schedule HC for 2021, 956 CMR 6.08 (3), Exhibits 1 and 2, and Testimony of Appellant, which I find to be credible.

PENALTY ASSESSED

Number of Months Appealed: 4

Number of Months Assessed: 0

The Connector has notified the Department of Revenue that, pursuant to its decision, you should be assessed a penalty for Tax Year 2021 for the amount equal to one half of the lowest cost health insurance plan available to

you for each month you have been assessed the penalty, as listed above, plus applicable interest back to the due date of the return without regard to extension.

OR

If the number of months assessed is zero (0) because your penalty has been overturned, the Connector has notified the Department of Revenue that you should NOT be assessed a penalty for Tax Year 2021.

NOTIFICATION OF YOUR RIGHT TO APPEAL TO COURT

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

Massachusetts Health Connector Appeals Unit

FINAL APPEAL DECISION: PA21-1761

Appeal Decision: Penalty Overturned in Part
Hearing Issue: Appeal of the 2021 Tax Year Penalty
Hearing Date: May 26, 2022
Decision Date: June 24, 2022

AUTHORITY

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

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, 2022. 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 2021 from DOR
- Exhibit 2: Notice of Appeal and supporting documents dated March 4, 2022
- Exhibit 3: Correspondence from Health Connector dated April 13, 2022

FINDINGS OF FACT

The record shows, and I so find:

1. Appellant was 56 years old in 2021. Appellant filed a Massachusetts 2021 tax return as single with no dependents claimed (Exhibit 1).
2. Appellant resided in Essex County, MA in 2021 (Exhibit 2).
3. Appellant had an Adjusted Gross Income of \$36,258 in 2021 (Exhibit 2).
4. Employer sponsored health insurance was available to Appellant in 2021 at a cost of \$346 per month (Testimony of Appellant).
5. Appellant did not sign up for the employer sponsored health insurance due to the cost (Testimony of Appellant).
6. Appellant tried to apply for subsidized health insurance, but had trouble with the website (Testimony of Appellant).
7. Appellant's employer stopped giving employees bonuses in 2021 and Appellant's income was very uncertain (Testimony of Appellant).
8. Appellant cut back on expenses and only ate one time a day to minimize food expenses (Testimony of Appellant).
9. Appellant's rent increased to \$1,000 per month in 2021 (Testimony of Appellant).

10. Due to Appellant's uncertain income and increasing expenses, Appellant struggled to pay necessary expenses in 2021 (Testimony of Appellant).
11. I take administrative notice of the financial information set forth in Tables 1 through 6 in the DOR 2021 Massachusetts Schedule HC Health Care Instructions and Worksheets. Tables 3 and 4 incorporate affordability and premium schedules adopted by the Board of Directors for the Commonwealth Health Insurance Connector Authority for 2021. Table 2 sets forth income at 300% of the Federal poverty level and Tables 5 and 6 set forth tax penalties in effect for 2021.
12. According to Table 3 of Schedule HC for 2021 a person filing as single with no dependents with an adjusted gross income of \$36,258 could afford to pay \$151 per month for private insurance. According to Table 4, Appellant, age 56 and living in Essex County could have purchased private insurance for \$401 per month.
13. Neither private insurance nor the employer sponsored health insurance was considered to be affordable for Appellant in 2021 (Schedule HC for 2021).
14. Appellant, earning less than \$38,280 would have been income eligible for government subsidized health insurance (Schedule HC for 2021).
15. Appellant did not have health insurance for twelve months in 2021 (Testimony of Appellant and Exhibit 2).
16. Appellant has been assessed a penalty for twelve months for 2021 (Exhibit 2).
17. Appellant filed a hardship appeal on March 4, 2022 (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 2021, Administrative Bulletin 03-10: Guidance Regarding M.G.L.c. 111M and M.G.L.c. 176Q, as implemented by 956 CMR 6.00, which interprets the 63-day gap in coverage to be three months. The Connector's regulations provide for a waiver of the tax penalty in the case of a financial hardship. See 956 CMR 6.08.

Appellant has been assessed a tax penalty for 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.

Neither private nor employer sponsored health insurance was considered affordable to Appellant. Appellant was income eligible for government subsidized health insurance. Since the cost of employer sponsored health insurance was more than 9.83% of Appellant's income, Appellant would not have been blocked from obtaining subsidized health insurance. See Schedule HC for 2021 Tables 2, 3, 4 and Worksheet for line 11 and 45CFR 155.305 (f)(1)(ii)(B), 26CFR 1-36B-2(c)(3)(v).

Since Appellant was eligible for affordable insurance, we must consider whether Appellant suffered a financial hardship. Appellant's income was reduced and uncertain and Appellant struggled to pay for necessary expenses during 2021. I find that the cost of purchasing health insurance would have caused a serious deprivation of food, shelter clothing or other necessities. See 956 CMR 6.08 (1)(e), Exhibits 1 and 2 and Testimony of Appellant, which I find to be credible.

I find the penalty assessed against Appellant for 2021 should be waived.

PENALTY ASSESSED

Number of Months Appealed: 12

Number of Months Assessed: 0

The Connector has notified the Department of Revenue that, pursuant to its decision, you should be assessed a penalty for Tax Year 2021 for the amount equal to one half of the lowest cost health insurance plan available to you for each month you have been assessed the penalty, as listed above, plus applicable interest back to the due date of the return without regard to extension.

OR

If the number of months assessed is zero (0) because your penalty has been overturned, the Connector has notified the Department of Revenue that you should NOT be assessed a penalty for Tax Year 2021.

NOTIFICATION OF YOUR RIGHT TO APPEAL TO COURT

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

ADDENDUM

Appellant was given the phone number for the Health Connector (1-877-623-6765) in order to learn about and apply for subsidized health insurance as soon as possible.

Massachusetts Health Connector Appeals Unit

FINAL APPEAL DECISION: PA21-1782

Appeal Decision Appeal Allowed

Hearing Issue: Appeal of the 2021 Tax Year Penalty

Hearing Date: June 14, 2022

Decision Date: June 24, 2022

AUTHORITY

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

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 14, 2022. 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 6, 2022
- Exhibit 2: Appeal Case Information from form Schedule HC
- Exhibit 3: Statement of Grounds for Appeal, dated March 7, 2022

FINDINGS OF FACT

The record shows, and I so find:

1. The appellant is twenty-seven years old and is single. She lives in Bristol County, Massachusetts. Appellant works in the shipping business.
2. Appellant was able to obtain an apartment late last year. Before then, she was living from couch to couch in friend's apartments. She was offered health insurance at her old job but it cost \$500.00 per month, which was too expensive for Appellant.
3. Appellant does not have health insurance in 2022 and did not have health insurance in 2021.
4. The Appellant's monthly expenses totaled \$1,640.00, consisting of rent \$700.00, car insurance \$245.00, car gas \$160.00, food \$400.00, toiletries \$40.00, entertainment \$20.00.
5. The Appellant did submit a Statement of Grounds for Appeal-2021. "During 2021
6. , the expense of purchasing health insurance would have caused a serious deprivation of food, shelter, clothing or other necessities" .
7. I take administrative notice of the information set forth in tables 1 through 6 in the Department of Revenue Schedule HC Health Care Instructions and Worksheets (Schedule HC Instructions). Tables 3 & 4 incorporate the affordability schedules adopted by the board of directors of the Commonwealth Health Insurance Connector Authority for 2021. 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 2021.
8. Based on the appellant's federal adjusted gross income and the above referenced tables, I find the appellant would not have been eligible for subsidized health insurance, since Appellant's income of \$37,878.00 was more than \$38,280.00. The monthly premium for health insurance available on the private market in Bristol County for a 26 year old single person was \$271.00. The tables reflect that Appellant could afford \$157.82 This is more than what the appellant is deemed to afford. (Tables 2, 3 & 4 of the Schedule HC Instructions)

ANALYSIS AND CONCLUSIONS OF LAW

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

Appellant was able to obtain an apartment late last year. Before then, she was living from couch to couch in friend's apartments. She was offered health insurance at her old job but it cost \$500.00 per month, which was too expensive for Appellant.

The Appellant did submit a Statement of Grounds for Appeal-2021 "During 2021, the expense of purchasing health insurance would have caused a serious deprivation of food, shelter, clothing or other necessities"

The Health Care Reform Act of 2006 requires every adult resident of Massachusetts to obtain and maintain creditable insurance coverage "so long as it is deemed affordable" under the schedule established by the board of the Connector. Mass. Gen. Laws ch. 111M, § 2(a). Massachusetts residents who fail to indicate on their state tax returns that they obtained the mandated creditable coverage are subject to a tax penalty for each month in which that the individual did not have creditable health insurance. *Id.* at § 2(b). However, individuals with incomes up to 150 percent of the Federal Poverty Level ("FPL") are not subject to any penalty for non-compliance with the individual mandate. See Massachusetts Department of Revenue Technical Information Release ("TIR") 13-1, available at <http://www.mass.gov/dor/businesses/help-and-resources/legal-library/tirs/tirs-by-years/2013-releases/tir-13-1.html>. For 2021, 150 percent of the FPL was \$19,140.00 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 2021 income was more than 150 percent of the FPL, making her potentially subject to an individual mandate penalty, the threshold issue to be addressed is whether creditable health insurance coverage was affordable to her in 2021. 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 2021 Schedule HC Instructions and Worksheets, *supra*.

Appellant reported a federal AGI of \$37,878.00 in 2021, 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 2021 Massachusetts Schedule HC, Appellant could afford to pay \$195.70 monthly for health insurance. See 2021 Schedule HC Instructions and Worksheets, *supra* at Table 3. Private insurance would have been available to her from the Premium Tables, at a cost of \$271.00 monthly for coverage. *Id.* at Table 4.

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

Appellant is deemed to afford \$157.82 for health insurance coverage because of her income. Private insurance in the market place was \$271.00 per month, which is more than she could afford. On these facts, I find that Appellant has shown that she was precluded from purchasing affordable health insurance during 2021. 956 Mass. Code Regs. 6.08(3) (2008). Accordingly, I conclude that she is exempt from a tax penalty for her non-compliance with the individual mandate.

Accordingly, Appellant's appeal is **ALLOWED**, and the 2021 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 2021 for the amount equal to one half of the lowest cost health insurance plan available to you for each month you have been assessed the penalty, as listed above, plus applicable interest back to the due date of the return without regard to extension.

OR

If the number of months assessed is zero (0) because your penalty has been overturned, the Connector has notified the Department of Revenue that you should NOT be assessed a penalty for Tax Year 2021.

NOTIFICATION OF YOUR RIGHT TO APPEAL TO COURT

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

Hearing Officer

Cc: Connector Appeals Unit

Massachusetts Health Connector Appeals Unit

FINAL APPEAL DECISION: PA21-1783

Appeal Decision Appeal Denied

Hearing Issue: Appeal of the 2021 Tax Year Penalty

Hearing Date: June 14, 2022

Decision Date: June 23, 2022

AUTHORITY

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

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 14, 2022. 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 6, 2022
- Exhibit 2: Appeal Case Information from form Schedule HC
- Exhibit 3: Statement of Grounds for Appeal Dated February 24, 2022
- Exhibit 4: Written Statement of Appeal

FINDINGS OF FACT

The record shows, and I so find:

1. The appellant is forty-seven years old and is single. He lives in Plymouth County, Massachusetts.
2. Appellant worked in a construction business.
3. Appellant does not have health insurance in 2022 and did not have health insurance in 2021.
4. Appellant indicated that his company did not offer health insurance. Appellant felt that he could not afford health insurance.
5. The Appellant's monthly expenses totaled \$4,190.00, consisting of rent \$1,100.00, heat & light \$150.00, internet & cable \$20.00, cell phone \$75.00, car payment \$335.00, car insurance \$110.00, car gas \$400.00, food \$900.00, credit card \$800.00, clothing \$50.00, toiletries \$50.00, entertainment \$200.00. Appellant also had to pay \$1,000.00 for an orthodontist
6. The Appellant did submit a Statement of Grounds for Appeal-2021 under the grounds for Appeal "During 2021, the expense of purchasing health insurance would have caused a serious deprivation of food, shelter or other necessities".
7. I take administrative notice of the information set forth in tables 1 through 6 in the Department of Revenue Schedule HC Health Care Instructions and Worksheets (Schedule HC Instructions). Tables 3 & 4 incorporate the affordability schedules adopted by the board of directors of the Commonwealth Health Insurance Connector Authority for 2021. 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 2021.
8. Based on the appellant's federal adjusted gross income and the above referenced tables, I find the appellant would not have been eligible for subsidized health insurance, because Appellant's income of \$51,553.00 was more than \$38,280.00. The monthly premium for health insurance available on the private market in Plymouth County for a 46 year old single person was \$336.00. The tables reflect that Appellant could afford \$343.68. 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-2021 under the grounds for Appeal “During 2021, the expense of purchasing health insurance would have caused a serious deprivation of food, shelter or other necessities”.

The Health Care Reform Act of 2006 requires every adult resident of Massachusetts to obtain and maintain creditable insurance coverage “so long as it is deemed affordable” under the schedule established by the board of the Connector. Mass. Gen. Laws ch. 111M, § 2(a). Massachusetts residents who fail to indicate on their state tax returns that they obtained the mandated creditable coverage are subject to a tax penalty for each month in which that the individual did not have creditable health insurance. *Id.* at § 2(b). However, individuals with incomes up to 150 percent of the Federal Poverty Level (“FPL”) are not subject to any penalty for non-compliance with the individual mandate. See Massachusetts Department of Revenue Technical Information Release (“TIR”) 13-1, available at <http://www.mass.gov/dor/businesses/help-and-resources/legal-library/tirs/tirs-by-years/2013-releases/tir-13-1.html>. For 2021, 150 percent of the FPL was \$19,140.00 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 2021 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 2021. 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 2021 Schedule HC Instructions and Worksheets, *supra*.

Appellant reported a federal AGI of \$51,553.00 in 2021, 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 2021 Massachusetts Schedule HC, Appellant could afford to pay \$343.68 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 \$336.00 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 construction business. The last time Appellant had health insurance was in 2019.

On these facts, I find that Appellant has shown that he was not precluded from purchasing affordable health insurance during 2021. 956 Mass. Code Regs. 6.08(3) (2008). Accordingly, I conclude that he is not exempt from a tax penalty for his non-compliance with the individual mandate.

Accordingly, Appellant’s appeal is **DENIED**, and the 2021 penalty assessed is **UPHELD**.

PENALTY ASSESSED

Number of Months Appealed: ____12____ Number of Months Assessed: ____12____

The Connector has notified the Department of Revenue that, pursuant to its decision, you should be assessed a penalty for Tax Year 2021 for the amount equal to one half of the lowest cost health insurance plan available to you for each month you have been assessed the penalty, as listed above, plus applicable interest back to the due date of the return without regard to extension.

OR

If the number of months assessed is zero (0) because your penalty has been overturned, the Connector has notified the Department of Revenue that you should NOT be assessed a penalty for Tax Year 2021.

NOTIFICATION OF YOUR RIGHT TO APPEAL TO COURT

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

Hearing Officer

Cc: Connector Appeals Unit

Massachusetts Health Connector Appeals Unit

FINAL APPEAL DECISION: PA21-1784

Appeal Decision Appeal Denied

Hearing Issue: Appeal of the 2021 Tax Year Penalty

Hearing Date: June 14, 2022

Decision Date: June 23, 2022

AUTHORITY

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

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 14, 2022. 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 6, 2022
- Exhibit 2: Appeal Case Information from form Schedule HC
- Exhibit 3: Statement of Grounds for Appeal Dated March 7, 2022
- Exhibit 4: Written Statement of Appeal

FINDINGS OF FACT

The record shows, and I so find:

1. The appellant is twenty-seven years old and is single. He lives in Suffolk County, Massachusetts.
2. Appellant worked in a pharmaceutical business.
3. Appellant does have health insurance in 2022 and did not have health insurance in 2021 until June 2021.
4. Appellant indicated that he applied for health insurance but he sent in a document from his company indicating that he inquired about health insurance but did not apply for health insurance. When Appellant found out that he did not have health insurance, he tried to apply but it was too late for that year. Appellant inquired about other health insurance but the fee for said insurance was about \$300.00, which he felt he could not afford.
5. The Appellant's monthly expenses totaled \$4,923.00, consisting of rent \$923.00, heat & light \$50.00, internet & cable \$10.00, cell phone \$250.00, car payment \$330.00, car insurance \$200.00, car gas \$100.00, food \$1,000.00, credit card \$1,000.00, parents mortgage \$900.00, significant expenses \$150.00
6. The Appellant did submit a Statement of Grounds for Appeal-2021 under the grounds for Appeal "During 2021, the expense of purchasing health insurance would have caused a serious deprivation of food, shelter or other necessities".
7. I take administrative notice of the information set forth in tables 1 through 6 in the Department of Revenue Schedule HC Health Care Instructions and Worksheets (Schedule HC Instructions). Tables 3 & 4 incorporate the affordability schedules adopted by the board of directors of the Commonwealth Health Insurance Connector Authority for 2021. 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 2021.
8. Based on the appellant's federal adjusted gross income and the above referenced tables, I find the appellant would not have been eligible for subsidized health insurance, because Appellant's income of \$151,763.00 was more than \$37,470.00. The monthly premium for

health insurance available on the private market in Suffolk County for a 26 year old single person was \$263.00. The tables reflect that Appellant could afford \$1,011.75. 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-2021 under the grounds for Appeal “During 2021, the expense of purchasing health insurance would have caused a serious deprivation of food, shelter or other necessities”.

The Health Care Reform Act of 2006 requires every adult resident of Massachusetts to obtain and maintain creditable insurance coverage “so long as it is deemed affordable” under the schedule established by the board of the Connector. Mass. Gen. Laws ch. 111M, § 2(a). Massachusetts residents who fail to indicate on their state tax returns that they obtained the mandated creditable coverage are subject to a tax penalty for each month in which that the individual did not have creditable health insurance. *Id.* at § 2(b). However, individuals with incomes up to 150 percent of the Federal Poverty Level (“FPL”) are not subject to any penalty for non-compliance with the individual mandate. See Massachusetts Department of Revenue Technical Information Release (“TIR”) 13-1, available at <http://www.mass.gov/dor/businesses/help-and-resources/legal-library/tirs/tirs-by-years/2013-releases/tir-13-1.html>. For 2021, 150 percent of the FPL was \$19,140.00 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 2021 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 2021. 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 2021 Schedule HC Instructions and Worksheets, *supra*.

Appellant reported a federal AGI of \$151,763.00 in 2021, 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 2021 Massachusetts Schedule HC, Appellant could afford to pay \$1,011.75 monthly for health insurance. See 2021 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 \$263.00 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 indicated that he applied for health insurance but he sent in a document from his company indicating that he inquired about health insurance but did not apply for health insurance. When Appellant found out that he did not have health insurance, he tried to apply but it was too late for that year. Appellant inquired about other health insurance but the fee for said insurance was about \$300.00, which he felt he could not afford.

On these facts, I find that Appellant has shown that he was not precluded from purchasing affordable health insurance during 2021. 956 Mass. Code Regs. 6.08(3) (2008). Accordingly, I conclude that he is not exempt from a tax penalty for his non-compliance with the individual mandate.

Accordingly, Appellant’s appeal is **DENIED**, and the 2021 penalty assessed is **UPHELD**.

PENALTY ASSESSED

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

The Connector has notified the Department of Revenue that, pursuant to its decision, you should be assessed a penalty for Tax Year 2021 for the amount equal to one half of the lowest cost health insurance plan available to you for each month you have been assessed the penalty, as listed above, plus applicable interest back to the due date of the return without regard to extension.

OR

If the number of months assessed is zero (0) because your penalty has been overturned, the Connector has notified the Department of Revenue that you should NOT be assessed a penalty for Tax Year 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: PA21-1787

Appeal Decision Appeal Denied

Hearing Issue: Appeal of the 2021 Tax Year Penalty

Hearing Date: June 14, 2022

Decision Date: June 24, 2022

AUTHORITY

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

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 14, 2022. 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 6, 2022
- Exhibit 2: Appeal Case Information from form Schedule HC
- Exhibit 3: Statement of Grounds for Appeal Dated March 9, 2022
- Exhibit 4: Written Statement of Appeal

FINDINGS OF FACT

The record shows, and I so find:

1. The appellant is thirty-nine years old and is single. He lives in Essex County, Massachusetts.
2. Appellant worked in a testing laboratory business.
3. Appellant does not have health insurance in 2022 and did not have health insurance in 2021.
4. Appellant indicated that his company did not offer health insurance. Appellant felt that due to his ongoing divorce he could not afford health insurance.
5. The Appellant's monthly expenses totaled \$3,760.00, consisting of rent \$1,275.00, heat & light \$90.00, internet & cable \$50.00, cell phone \$80.00, car insurance \$50.00, car gas \$140.00, food \$400.00, credit card \$260.00, clothing \$40.00, toiletries. Appellant had to take out two loans for his legal bills, one for \$25,000.00, which he paid \$695.00 per month and one for \$20,000.00, which he paid \$400.00 per month, child support of \$240.00
6. The Appellant did submit a Statement of Grounds for Appeal-2021 under the grounds for Appeal "During 2021, the expense of purchasing health insurance would have caused a serious deprivation of food, shelter or other necessities".
7. I take administrative notice of the information set forth in tables 1 through 6 in the Department of Revenue Schedule HC Health Care Instructions and Worksheets (Schedule HC Instructions). Tables 3 & 4 incorporate the affordability schedules adopted by the board of directors of the Commonwealth Health Insurance Connector Authority for 2021. 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 2021.
8. Based on the appellant's federal adjusted gross income and the above referenced tables, I find the appellant would not have been eligible for subsidized health insurance, because Appellant's income of \$55,067.00 was more than \$38,280.00. The monthly premium for health insurance available on the private market in Essex County for a 38 year old single person was \$298.00. The tables reflect that Appellant could afford \$373.78. 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-2021 under the grounds for Appeal “During 2021, the expense of purchasing health insurance would have caused a serious deprivation of food, shelter or other necessities”.

The Health Care Reform Act of 2006 requires every adult resident of Massachusetts to obtain and maintain creditable insurance coverage “so long as it is deemed affordable” under the schedule established by the board of the Connector. Mass. Gen. Laws ch. 111M, § 2(a). Massachusetts residents who fail to indicate on their state tax returns that they obtained the mandated creditable coverage are subject to a tax penalty for each month in which that the individual did not have creditable health insurance. *Id.* at § 2(b). However, individuals with incomes up to 150 percent of the Federal Poverty Level (“FPL”) are not subject to any penalty for non-compliance with the individual mandate. See Massachusetts Department of Revenue Technical Information Release (“TIR”) 13-1, available at <http://www.mass.gov/dor/businesses/help-and-resources/legal-library/tirs/tirs-by-years/2013-releases/tir-13-1.html>. For 2021, 150 percent of the FPL was \$19,140.00 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 2021 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 2021. 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 2021 Schedule HC Instructions and Worksheets, *supra*.

Appellant reported a federal AGI of \$56,067.00 in 2021, 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 2021 Massachusetts Schedule HC, Appellant could afford to pay \$373.78 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 \$298.00 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 indicated that his company did not offer health insurance. Appellant felt that due to his ongoing divorce he could not afford health insurance.

On these facts, I find that Appellant has shown that he was partially precluded from purchasing affordable health insurance during 2021. 956 Mass. Code Regs. 6.08(3) (2008). Accordingly, I conclude that he is partially exempt from a tax penalty for his non-compliance with the individual mandate.

Accordingly, Appellant’s appeal is **PARTIALLY DENIED**, and the 2021 penalty assessed is **PARTIALLY UPHELD**.

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 2021 for the amount equal to one half of the lowest cost health insurance plan available to you for each month you have been assessed the penalty, as listed above, plus applicable interest back to the due date of the return without regard to extension.

OR

If the number of months assessed is zero (0) because your penalty has been overturned, the Connector has notified the Department of Revenue that you should NOT be assessed a penalty for Tax Year 2021.

NOTIFICATION OF YOUR RIGHT TO APPEAL TO COURT

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

Hearing Officer

Cc: Connector Appeals Unit

Massachusetts Health Connector Appeals Unit

FINAL APPEAL DECISION: PA21-1800

Appeal Decision Appeal Denied

Hearing Issue: Appeal of the 2021 Tax Year Penalty

Hearing Date: June 21, 2022

Decision Date: June 23, 2022

AUTHORITY

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

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 21, 2022. 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 16, 2022
- Exhibit 2: Appeal Case Information from form Schedule HC
- Exhibit 3: Statement of Grounds for Appeal Dated March 11, 2022
- Exhibit 4: Written Statement of Appeal

FINDINGS OF FACT

The record shows, and I so find:

1. The appellant is sixty years old and is single. He lives in Plymouth County, Massachusetts.
2. Appellant worked in a construction business.
3. Appellant does have health insurance in 2022 and did not have health insurance in 2021 until August 2021.
4. Appellant indicated that he tried to contact the Health Connector and was told he was not eligible and also had difficulty contacting the Health Connector.
5. The Appellant's monthly expenses totaled \$3,405.00, consisting of rent \$1,200.00, heat & light \$200.00, internet & cable \$90.00, cell phone \$75.00, car payment 500.00, car insurance \$130.00, car gas \$400.00, food \$500.00, credit card \$300.00, clothing \$35.00, toiletries \$50.00.
6. The Appellant did submit a Statement of Grounds for Appeal-20210 under the grounds for Appeal "Other. During 2021 other circumstances, such as applying the Affordability Tables in Schedule HC to you is inequitable".
7. I take administrative notice of the information set forth in tables 1 through 6 in the Department of Revenue Schedule HC Health Care Instructions and Worksheets (Schedule HC Instructions). Tables 3 & 4 incorporate the affordability schedules adopted by the board of directors of the Commonwealth Health Insurance Connector Authority for 2021. 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 2021.
8. Based on the appellant's federal adjusted gross income and the above referenced tables, I find the appellant would not have been eligible for subsidized health insurance, because Appellant's income of \$69,413.00 was more than \$38,280.00. The monthly premium for health insurance available on the private market in Plymouth County for a 59 year old single person was \$401.00. The tables reflect that Appellant could afford \$462.75. 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-2021 under the grounds for Appeal “Other. During 2021 other circumstances, such as applying the Affordability Tables in Schedule HC to you is inequitable”.

The Health Care Reform Act of 2006 requires every adult resident of Massachusetts to obtain and maintain creditable insurance coverage “so long as it is deemed affordable” under the schedule established by the board of the Connector. Mass. Gen. Laws ch. 111M, § 2(a). Massachusetts residents who fail to indicate on their state tax returns that they obtained the mandated creditable coverage are subject to a tax penalty for each month in which that the individual did not have creditable health insurance. *Id.* at § 2(b). However, individuals with incomes up to 150 percent of the Federal Poverty Level (“FPL”) are not subject to any penalty for non-compliance with the individual mandate. See Massachusetts Department of Revenue Technical Information Release (“TIR”) 13-1, available at <http://www.mass.gov/dor/businesses/help-and-resources/legal-library/tirs/tirs-by-years/2013-releases/tir-13-1.html>. For 2021, 150 percent of the FPL was \$19,140.00 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 2021 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 2021. 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 2021 Schedule HC Instructions and Worksheets, *supra*.

Appellant reported a federal AGI of \$69,413.00 in 2021, 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 2021 Massachusetts Schedule HC, Appellant could afford to pay \$462.75 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 \$401.00 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 indicated that he tried to contact the Health Connector and was told he was not eligible and also had difficulty contacting the Health Connector.

On these facts, I find that Appellant has shown that he was not precluded from purchasing affordable health insurance during 2021. 956 Mass. Code Regs. 6.08(3) (2008). Accordingly, I conclude that he is not exempt from a tax penalty for his non-compliance with the individual mandate.

Accordingly, Appellant’s appeal is **DENIED**, and the 2021 penalty assessed is **UPHELD**.

PENALTY ASSESSED

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

The Connector has notified the Department of Revenue that, pursuant to its decision, you should be assessed a penalty for Tax Year 2021 for the amount equal to one half of the lowest cost health insurance plan available to you for each month you have been assessed the penalty, as listed above, plus applicable interest back to the due date of the return without regard to extension.

OR

If the number of months assessed is zero (0) because your penalty has been overturned, the Connector has notified the Department of Revenue that you should NOT be assessed a penalty for Tax Year 2021.

NOTIFICATION OF YOUR RIGHT TO APPEAL TO COURT

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

Hearing Officer

Cc: Connector Appeals Unit

Massachusetts Health Connector Appeals Unit

FINAL APPEAL DECISION: PA201073

Appeal Decision: The penalty is overturned in full.

Hearing Issue: Appeal of the 2020 Tax Year Penalty

Hearing Date: March 30, 2022

Decision Date: June 27, 2022

AUTHORITY

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

JURISDICTION

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

HEARING RECORD

The appellants appeared at the hearing which was held by telephone on March 30, 2022. The procedures to be followed during the hearing were reviewed with Appellants who were then sworn in. Exhibits were marked and admitted in evidence with no objection from the appellants. Appellants testified.

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

Exhibit 1: Statement of Grounds for Appeal 2020 signed and dated by Appellant on June 20, 2021 with letter attached

Exhibit 2: Appeal Case Information from Schedule HC 2020

Exhibit 3: Notice of Hearing sent to Appellant dated February 28, 2022 for March 30, 2022 hearing

Exhibit 3a: Notice of Hearing sent to Appellant dated December 13, 2021 for January 18, 2022 hearing

Exhibit 4: Shut-off notice for utility dated April 3, 2020

FINDINGS OF FACT

The record shows, and I so find that:

1. Appellants, who filed a 2020 Massachusetts tax return jointly as a married couple with no dependents claimed, were 29 and 25 years old in 2020. The couple were married on August 29, 2020 (Exhibit 2, Testimony of Appellant).
2. Appellants resided in Norfolk County in 2020 (Testimony of Appellant, Exhibit 2).
3. Appellants had a Federal Adjusted Income of \$146,442 in 2020 (Testimony of Appellant, Exhibit 2).
4. One appellant lived with her mother and her siblings until the appellant's marriage. This appellant worked in a dentist's office until March 16, 2020 when Appellant was laid off because of the pandemic. Appellant then collected unemployment compensation for the next three months. Appellant was then able to go back to her old job. Between her salary and unemployment compensation, the appellant made about \$75,000 in 2020 (Testimony of Appellant, Exhibit 2).
5. Appellant was offered health insurance through her job. It would have cost her \$664 a month for the coverage. Appellant did not take the coverage. Once she was married, Appellant was added to her husband's plan. She had coverage from October through December (Testimony of Appellant).

6. The other appellant worked as a sales representative all year until he was laid off at the beginning of December, 2020. This appellant earned about \$69,000 during 2020. Appellant had health insurance which met the Commonwealth's minimum creditable coverage standards all year (Testimony of Appellant, Exhibits 1, 2).
7. I take administrative notice of the financial information set forth in Tables 1 through 6 in the DOR 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. The appellant who did not have health insurance from January through September has been assessed a penalty for six months, January through June. The other appellant has not been assessed a penalty (Exhibit 2).
9. The appellant who has been assessed a penalty was single when she was uninsured. This appellant had no dependents claimed with an adjusted gross income of about \$75,000. According to Table 3 of Schedule HC for 2020, she could afford to pay about \$500 per month for health insurance. According to Table 4, Appellants, 25 years old and living in Norfolk County, could have purchased insurance for \$269 per month for a plan for an individual. Insurance on the individual market was affordable for the appellant (Schedule HC for 2020 Tables 3 and 4, Exhibit 2).
10. According to Table 2 of Schedule HC for 2020, Appellant, who earned more than \$37,470 per year, would have been ineligible for the ConnectorCare program based upon income (Table 2 of Schedule HC-2020, and Exhibit 2).
11. Appellant did not incur significant and unexpected increases in essential expenses as a result of domestic violence; the death of a spouse, family member, or partner who shared household expenses; the sudden responsibility for providing full care for an aging parent or other family member, or a natural or human-caused event which caused substantial personal damage in 2020 (Testimony of Appellant).
12. Appellant who has been assessed a penalty did not fall more than thirty days behind in rent payments in 2020 (Testimony of Appellant).
13. Appellant received shut-off notices for basic utilities in 2020 prior to her marriage. Appellant received one notice for internet and telephone and several for electricity. She also had no oil for heating for one week because she had no money to pay for the oil (Testimony of Appellant, Exhibit 4).
14. In 2020, Appellant had the following monthly expenses for basic necessities before she married: rent-\$400 on average; heat-\$300; electricity-\$0.00; phone and internet-\$300; food, household items and personal care-\$880; transportation-\$300; clothing-\$85; credit card debt-\$30. Appellant also contributed \$300 a month to her mother's support. Appellant also had \$30,000 in student loan debt, though she did not pay off any of this debt in 2020 (Testimony of Appellant).
15. The uninsured appellant obtained health insurance which met the Commonwealth's minimum creditable coverage standards as of October 1, 2021 through her spouse's plan. This was as soon as she could be added to the plan after she married at the end of August (Testimony of the Appellant, 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 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.

One appellant had health insurance which met the Commonwealth’s standards all year. He has not been assessed a penalty. The other appellant had no health insurance from January through September in 2020. This appellant has been assessed a tax penalty for six months only since the appellant is entitled to a three-month grace period before obtaining coverage. See Massachusetts General Laws Chapter 111M, Section 2. The appellants appealed the assessment. Exhibits 1, 2.

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

The appellant who has been assessed a penalty was single when she was uninsured. This appellant had no dependents claimed with an adjusted gross income of about \$75,000. According to Table 3 of Schedule HC for 2020, she could afford to pay about \$500 per month for health insurance. According to Table 4, Appellants, 25 years old and living in Norfolk County, could have purchased insurance for \$269 per month for a plan for an individual. Insurance on the individual market was affordable for the appellant. See Schedule HC for 2020, Tables 3 and 4, Exhibit 2.

The uninsured appellant had no access to affordable health insurance through employment in 2020. Appellant was offered health insurance through her job. It would have cost her \$664 a month for the coverage. \$664 is considerably more than the Commonwealth deemed affordable for the appellant. See above and the testimony of the appellant which I find to be credible.

Appellant could not obtain affordable coverage through the ConnectorCare program in 2020. The appellant’s annual Federal Adjusted Income was about \$75,000, more than the income limit for an individual (\$37,470). See 956 CMR 12.00 et. seq., Exhibit 2, and Table 2 of Schedule HC 2020. There is no evidence in the record that the uninsured appellant was eligible for any other government-sponsored program.

Since Appellant had access to affordable insurance through the individual market, we need to determine if the appellant experienced a financial hardship such the coverage would have been unaffordable for her prior to her marriage. See 956 CMR 6.08 et. seq.

Though this appeal was requested by Appellants, only one of them has been assessed a penalty. The period in question covers months before the uninsured appellant was married. Prior to her marriage, this appellant lived with her biological family. She paid expenses while living with her family including a portion of the rent, all of the heat, food, household expenses, internet and phone, among others, and contributed to the support of her mother. Appellant received several shut-off notice for electricity, one for telephone and internet, and had to go without heating oil

for a week because she could not afford to pay for the delivery during the months in 2020 prior to her marriage. In addition, Appellant was laid off from her job for several months because of the pandemic. See the testimony of the appellant which I find to be credible, and Exhibit 4 which corroborates Appellant's testimony.

Considering the facts noted above, I determine that pursuant to 956 CMR 6.08(1)(b), the appellant experienced financial hardships that caused the cost of health insurance to be unaffordable for her. 956 CMR 6.08(1)(b) provides that the receipt of shut-off notices for basic utilities constitutes a financial hardship. See also 956 CMR 6.08(3) which allows the consideration of other financial factors raised by the appellant. In this case, Appellant lost her job for several months because of the pandemic. This was prior to her marriage.

I also note that the uninsured appellant obtained coverage that met the Commonwealth's standards through her spouse's plan after the marriage.

The penalty for is waived in its entirety.

Appellants 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 Appellants be assessed a penalty in the future.

PENALTY ASSESSED

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

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

NOTIFICATION OF YOUR RIGHT TO APPEAL TO COURT

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

cc.Connector Appeals Unit

Hearing Officer