

Massachusetts Health Connector Appeals Unit

FINAL APPEAL DECISION: PA 12-1823

Appeal Decision: The penalty is overturned in full.

Hearing Issue: Appeal of the 2012 Tax Year Penalty

Hearing Date: March 29, 2022

Decision Date: March 31, 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 29, 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 page).
- Exhibit 2: Statement of Grounds for Appeal Signed by Appellant on 5/13/2021. (2 PP).
- Exhibit 2(a): Appellant's Statement in Support of the Appeal (1 PP).
- Exhibit 3: Health Connector's Notice of Hearing dated 2/28/2022 (2 PP).

The record shows, and I so find:

1. Appellant, who filed a 2012 Massachusetts tax return filed single with a family size of 1, was age 39 in 2012, lived in Suffolk County, and had zero (0) dependents. (Exhibit 1).
2. Appellant's was self-employed as a realtor and worked part time jobs as a waitress, and did not have access to Employer Sponsored Insurance("ESI").
3. Appellant's Federal Adjusted Gross Income for 2012 was \$32,908. (Exhibit 1).
4. Appellant suffered a foreclosure and bankruptcy in 2014 and left the state in 2013. (Appellant's Testimony, Ex. 2(a)).

5. Appellant credibly testified she was behind in her mortgage payments, was in and out of foreclosure in 2012, and was approximately \$30,000 in arrears. (Appellant's Testimony, Ex. 2(a)).
6. Appellant was unsuccessful in obtaining records from her former lender does not have any records from 2012 as all of her paperwork was destroyed when her basement flooded.
7. Appellant estimates her mortgage payment was between \$2,200-\$2,500, her car insurance was \$300, Gas was \$80, and Electric was \$150-\$200, Cell was \$120, Student Loans and Credit Cards were \$1,100, Dental was between \$400 and \$500, totaling \$4,350. (Appellant's Testimony).
8. Appellant credibly testified she was receiving utility and cable shutoff notices. (Appellant's Testimony).
9. Appellant has been assessed a tax penalty for 12 (12) months in 2012. The Appellant has appealed this assessment (Exhibits 1, 2).
10. Appellant was not familiar with the Connector.. (Appellant testimony).
11. According to Table 3 Appellant could have afforded \$118 per month for health insurance in 2012. According to Table 4 Appellant could have purchased insurance for \$259.00 per month.
12. The Appellant would not have been eligible for ConnectorCare coverage in 2012 because the Appellant's income was more than 300% of the poverty level, which was \$37,470.00. (See Table 2 of Schedule HC 2012, Appellant's Testimony).
13. In addition to the foregoing, I take administrative notice of the 2012 Schedule HC Instructions and Worksheets, available at <http://www.mass.gov.dor/docs/dor/health-care/2012>, and in particular, Tables 1-6 which, as discussed below, include the Affordability Schedule and other financial information used in making 2012 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 2012 should be waived, either in whole or in part. Appellant has been assessed a tax penalty for twelve (12) months in 2012. Appellant has appealed the penalty. (See Exhibits 1 and 2).

The Appellant submitted a statement of grounds for appeal (Ex. 2) with the appeal and adduced testimony that the expense of purchasing health insurance would have caused her to experience a serious deprivation of food, shelter, clothing or other necessities and that during 2012. 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 her income for 2012, \$46,316.00 was less than 300% of the federal poverty level, which for 2012 was \$33,516.00 for a single person. According to Table 3 of Schedule HC for 2012, the Appellant could have afforded \$183.13 per month. According to Table 4, Appellant, age 39 and living in Suffolk County during the time she was being penalized for not having insurance, could have purchased insurance for \$259 per month. Individual coverage was not affordable through the individual market for the Appellant in 2012 (Schedule HC for 2012).

The next issue to consider is whether the Appellant had access to affordable employer health insurance in 2012. The Appellant testified she was covered she was self-employed as a realtor and had two part time jobs and did not have access to ESI r. Thus, the Appellant did not have access to affordable Employer Sponsored Insurance ("ESI"). (Appellant's Testimony).

Where the Appellant did not have access affordable coverage through ESI but did have access to Connectorcare we need to determine if the Appellant experienced a financial hardship such the coverage would have been unaffordable for her. See 956 CMR 6.08. et. seq. The Appellant may not be subject to a penalty for failing to get health insurance for the months in question if she can show that she experienced a hardship during 2012. 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 2012 could be waived if she experienced financial circumstances such that the expense of purchasing health insurance would have caused her to experience a serious deprivation of food, shelter, clothing or other necessities. See 956 CMR 6.08.

The Appellant had the following average monthly living expenses in 2012: mortgage payment was between \$2,200-\$2,500, her car insurance was \$300, Gas was \$80, and Electric was \$150-\$200, Cell was \$120, Student Loans and Credit Cards were \$ 1,100, Dental was between \$400 and \$500, totaling \$4,350. (Appellant's Testimony).

The evidence presented by the Appellant in this case is sufficient to establish that she experienced a financial hardship pursuant to 956 CMR 6.08(1)(a), (d)3, (e), (3), as defined by law so as to waive her penalty for the months in question. I find the Appellant met her burden that she could not afford the cost of \$ 183.13 to afford the cost of purchasing private insurance given her monthly expenses of \$4,350. She also adduced credible testimony her mortgage was in arrears and foreclosure, and further that she received shut-off notices. The Appellant was also self employed and worked 2 part time jobs. I find this 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 Appellants request for a waiver from the penalty is **approved**.

Appellant should note that any waiver granted here is for 2012 only and is based upon the specific facts I have found to be true and should not assume that the same determination will be made should Appellant be assessed a penalty in the future.

PENALTY ASSESSED

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

The Connector has notified the Department of Revenue that pursuant to its decision, you should be assessed a penalty for Tax Year 2012 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, 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.

Massachusetts Health Connector Appeals Unit

FINAL APPEAL DECISION: PA 19-1108

Appeal Decision: The penalty is overturned in full.
Hearing Issue: Appeal of the 2019 Tax Year Penalty
Hearing Date: March 29, 2022
Decision Date: March 31, 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 29, 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 8/11/2020.	(2 PP).
Exhibit 2(a):	Appellant's Statement in Support of Appeal	(1 P).
Exhibit 3:	Health Connector's Notice of Hearing dated 2/28/2022	(2 PP).

The record shows, and I so find:

1. Appellant, who filed a 2019 Massachusetts tax return filed single with a family size of 1, was age 27 in 2019, lived in Bristol County, and had zero (0) dependents. (Exhibit 1).
2. Appellant's was paid \$29 an hour as a Nurse and her Federal Adjusted Gross Income for 2019 was \$46,316. (Exhibit 1).
3. Appellant was covered under her father's plan, started a new job in 2019, but missed the open enrollment deadline for Employer Sponsored Insurance but recalls that it was too expensive. (Appellant's Testimony).

4. Appellant had a difficult time navigating coverage through her employer sponsored insurance, did not know about the Connectorcare and had only heard about MassHealth which she did not think she was eligible. (Appellant's Testimony).
5. Appellant has been assessed a tax penalty for six (6) months in 2019. The Appellant has appealed this assessment (Exhibits 1, 2).
6. Appellant had the following average monthly living expenses in 2019: Rent: \$1,300, Utilities: \$300, Cell Phone: \$150, Gas and Transportation \$100, Car payment: \$130, Food/Incidentals: \$800, Student Loans \$50, totaling: \$2,830. (Appellant's Testimony).
7. Appellant obtained and currently has private health insurance because of the coverage she needs and the coverage requires high deductibles and currently owes \$2,000. (Appellant testimony).
8. According to Table 3 Appellant could have afforded \$293.33 per month for health insurance in 2019. According to Table 4 Appellant could have purchased insurance for \$257.00 per month.
9. The Appellant would not have been eligible for ConnectorCare coverage in 2019 because the Appellant's income was more than 300% of the poverty level, which was \$37,470.00. (See Table 2 of Schedule HC 2019, Appellant's Testimony).
10. In addition to the foregoing, I take administrative notice of the 2019 Schedule HC Instructions and Worksheets, available at <http://www.mass.gov/dor/docs/dor/health-care/2019>, and in particular, Tables 1-6 which, as discussed below, include the Affordability Schedule and other financial information used in making 2019 individual mandate tax penalty determinations.

ANALYSIS AND CONCLUSIONS OF LAW

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

The Appellant submitted a statement of grounds for appeal (Ex. 2) with the appeal and adduced testimony that the expense of purchasing health insurance would have caused her to experience a serious deprivation of food, shelter, clothing or other necessities and that during 2019. 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 her income for 2019, \$46,316.00 was more than 300% of the federal poverty level, which for 2019 was \$37,470.00 for a single person. According to Table 3 of Schedule HC for 2019, the Appellant could have afforded \$293.93 per month. According to Table 4, Appellant, age 27 and living in Bristol County during the time she was being penalized for not having insurance, could have purchased insurance for \$257 per month. Individual coverage was affordable through the individual market for the Appellant in 2019 (Schedule HC for 2019).

The next issue to consider is whether the Appellant had access to affordable employer health insurance in 2019. The Appellant testified she was covered under her Father's plan and missed the open enrollment period for ESI with her employer. Thus, the Appellant did not have access to affordable Employer Sponsored Insurance ("ESI"). (Appellant's Testimony).

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

The Appellant had the following average monthly living expenses in 2019 Appellant had the following average monthly living expenses in 2019: Rent: \$1,300, Utilities: \$300, Cell Phone: \$150, Gas and Transportation \$100, Car payment: \$130, Food/Incidentals: \$800, Student Loans \$50, totaling: \$2,830. (Appellant's Testimony).

The evidence presented by the Appellant in this case is sufficient to establish that she experienced a financial hardship pursuant to 956 CMR 6.08(1)(d)3, (e), (3), as defined by law so as to waive her penalty for the months in question. I find the Appellant met her burden that she could not afford the cost of \$293.33 to afford the cost of purchasing private insurance given her monthly expenses of \$2,860. The Appellant worked as a nurse during Covid and is currently insured and owes costly deductibles. I find this would have caused the Appellant to experience a serious depravation 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 Appellants request for a waiver from the penalty is **approved**.

Massachusetts Health Connector Appeals Unit

FINAL APPEAL DECISION: PA20-801

Appeal Decision: The penalty is overturned in full.

Hearing Issue: Appeal of the 2020 Tax Year Penalty

Hearing Date: March 22, 2022

Decision Date: March 30, 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 22, 2022. The procedures to be followed during the hearing were reviewed with the Appellant Wife 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 2020 Signed by Appellant on 5/18/2021.	(2 PP).
Exhibit 2(a):	Appellant's Statement in Support of Appeal	(1 P).
Exhibit 2(b):	Appellant's Request to Vacate Dismissal	12/6/21 (1P)
Exhibit 3:	Health Connector's Notice of Hearing dated 3/22/2022	(2 PP).

FINDINGS OF FACT

The record shows, and I so find:

1. Appellants, who filed a 2020 Massachusetts tax return reported they were married, filing joint, had zero (0) dependents in 2020, lived in Middlesex County, and had a family size of 2. (Exhibit 1, Testimony of Appellant).
2. Appellants Wife testified she worked two part time jobs, was laid off in March 2020 because of Covid, and that she did not have access to employer did not offer employer health insurance ("ESI"). (Testimony of Appellant).
3. The Appellant Spouse worked full time until he was laid off because of Covid in April 2020.

4. The Appellants had employer health insurance (“ESI”) at a premium of approximately \$100 per month through the Spouse for a brief period of time before he was laid off, but they could not afford the COBRA premium. (Testimony of Appellant).
5. The Appellants investigated obtaining insurance through the Connector on two occasions but was told it was not open enrollment and did not have a life changing event to qualify under a special enrollment. (Testimony of Appellant, Exhibit 2(a)).
6. The Appellants testified they were able to obtain ESI in 2021 after the Spouse returned to employment. (Testimony of Appellant, Exhibit 2(a)).
7. The Appellants testified they both collected unemployment in at approximately \$1,800 a week total until November 2020 (Testimony of Appellant).
8. Appellants’ Federal Adjusted Gross Income for 2020 was \$67,046 (Exhibit 1).
9. Appellants had the following average monthly living expenses in 2020: Rent: \$1,000, Utilities: \$300, Car Payment: \$800, Car Insurance: \$1150, Gas \$150, Cell Phone: \$140, Internet: \$168, 2 credit cards: 300, totaling: \$3,408. (Appellant’s Testimony, Exhibit 2, 2(a), (b)).
10. Appellants have each been assessed a tax penalty for (5) months in 2020. The Appellants have appealed this assessment (Exhibits 1, 2).
11. According to Table 3 Appellants could have afforded \$424.62 per month for health insurance in 2020. According to Table 4 Appellants could have purchased an insurance plan for \$722 per month.
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. The Appellants have been assessed a tax penalty for five (5) months in 2020. Appellants have appealed the penalty. (See Exhibits 1 and 2).

The Appellants submitted grounds with their appeal that during 2020 they should not be subject to a penalty for failing to get health insurance for the months in question because of Other: that during 2020 circumstances such that they were unable to obtain government sponsored insurance even though their income qualified them. During the hearing, the Appellants adduced testimony that the expense of purchasing health insurance would have caused them to experience a serious deprivation of food, shelter, clothing, or other necessities and that during 2020. See 956 CMR 6.08. (Exhibit 2).

G.L c. 111M, § 2, also called the “individual mandate,” requires every adult resident of Massachusetts to obtain insurance coverage “[s]o long as it is deemed affordable” under the schedule set by the board of

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

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

The evidence provided by the Appellant established that their income for 2020, was more than 300% of the federal poverty level, which for 2020 was \$50,370 for a family size of two (2). According to Table 3 of Schedule HC for 2020, the Appellants could have afforded \$434.62 per month. According to Table 4, Appellants, ages 47 and 48 and living in Middlesex County during the time they were being penalized for not having insurance, could have purchased a plan \$722.00 per month. Individual coverage was not affordable through the individual market for the Appellant in 2020 (Schedule HC for 2020).

The next issue to consider is whether the Appellants had access to affordable employer health insurance (“ESI”). The Appellants credibly testified that they could not the COBRA payment for her Spouse’s ESI plan after he was laid off because of Covid. (Appellant Testimony).

Where the Appellants did not have access to affordable coverage through ESI and did not have access to affordable government-sponsored program, they had no access to affordable coverage. Notwithstanding same, the Appellants testified they experienced a financial hardship such the coverage would have been unaffordable. See 956 CMR 6.08. et. seq. See 956 CMR 6.08. et. seq. The Appellants may not be subject to a penalty for failing to get health insurance for the months in question if she can show that they experienced a hardship during 2020. Examples of hardships include being homeless or overdue in rent or mortgage payments, receiving a shut-off notice for utilities, or incurring unexpected increases in basic living expenses due to domestic violence, death of a family member, sudden responsibility for providing care for a family member or fire, flood or natural disaster. In addition, the Appellants’ tax penalty for 2020 could be waived if she experienced financial circumstances such that the expense of purchasing health insurance would have caused her to experience a serious deprivation of food, shelter, clothing or other necessities. See 956 CMR 6.08.

The Appellants had the following average monthly living expenses in 2020: Rent: \$1,000, Utilities: \$300, Car Payment: \$800, Car Insurance: \$1,150, Gas \$150, Cell Phone: \$140, Internet: \$168, 2 credit cards: 300, totaling: \$3,408 (Appellant’s Testimony, Exhibit 2, 2(a), (b)).

Where the Appellants did not have access to affordable coverage through ESI and did not have access to an affordable government-sponsored program, they had no access to affordable coverage and thus there should be no penalty. The evidence presented by the Appellants in this case is also sufficient to establish

that they experienced a financial and other hardships pursuant to 956 CMR 6.08(1)(d)3, (e), (3) as defined by law so as to waive her penalty for the months in question. The Appellants were unemployed for a substantial period in 2020 because of Covid. Given the Appellants' expenses for basic necessities of \$3,408 per month, the Appellants did not adequate income to afford the cost of purchasing insurance for \$434.62 per month. I find this would have caused the Appellants to experience a serious deprivation of food, shelter clothing, or other necessities. (Exhibits 2(a), Appellant Testimony).

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

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

PENALTY ASSESSED

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

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

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 Appellants still do not have health insurance, and if their income and employment have not changed, they are advised to investigate their eligibility for subsidized health insurance through the Health Connector at www.mahealthconnector.org or by contacting customer service at 1-877-623-6765.

Massachusetts Health Connector Appeals Unit

FINAL APPEAL DECISION: PA20-826

Appeal Decision: The penalty is overturned in full.

Hearing Issue: Appeal of the 2020 Tax Year Penalty

Hearing Date: March 22, 2022

Decision Date: March 30, 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 22, 2022. The procedures to be followed during the hearing were reviewed with the Appellant Husband 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 2020 Signed by Appellant on 5/18/2021. (2 PP).
- Exhibit 3: Health Connector's Notice of Hearing dated 10/21/2022 (2 PP).

The record was left open for the Appellant to submit a marriage certificate.

- Exhibit 4: Marriage certificate.

FINDINGS OF FACT

The record shows, and I so find:

1. Appellants, who filed a 2020 Massachusetts tax return reported they were married on December 20, 2020, filing joint, had, lived in Middlesex County, and had a family size of 2. (Exhibit 1, Testimony of Appellant, Exhibit 4).
2. Appellant Husband left his job in January 2020, started a new job in a small independent restaurant, but was furloughed because of Covid, and did not return to work full time until December. (Testimony of Appellant).

3. Appellant Husband testified his salary was approximately \$45,000 with the remainder attributed to his spouse.
4. Appellant Husband testified he was not eligible for employer health insurance (“ESI”) where he was employed at a small restaurant and was furloughed before becoming eligible. (Testimony of Appellant).
5. The Appellant Husband testified he received unemployment of \$1,000 a week before taxes from March-August 2020. (Testimony of Appellant).
6. The Appellant Husband did not investigate obtaining insurance through the Connector because of the uncertainty of returning to work. (Testimony of Appellant).
7. The Appellant testified he is currently insured (Testimony of Appellant)
8. Appellants’ Federal Adjusted Gross Income for 2020 was \$99,875 (Exhibit 1).
9. Appellants had the following average monthly living expenses in 2020: Rent: \$2,300, Utilities: \$80, Car Payment: \$138, Car Insurance: \$180, Gas \$120, Cell Phone: \$235, Renters Insurance: \$40, Internet \$50: totaling: \$ 3,143. (Appellant’s Testimony).
10. Appellant Husband has been assessed a tax penalty for (8) months in 2020. The Appellants have appealed this assessment (Exhibits 1, 2).
11. According to Table 3 Appellant Husband, who was single until December 20, 2020, could have afforded \$285 per month for health insurance in 2020. According to Table 4, Appellant Husband could have purchased an individual insurance plan for \$269 per month.
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. The Appellant Husband has been assessed a tax penalty for eight (8) months in 2020. Appellants have appealed the penalty. (See Exhibits 1 and 2).

The Appellants submitted grounds with their appeal that during 2020 they should not be subject to a penalty for failing to get health insurance for the months in question but did not state a reason. However, the Appellant Husband adduced testimony at the hearing that 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. (Exhibit 2).

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

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

The evidence provided by the Appellant established that his attributable income for 2020 was approximately \$45,000 which was more than 300% of the federal poverty level, which for 2020 was \$37,470 for him individually where he was single until December 20, 2020. (See Exhibit 4, Appellant’s testimony). According to Table 3 of Schedule HC for 2020, the Appellant could have afforded \$285 per month. According to Table 4, Appellant Husband, age 27 and living in Middlesex County during the time he was being penalized for not having insurance, could have purchased an individual plan insurance for the for \$269.00 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 Appellants had access to affordable employer health insurance (“ESI”). The Appellant Husband credibly testified that health insurance was not eligible through his new small independent restaurant employer before he was furloughed because of Covid (Appellant Testimony).

Where the Appellants did not have access to affordable coverage through ESI, we need to determine if the Appellants experienced a financial hardship such the coverage would have been unaffordable. See 956 CMR 6.08. et. seq. See 956 CMR 6.08. et. seq. The Appellants may not be subject to a penalty for failing to get health insurance for the months in question if she can show that they experienced a hardship during 2020. Examples of hardships include being homeless or overdue in rent or mortgage payments, receiving a shut-off notice for utilities, or incurring unexpected increases in basic living expenses due to domestic violence, death of a family member, sudden responsibility for providing care for a family member or fire, flood or natural disaster. In addition, the Appellants’ tax penalty for 2020 could be waived if she experienced financial circumstances such that the expense of purchasing health insurance would have caused her to experience a serious deprivation of food, shelter, clothing or other necessities. See 956 CMR 6.08.

The Appellant had the following average monthly living expenses in 2020 Rent: \$2,300, Utilities: \$80, Car Payment: \$138, Car Insurance: \$180, Gas \$120, Cell Phone: \$235, Renters Insurance: \$40, Internet \$50: totaling: \$ 3,143. (Appellant’s Testimony).

The evidence presented by the Appellants in this case is sufficient to establish that the Appellant Husband experienced a financial and other hardships pursuant to 956 CMR 6.08(1)(d)3, (e), (3) as defined by law so as to waive his penalty for the months in question. The Appellant Husband was not married until December 20, 2020, and his share of the joint annual gross income was approximately \$45,000. The Appellant Husband was furloughed upon starting a new job and was unemployed for a substantial amount of time. Given the Appellants' expenses for basic necessities of \$3,143 per month, Appellant Husband loss of income and reduced earnings because of Covid, the Appellant Husband did not have adequate income to afford the cost of purchasing insurance for \$285.00 per month. I find this would have caused the Appellants to experience a serious deprivation of food, shelter clothing, or other necessities. (Exhibits 2(a), Appellant Testimony).

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

However, Appellants were advised and should note that any waiver granted here is only 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: 8 Number of Months Assessed: 0

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 Appellants still do not have health insurance, and if their income and employment have not changed, they are advised to investigate their 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 20-845

Appeal Decision: The penalty is overturned in full.
Hearing Issue: Appeal of the 2020 Tax Year Penalty
Hearing Date: March 22, 2022
Decision Date: March 31, 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 22, 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 2020 Signed by Appellant on 5/25/2021.	(2 PP).
Exhibit 2(a):	Appellant's Statement in Support of Appeal	(1 PP).
Exhibit 2(d):	Appellant's Written Statement in Support Vacate Dismissal 12/8/2021	(1 P).
Exhibit 3:	Health Connector's Notice of Hearing dated 2/25/2022	(2 PP).

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 26 in 2020, lived in Bristol County, and had zero (0) dependents. (Exhibit 1).
2. Appellant's Federal Adjusted Gross Income for 2020 was \$34,447. (Exhibit 1).
3. Appellant looked into Employer Sponsored Insurance but recalls that it was too expensive. (Appellant's Testimony).
4. Appellant investigated insurance through the Connectorcare but was not sure whether she would be able to afford it because she was worried about losing her job because of Covid. (Appellant's Testimony).

5. Appellant was employed at a university and resided there and was concerned about her living status and being able to afford shelter if she lost her job during Covid.. (Appellant's Testimony).
6. Appellant has been assessed a tax penalty for twelve (12) months in 2020. The Appellant has appealed this assessment (Exhibits 1, 2).
7. Appellant had the following average monthly living expenses in 2020: Car Insurance: \$200, Cell Phone: \$35, Gas and Transportation \$100, Food \$100, totaling: \$435. (Appellant's Testimony).
8. According to Table 3 Appellant could have afforded \$143.53 per month for health insurance in 2020. According to Table 4 Appellant could have purchased insurance for \$269.00 per month.
9. The Appellant would have been eligible for ConnectorCare coverage in 2020 because the Appellant's income was less than 300% of the poverty level, which was \$37,470.00. (See Table 2 of Schedule HC 2020, Appellant's Testimony).
10. 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 and checked that during 2020 and during the hearing, the Appellant also testified that the individual mandate did not apply to her during 2020 because of a natural disaster (Covid) and also that the expense of purchasing health insurance would have caused her to experience a serious deprivation of food, shelter, clothing or other necessities and that during 2020. See 956 CMR 6.08.

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

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

The evidence provided by the Appellant established that her income for 2020, \$34,447.00 was less 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 \$143.53 per month. According to Table 4, Appellant, age 26 and living in Bristol County during the time she was being penalized for not having insurance, could have purchased insurance for \$269 per month. Individual coverage was not affordable through the individual market for the Appellant in 2020 (Schedule HC for 2020).

The next issue to consider is whether the Appellant had access to affordable employer health insurance in 2020. The Appellant testified she looked into Employer Sponsored Insurance through the University she was employed but recalls that it was too expensive. Moreover, she was concerned that she was going to lose her job because of Covid, and that would result in her losing her shelter. The Appellant did not know if ("ESI") was offered or she was eligible, she thought it would be too expensive if she was eligible, and that was the reason she had enrolled in Connectorcare. Thus, the Appellant did not have access to affordable Employer Sponsored Insurance ("ESI"). (Appellant's Testimony).

Where the Appellant did not have access affordable coverage through ESI but did have access to affordable coverage through Connectorcare, we need to determine if the Appellant experienced a financial hardship such the coverage would have been unaffordable for her. See 956 CMR 6.08. et. seq. The Appellant may not be subject to a penalty for failing to get health insurance for the months in question if she can show that she experienced a hardship during 2020. Examples of hardships include being homeless or overdue in rent or mortgage payments, receiving a shut-off notice for utilities, or incurring unexpected increases in basic living expenses due to domestic violence, death of a family member, sudden responsibility for providing care for a family member or fire, flood or natural disaster. In addition, the Appellants' tax penalty for 2020 could be waived if she experienced financial circumstances such that the expense of purchasing health insurance would have caused her to experience a serious deprivation of food, shelter, clothing or other necessities. See 956 CMR 6.08.

The Appellant had the following average monthly living expenses in 2020 Appellant had the following average monthly living expenses in 2020: Car Insurance: \$200, Cell Phone: \$35, Gas and Transportation \$100, Food \$100, totaling: \$435. (Appellant's Testimony).

The evidence presented by the Appellant in this case is sufficient to establish that she experienced a financial hardship and other hardships pursuant to 956 CMR 6.08(1)(d)3, (e), (3), as defined by law so as to waive her penalty for the months in question. I find the Appellant met her burden that she could not afford the cost of \$143.53 and did not have adequate income to afford the cost of purchasing private insurance given her credible concerns that she as a twenty six (26) year old, was going to lose her employment and her shelter. I find this 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 Appellants 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: 12 Number of Months Assessed: 0

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

NOTIFICATION OF YOUR RIGHT TO APPEAL TO COURT

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

Cc: Connector Appeals Unit

Hearing Officer

ADDENDUM

If the Appellant still does not have health insurance, and if her 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.

Appeal Decision: The penalty is upheld in part.

Hearing Issue: Appeal of the 2020 Tax Year Penalty

Hearing Date: March 22, 2022

Decision Date: March 31, 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 22, 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 2020 Signed by Appellant on 5/26/2021.	(2 PP).
Exhibit 2(a):	Appellant's Documents in Support of Appeal	(1 PP).
Exhibit 2(b):	Residential Lease Package	(1PP)
Exhibit 2 (c):	Documents from Appellant invoices, billing statements	(20PP)
Exhibit 2(d):	Appellant's Written Statement in Support Vacate Dismissal	(1 P).
Exhibit 3:	Health Connector's Notice of Hearing dated 2/25/2022	(2 PP).

FINDINGS OF FACT

The record shows, and I so find:

1. Appellant, who filed a 2020 Massachusetts tax return filed single with a family size of 1, was age 33 in 2020, lived in Norfolk County, and had zero (0) dependents. (Exhibit 1).
2. Appellant's Federal Adjusted Gross Income for 2020 was \$57,764. (Exhibit 1).
3. Appellant testified he worked full time construction and was paid \$26.50 an hour. (Appellant's Testimony, Ex 1).

4. Appellant testified that he did not have access to Employer Sponsored Insurance (“ESI”). (Appellant’s Testimony).
5. The Appellant testified that he intended to get married and obtain coverage through his Spouse’s Employer Sponsored Insurance (“ESI”) but the marriage was postponed because of Covid. (Appellant’s Testimony).
6. The Appellant testified he attempted to investigate obtaining insurance through the Connector, but he could not afford it. (Appellant’s Testimony).
7. Appellant has been assessed a tax penalty for twelve (12) months in 2020. The Appellant has appealed this assessment (Exhibits 1, 2).
8. The Appellant testified that he had the following average monthly living expenses in 2020: Rent: \$975, Utilities: \$350, Tax payment plan: \$170, Car Payment: \$470, Car Insurance: \$120, Gas: \$400, Cell Phone: \$140, Food: \$400, Debt Consolidation: \$220: totaling: \$3,245. (Appellant’s Testimony, Exhibits 2(a),(b)).
9. According to Table 3 Appellant could have afforded \$385.10 per month for health insurance in 2020. According to Table 4 Appellant could have purchased insurance for \$288.00 per month.
10. 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 \$37,470.00 for a family of one (1). (See Table 2 of Schedule HC 2020, Appellant’s Testimony).
11. In addition to the foregoing, I take administrative notice of the 2020 Schedule HC Instructions and Worksheets, available at <http://www.mass.gov.dor/docs/dor/health-care/2020>, and in particular, Tables 1-6 which, as discussed below, include the Affordability Schedule and other financial information used in making 2020 individual mandate tax penalty determinations.

ANALYSIS AND CONCLUSIONS OF LAW

The issue on appeal is whether the tax penalty assessed by the Massachusetts Department of Revenue for 2020 should be waived, either in whole or in part. Appellant has been assessed a tax penalty for 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 that the individual mandate did not apply to him during 2020 because he incurred significant increase in essential expenses resulting directly for providing for an aging parent and also because of a hardship and that the expense of purchasing health insurance would have caused him to experience a serious deprivation of food, shelter, clothing or other necessities and that during 2020. See 956 CMR 6.08.

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

insurance are subject to a tax penalty for “each of the months” that the individual did not have health insurance as required by the individual mandate. There is a three-month grace period to allow the taxpayer to obtain health insurance coverage or to make the transition between health insurance policies. See G. L. c. 111M, sec. 2(b) and for Tax Year 2010, Administrative Bulletin 03-10: Guidance Regarding M.G.L. c. 111M and M.G.L. c. 176Q, as implemented by 956 CMR 6.00, which interprets the 63-day gap in coverage to be three months. The Connector’s regulations provide for a waiver of the tax penalty in the case of a financial hardship. See 956 CMR 6.08.

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

The evidence provided by the Appellant established that the income for 2020, \$57,764.00 was more than 300% of the federal poverty level, which for 2020 was \$37,470.00 for a family size of one (1). According to Table 3 of Schedule HC for 2020, the Appellant could have afforded \$385.10 per month. According to Table 4, Appellant, age 33 and living in Norfolk County during the time he was being penalized for not having insurance, could have purchased insurance for \$288.00 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 that he did not have access to Employer Sponsored Insurance (“ESI”).

Where the Appellant did not have access to affordable ESI but had access to affordable coverage through the individual market, we need to determine if the Appellant experienced a financial hardship such the coverage would have been unaffordable for him. See 956 CMR 6.08. et. seq. The Appellant may not be subject to a penalty for failing to get health insurance for the months in question if he can show that he experienced a hardship during 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 testified that he had the following average monthly living expenses in 2020: Rent: \$975, Utilities: \$350, Tax payment plan: \$170, Car Payment: \$470, Car Insurance: \$120, Gas: \$400, Cell Phone: \$140, Food: \$400, Debt Consolidation: \$220: totaling: \$3,245. (Appellant’s Testimony).

The evidence presented by the Appellant in this case is insufficient to establish that he experienced a financial hardship as defined by law so as to waive his penalty for the months in question. The Appellant did not establish that he was unable to afford \$385.10 for monthly health insurance given his annual income of \$57,764. The Appellant did not meet his burden that he did not have adequate income 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. Accordingly, I determine that pursuant

to 956 CMR 6.08(1)(e), (3) the cost of purchasing health insurance would not have caused the appellant to experience a serious deprivation of basic necessities. However, in order to mitigate the harshness of a full penalty, the penalty is reduced to three (3) months.

PENALTY ASSESSED

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

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

NOTIFICATION OF YOUR RIGHT TO APPEAL TO COURT

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

Cc: Connector Appeals Unit

Hearing Officer

ADDENDUM

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

Massachusetts Health Connector Appeals Unit

FINAL APPEAL DECISION: PA20-1148

Appeal Decision: Appeal Approved

Hearing Issue: Appeal of the 2020 Tax Year Penalty

Hearing Date: February 3, 2022

Decision Date: March 3, 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 February 3, 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 January 10, 2022	2 pages
Exhibit 2	Appeal Case Info. fr. Sch. HC 2020	1 page
Exhibit 3	Statement of Grounds for Appeal	5 pages
Exhibit 4	N.H. Unemployment Compensation	2 pages

FINDINGS OF FACT

The record shows, and I so find:

1. The Appellant turned 55 years old in May 2020. The Appellant filed their Federal Income Tax Return as a single individual, with no dependents claimed. (Exhibit 2).

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

2. The Appellant lived in Essex County, MA in 2020. (Appellant's Testimony).
3. The Appellant's Federal Adjusted Gross Income (AGI) for 2020 was \$20,805.00 as shown on Schedule HC for 2020. (Exhibit 2).
4. The Appellant did not have health insurance that met Minimum Creditable Coverage (MCC) during seven (7) months of tax year 2020 according to Appeal Case Information from Schedule HC for 2020. (Exhibit 2 and Appellant's Testimony).
5. The Appellant has been assessed a four (4)-month tax penalty for 2020, 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 2020 Massachusetts Schedule HC Health Care Instructions and Worksheet. Tables 3 and 4 incorporate affordability and premium schedules adopted by the Board of Directors for the Commonwealth Health Insurance Connector Authority for 2020. Table 2 sets forth income at 300% of the Federal poverty level and Tables 5 and 6 set forth tax penalties in effect for 2020.
7. In accordance with Table 3 of Schedule HC for 2020, the Appellant filing the Federal tax return as a single individual, with no dependents claimed, with an annual adjusted gross income of \$20,805.00, could afford to pay \$50.28 per month for government-sponsored health insurance. In accordance with Table 4, the Appellant, age 55, living in Essex County, could have purchased private market health insurance for \$420.00 per month. (Table 4, Schedule HC for 2020). Thus, private insurance was not affordable for the Appellant in 2020.
8. Appellant was offered employer-sponsored insurance (ESI) during 2020 for five (5) months, from January through May, 2020, until they lost their job during the Covid-19 pandemic. (Appellant's Testimony, which I credit). The Appellant was unemployed from June through December 2020 and, therefore, did not have ESI available during those seven (7) months. (Appellant's Testimony).
9. The Appellant was income-eligible for ConnectorCare coverage in 2020 because their adjusted gross income of \$20,805.00 was less than 300% of the Federal poverty level, which was \$37,470.00 in 2020 (Schedule HC, Table 2). (Appellant's Testimony and Exhibit 2). The Appellant was not aware that they may have been eligible for ConnectorCare coverage. (Appellant's Testimony, which I credit).
10. Appellant was employed as a woodworker during 2020. Their employer reduced their shifts beginning in about March 2020 because of the pandemic. They lost their job at the end of May 2020. Appellant's testimony, which I credit).

11. Appellant received unemployment income for a period of time. They have been unemployed since May 2020.² (Appellant's Testimony).
12. Appellant's 2020 monthly living expenses of \$677.00 included: Rent - \$300.00, Heat/utilities - \$50.00, Gas - \$30.00, Phone - \$35.00, Food - \$200, Credit Card Debt - \$20.00, Car repairs - \$42.00. (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 checked the boxes on the Statement of Grounds for Appeal saying that during 2020 they were homeless (had previously lost their own home) and were living with relatives and incurred an unexpected natural event causing personal damage (was laid off due to Covid-19 in May 2020). (Appellant's Testimony and Exhibit 3).

To determine if the four (4)-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 2020, the Appellant filing the Federal tax return as a single individual, with no dependents claimed, with an annual adjusted gross income of \$20,805.00, could afford to pay \$50.28 per month for government-sponsored health insurance. In accordance with Table 4, the Appellant, age 55, living in Essex County, could have purchased private market health insurance for \$420.00 per month. (Table 4, Schedule HC for 2020). Thus, private insurance was not affordable for the Appellant in 2020.

Appellant was offered employer-sponsored insurance (ESI) during 2020 for five (5) months, from January through May, 2020, until they lost their job. (Appellant's Testimony, which I

² Appellant was encouraged to contact the Health Connector either at 1-877-623-6765 or www.mahealthconnector.org to explore options for MCC health insurance coverage.

credit). The Appellant was unemployed from June through December 2020 and, therefore, did not have ESI available during those months. (Appellant’s Testimony).

The Appellant was income-eligible for ConnectorCare coverage in 2020 because their adjusted gross income of \$20,805.00 was less than 300% of the Federal poverty level, which was \$37,470.00 in 2020 (Schedule HC, Table 2). (Appellant’s Testimony and Exhibit 2). The Appellant was not aware that they may have been eligible for ConnectorCare coverage. (Appellant’s Testimony, which I credit).

Appellant was employed as a woodworker during 2020. Their employer reduced their shifts beginning in about March 2020. They lost their job at the end of May 2020. (Appellant’s testimony, which I credit).

Appellant received unemployment income for a period of time. They have been unemployed since May 2020.³ (Appellant’s Testimony).

Appellant’s 2020 monthly living expenses of \$677.00 included: Rent - \$300.00, Heat/utilities - \$50.00, Gas - \$30.00, Phone - \$35.00, Food - \$200, Credit Card Debt - \$20.00, Car repairs - \$42.00. (Appellants’ Testimony).

Based on all the credible evidence contained in this administrative record and the totality of the circumstances, I conclude that during 2020 the Appellant experienced hardship and uncertainty within the meaning of 956 CMR 6.08 (1) and (3), which they could not have predicted. For all these reasons, payment for the four (4)-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 2020. The Appellant should not assume that a similar determination will be made for subsequent tax years should they again be assessed a tax penalty for failure to have health insurance in Massachusetts, as the individual mandate requires.

PENALTY ASSESSED

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

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

NOTIFICATION OF YOUR RIGHT TO APPEAL TO COURT

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

³ Appellant was encouraged to contact the Health Connector either at 1-877-623-6765 or www.mahealthconnector.org to explore options for MCC-coverage .

cc: Connector Appeals Unit

Hearing Officer

Massachusetts Health Connector Appeals Unit

FINAL APPEAL DECISION: PA20-1149

Appeal Decision: Appeal Approved

Hearing Issue: Appeal of the 2020 Tax Year Penalty

Hearing Date: February 3, 2022

Decision Date: March 3, 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 February 3, 2022. A Spanish interpreter attended the hearing at Appellant's request to provide translation services and was sworn in along with the Appellant.

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 January 10, 2022	2 pages
Exhibit 2	Appeal Case Info. fr. Sch. HC 2020	1 page
Exhibit 3	Statement of Grounds for Appeal	5 pages
Exhibit 4	Covid-19 PCR (UMMHC)	5 pages

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

FINDINGS OF FACT

The record shows, and I so find:

1. The Appellant turned 32 years old in March 2020. The Appellant filed their Federal Income Tax Return as a single individual, with no dependents claimed. (Exhibit 2).
2. The Appellant lived in Worcester County, MA in 2020. (Appellant's Testimony).
3. The Appellant's Federal Adjusted Gross Income (AGI) for 2020 was \$26,056.00 as shown on Schedule HC for 2020. (Exhibit 2).
4. The Appellant did not have health insurance that met Minimum Creditable Coverage (MCC) during twelve (12) months of tax year 2020 according to Appeal Case Information from Schedule HC for 2020. (Exhibit 2 and Appellant's Testimony).
5. The Appellant has been assessed a twelve (12)-month tax penalty for 2020, 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 2020 Massachusetts Schedule HC Health Care Instructions and Worksheet. Tables 3 and 4 incorporate affordability and premium schedules adopted by the Board of Directors for the Commonwealth Health Insurance Connector Authority for 2020. Table 2 sets forth income at 300% of the Federal poverty level and Tables 5 and 6 set forth tax penalties in effect for 2020.
7. In accordance with Table 3 of Schedule HC for 2020, the Appellant filing the Federal tax return as a single individual, with no dependents claimed, with an annual adjusted gross income of \$26,056.00, could afford to pay \$91.20 per month for government-sponsored health insurance. In accordance with Table 4, the Appellant, age 32, living in Worcester County, could have purchased private market health insurance for \$288.00 per month. (Table 4, Schedule HC for 2020). Thus, private insurance was not affordable for the Appellant in 2020.
8. Employer-sponsored insurance (ESI) was not available to Appellant during 2020. (Appellant's Testimony).
9. The Appellant was income-eligible for ConnectorCare coverage in 2020 because their adjusted gross income of \$26,056.00 was less than 300% of the Federal poverty level, which was \$37,470.00 in 2020 (Schedule HC, Table 2). (Appellant's Testimony and Exhibit 2). The Appellant, who had recently arrived in Massachusetts, was not aware of the individual mandate or that they may have been eligible for ConnectorCare coverage. (Appellant's Testimony, which I credit).
10. The Appellant came to this country at the end of 2019. They attempted to secure a full-time job in Massachusetts during 2020 but could not do so because of the Covid-19 pandemic, and they tested positive for the virus. Appellant had occasional part-time

employment during 2020 that did not offer health insurance. (Appellant’s Testimony, which I credit).

11. Appellant’s 2020 monthly living expenses of \$1,246.00 included: Rent - \$600.00, Heat/utilities - \$150.00, Phone - \$146.00, Food - \$200, and Loans - \$150.00. (Appellants’ Testimony).
12. The Appellant currently has MCC-compliant health insurance through the MassHealth program.

ANALYSIS AND CONCLUSIONS OF LAW

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

The Appellant did not check off any boxes on the Statement of Grounds for Appeal but instead hand-wrote that the reason for their appeal was “because of Covid,” including that they had tested positive for the virus during 2020.

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

In accordance with Table 3 of Schedule HC for 2020, the Appellant filing the Federal tax return as a single individual, with no dependents claimed, with an annual adjusted gross income of \$26,056.00, could afford to pay \$91.20 per month for government-sponsored health insurance. In accordance with Table 4, the Appellant, age 32, living in Worcester County, could have purchased private market health insurance for \$288.00 per month. (Table 4, Schedule HC for 2020). Thus, private insurance was not affordable for the Appellant in 2020.

Employer-sponsored insurance (ESI) was not available to Appellant during 2020. (Appellant’s Testimony).

The Appellant was income-eligible for ConnectorCare coverage in 2020 because their adjusted gross income of \$26,056.00 was less than 300% of the Federal poverty level, which was \$37,470.00 in 2020 (Schedule HC, Table 2). (Appellant’s Testimony and Exhibit 2).

The Appellant came to this country at the end of 2019. They attempted to secure a full-time job in Massachusetts during 2020 but couldn’t do so because of the Covid-19 pandemic, and they tested positive for the virus. Appellant had occasional part-time employment during 2020 that did not offer health insurance. (Appellant’s Testimony, which I credit).

Appellant’s 2020 monthly living expenses of \$1,246.00 included: Rent - \$600.00, Heat/utilities - \$150.00, Phone - \$146.00, Food - \$200, and Loans - \$150.00. (Appellants’ Testimony).

The Appellant currently has MCC-compliant health insurance through the MassHealth program.

Based on all the credible evidence contained in this administrative record and the totality of the circumstances, I conclude that during 2020 the Appellant experienced hardship and uncertainty within the meaning of 956 CMR 6.08 (1) and (3), which they could not have predicted. Further, the Appellant currently has MassHealth insurance. For all these reasons, payment for the twelve (12)-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 2020. The Appellant should not assume that a similar determination will be made for subsequent tax years should they again be assessed a tax penalty for failure to have health insurance in Massachusetts, as the individual mandate requires.

PENALTY ASSESSED

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

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

NOTIFICATION OF YOUR RIGHT TO APPEAL TO COURT

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

Hearing Officer

cc: Connector Appeals Unit

Massachusetts Health Connector Appeals Unit

FINAL APPEAL DECISION: PA20-1150

Appeal Decision: Appeal Approved
Hearing Issue: Appeal of the 2020 Tax Year Penalty
Hearing Date: February 3, 2022
Decision Date: March 8, 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 February 3, 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 January 10, 2022	2 pages
Exhibit 2	Appeal Case Info. fr. Sch. HC 2020	1 page
Exhibit 3	Appeal Dismissal	2 pages
Exhibit 4	Letters of Support	2 pages

FINDINGS OF FACT

The record shows, and I so find:

1. The Appellant turned 45 years old in May 2020. The Appellant filed their Federal Income Tax Return as a single individual, with no dependents claimed. (Exhibit 2).

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

2. The Appellant lived in Suffolk County, MA in 2020. (Appellant's Testimony).
3. The Appellant's Federal Adjusted Gross Income (AGI) for 2020 was \$54,742.00 as shown on Schedule HC for 2020. (Exhibit 2).
4. The Appellant did not have health insurance that met Minimum Creditable Coverage (MCC) during nine (9) months of tax year 2020 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 2020, 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 2020 Massachusetts Schedule HC Health Care Instructions and Worksheet. Tables 3 and 4 incorporate affordability and premium schedules adopted by the Board of Directors for the Commonwealth Health Insurance Connector Authority for 2020. Table 2 sets forth income at 300% of the Federal poverty level and Tables 5 and 6 set forth tax penalties in effect for 2020.
7. In accordance with Table 3 of Schedule HC for 2020, the Appellant filing the Federal tax return as a single individual, with no dependents claimed, with an annual adjusted gross income of \$54,742.00, could afford to pay \$364.95 per month for government-sponsored health insurance. In accordance with Table 4, the Appellant, age 45, living in Suffolk County could have purchased private market health insurance for \$361.00 per month. (Table 4, Schedule HC for 2020). Thus, private insurance was affordable for the Appellant in 2020.
8. Employer-sponsored insurance (ESI) was available to Appellant from January through March 2020, until their employer's business closed because of the Covid-19 pandemic. Thus, ESI was not available to Appellant for nine (9) months of 2020. (Appellant's Testimony and Exhibit 2).
9. The Appellant was not income-eligible for ConnectorCare coverage in 2020 because their adjusted gross income of \$54,742.00 was more than 300% of the Federal poverty level, which was \$37,470.00 in 2020 (Schedule HC, Table 2). (Appellant's Testimony and Exhibit 2).
10. The Appellant worked for a Boston restaurant that closed in mid-March 2020 because of the Covid-19 pandemic. Thereafter, the restaurant laid off its employees. (Appellant's Testimony and Exhibit 4).
11. The Appellant attempted to contact MassHealth several times after being laid off but was unable to reach anyone. (Appellant's Testimony, which I credit, and Exhibit 4).

12. The Appellant did not understand about purchasing private health insurance on the open market or unsubsidized insurance through the Connector. Moreover, they were anxious about their finances because they had been laid off and did not know if or when they would be re-employed. (Appellant's Testimony, which I credit.)
13. The Appellant's 2020 monthly living expenses of \$3,766.00 included: Rent - \$800.00, Car insurance - \$286.00, Car loan - \$200.00, Gas - \$100.00, Phone - \$80.00, Food - \$400, Child Support - \$650.00, and Credit card debt - \$1,250.00. (Appellants' Testimony).
14. When Appellant's employer/restaurant re-opened late in 2020, Appellant was re-hired. They currently receive MCC-compliant health insurance through their employer. (Appellant's Testimony).

ANALYSIS AND CONCLUSIONS OF LAW

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

The Appellant did not receive the initial Statement of Grounds for Appeal form but instead handwrote a letter requesting that their appeal dismissal be vacated and explaining that they had been laid off because of Covid-19 and, therefore, did not have ESI for the balance of 2020 and had attempted unsuccessfully on several occasions to contact MassHealth for insurance.

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 2020, the Appellant filing the Federal tax return as a single individual, with no dependents claimed, with an annual adjusted gross income of \$54,742.00, could afford to pay \$364.95 per month for government-sponsored health insurance. In accordance with Table 4, the Appellant, age 45, living in Suffolk County could have purchased private market health insurance for \$361.00 per month. (Table 4, Schedule HC for 2020). Thus, private insurance was affordable for the Appellant in 2020.

Employer-sponsored insurance (ESI) was available to Appellant from January through March 2020, until their employer's business closed because of the Covid-19 pandemic. Thus, ESI was not available to Appellant for nine (9) months of 2020. (Appellant's Testimony and Exhibit 2).

The Appellant was not income-eligible for ConnectorCare coverage in 2020 because their adjusted gross income of \$54,742.00 was more than 300% of the Federal poverty level, which was \$37,470.00 in 2020 (Schedule HC, Table 2). (Appellant's Testimony and Exhibit 2).

The Appellant attempted to contact MassHealth several times after being laid off but was unable to reach anyone. (Appellant's Testimony, which I credit, and Exhibit 4).

The Appellant did not understand about purchasing private health insurance on the open market or unsubsidized insurance through the Connector. Moreover, they were anxious about their finances because they had been laid off and did not know if or when they would be re-employed. (Appellant's Testimony, which I credit.)

The Appellant's 2020 monthly living expenses of \$3,766.00 included: Rent - \$800.00, Car insurance - \$286.00, Car loan - \$200.00, Gas - \$100.00, Phone - \$80.00, Food - \$400, Child Support - \$650.00, and Credit card debt - \$1,250.00. (Appellants' Testimony).

When Appellant's employer/restaurant reopened late in 2020, Appellant was re-hired. They currently receive MCC-compliant health insurance through their employer. (Appellant's Testimony).

Based on all the credible evidence contained in this administrative record and the totality of the circumstances, I conclude that during 2020 the Appellant experienced hardship and uncertainty within the meaning of 956 CMR 6.08 (1) and (3), which they could not have predicted. They attempted to contact MassHealth several times when unemployed without success. Further, once Appellant was re-hired, they began receiving MCC-compliant insurance again and does so currently. 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 2020. The Appellant should not assume that a similar determination will be made for subsequent tax years should they again be assessed a tax penalty for failure to have health insurance in Massachusetts, as the individual mandate requires.

PENALTY ASSESSED

Number of Months Appealed: 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: PA20-1151

Appeal Decision: Appeal Approved

Hearing Issue: Appeal of the 2020 Tax Year Penalty

Hearing Date: February 3, 2022

Decision Date: March 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 RECORD¹

The Appellant did not appear at the hearing, which was held by telephone, on February 3, 2022. They were represented at the hearing by their sister who appeared at the hearing instead, at the Appellant's request.

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 January 10, 2022	2 pages
Exhibit 2	Appeal Case Info. fr. Sch. HC 2020	1 page
Exhibit 3	Statement of Grounds for Appeal	7 pages
Exhibit 4	Letter from Sister (L.M.)	1 page
Exhibit 5	Health Ins. Processing Ctr Letter	2 pages
Exhibit 6	MassHealth Card	1 page

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

FINDINGS OF FACT

The record shows, and I so find:

1. The Appellant turned 59 years old in September 2020. The Appellant filed their Federal Income Tax Return as a single individual, with no dependents claimed. (Exhibit 2).
2. The Appellant lived in Norfolk County, MA in 2020. (Appellant's Sister's Testimony).
3. The Appellant's Federal Adjusted Gross Income (AGI) for 2020 was \$34,268.00 as shown on Schedule HC for 2020. (Exhibit 2).
4. The Appellant did not have health insurance that met Minimum Creditable Coverage (MCC) during eight (8) months of tax year 2020 according to Appeal Case Information from Schedule HC for 2020. (Exhibit 2 and Appellant's Testimony).
5. The Appellant has been assessed a five (5)-month tax penalty for 2020, 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 2020 Massachusetts Schedule HC Health Care Instructions and Worksheet. Tables 3 and 4 incorporate affordability and premium schedules adopted by the Board of Directors for the Commonwealth Health Insurance Connector Authority for 2020. Table 2 sets forth income at 300% of the Federal poverty level and Tables 5 and 6 set forth tax penalties in effect for 2020.
7. In accordance with Table 3 of Schedule HC for 2020, the Appellant filing the Federal tax return as a single individual, with no dependents claimed, with an annual adjusted gross income of \$34,268.00, could afford to pay \$142.80 per month for government-sponsored health insurance. In accordance with Table 4, the Appellant, age 59, living in Norfolk County could have purchased private market health insurance for \$432.00 per month. (Table 4, Schedule HC for 2020). Thus, private insurance was not affordable for the Appellant in 2020.
8. Employer-sponsored insurance (ESI) was not available to Appellant during 2020. (Appellant's Sister's Testimony).
9. The Appellant was income-eligible for ConnectorCare coverage in 2020 because their adjusted gross income of \$34,268.00 was less than 300% of the Federal poverty level, which was \$37,470.00 in 2020 (Schedule HC, Table 2). (Exhibit 2).
10. The Appellant suffers from mental illness. Prior to 2020, they had been employed as a carpenter and insured by MassHealth. Because of their illness, Appellant was unable to keep up with their bill-paying and allowed their MassHealth coverage to lapse, which they did not realize. Appellant's carpentry hours were reduced somewhat during 2020 because of the Covid-19 pandemic. (Appellant's Sister's Testimony, which I credit).

11. Appellant reapplied for MassHealth coverage, initially was denied, appealed and then was successful in having benefits reinstated in September 2020. (Appellant's Sister's Testimony, which I credit, and Exhibits 4-6).
12. Appellant has been and continues to be hospitalized since August 2020 and unable to handle this appeal on their own. (Appellant's Sister's Testimony, which I credit).
13. The Appellant lived with a relative during 2020 and their monthly living expenses of \$1,229.00 included: Rent - \$600.00, Phone - \$79.00, Food - \$400, Truck insurance - \$150.00. (Appellant's Sister'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's Statement of Grounds for Appeal form check-marked the Other box and hand-wrote that, "Due to mental illness unable to file" and "coverage became effective September 2020".

To determine if the five (5)-month penalty should be waived in whole or in part, there must be an evaluation of whether affordable insurance which met 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 2020, the Appellant filing the Federal tax return as a single individual, with no dependents claimed, with an annual adjusted gross income of \$34,268.00, could afford to pay \$142.80 per month for government-sponsored health insurance. In accordance with Table 4, the Appellant, age 59, living in Norfolk County could have purchased private market health insurance for \$432.00 per month. (Table 4, Schedule HC for 2020). Thus, private insurance was not affordable for the Appellant in 2020.

Employer-sponsored insurance (ESI) was not available to Appellant during 2020. (Appellant's Sister's Testimony).

The Appellant was income-eligible for ConnectorCare coverage in 2020 because their adjusted gross income of \$34,268.00 was less than 300% of the Federal poverty level, which was \$37,470.00 in 2020 (Schedule HC, Table 2). (Exhibit 2).

The Appellant suffers from mental illness. Prior to 2020, they had been employed as a carpenter and insured by MassHealth. Because of their illness, Appellant was unable to keep up with their bill-paying and allowed their MassHealth coverage to lapse, which they did not realize. Appellant's carpentry hours were reduced somewhat during 2020 because of the Covid-19 pandemic. (Appellant's Sister's Testimony, which I credit).

Appellant reapplied for MassHealth coverage, initially was denied, appealed and then was successful in having benefits reinstated in September 2020. (Appellant's Sister's Testimony, which I credit, and Exhibits 4-6).

Appellant has been and continues to be hospitalized since August 2020 and unable to handle this appeal on their own. (Appellant's Sister's Testimony, which I credit).

The Appellant lived with a relative during 2020 and their monthly living expenses of \$1,229.00 included: Rent - \$600.00, Phone - \$79.00, Food - \$400, Truck insurance - \$150.00. (Appellant's Sister's Testimony).

Based on all the credible evidence contained in this administrative record and the totality of the circumstances, I conclude that during 2020 the Appellant experienced hardship and uncertainty within the meaning of 956 CMR 6.08 (1) and (3), which they could not have predicted. Appellant's mental illness prevented them from re-applying for MassHealth in a timely manner. They eventually did so with the help of a relative and currently have insurance coverage. For all these reasons, payment for the five (5)-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 2020. The Appellant should not assume that a similar determination will be made for subsequent tax years should they again be assessed a tax penalty for failure to have health insurance in Massachusetts, as the individual mandate requires.

PENALTY ASSESSED

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

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

NOTIFICATION OF YOUR RIGHT TO APPEAL TO COURT

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

Hearing Officer

cc: Connector Appeals Unit

Massachusetts Health Connector Appeals Unit

Tax Penalty Appeal Decision—Docket No. PA20-1163 (T.G.)

Appeal Decision: Appeal Approved -- 2020 tax penalty overturned.

Hearing Issue: Appeal of the 2020 Tax Year Penalty

Hearing Date: February 7, 2022

Decision Date: March 30, 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 Letter Supporting Appeal (1 page, received 10/15/21);
3. Appellant's Priority Mail Envelope;
4. Health Connector's Notice of Hearing (2 pages);
5. Hearing Officer's Open Record Order (1 page, dated 2/7/22); and
6. Health Connector's Letter Approving Eligibility (1 page, dated 6/15/20);
7. MassHealth Letter Denying Eligibility (1 page, dated 6/15/20);
8. MassHealth Letter Denying Eligibility (1 page, dated 7/23/20);
9. Health Connector's Letter Approving Eligibility (1 page, dated 9/18/20);
10. Health Connector's Letter Approving Dental Eligibility (1 page, dated 8/31/21);
11. Health Connector's Letter Approving Health Eligibility (1 page, dated 8/31/21);

12. 2021 IRS Form W-2 for Appellant's Insurer (1 page);
13. 2021 IRS Form W-2 for Appellant's Employer (1 page); and
14. 2021-2022 Loan Statements for 2019 Jeep Purchase (12 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 2020. The basis for the penalty was that the Appellant was not insured at any time in 2020. Exhibits 1 and 2. Based on Exhibit 1 and the Appellant's hearing testimony, I find that the penalty assessment is accurate (but see other findings below).
2. The Appellant filed a Massachusetts personal income tax return for 2020 as a single person with no dependents. The Appellant's federal adjusted gross income (AGI) for 2020 was \$52,330. Exhibit 1.
3. The Appellant was 27 years old at the beginning of 2020 and resided in [name of city or town omitted] in Worcester County, Massachusetts. Exhibit 1.
4. The Appellant's AGI was more than 150% of the federal poverty level. On this basis I conclude that the Appellant was not automatically exempt from the assessment of a tax penalty in 2020. DOR Table 1.
5. The Appellant's 2020 AGI (\$52,330) was more than 300% of the federal poverty level (\$37,470 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 (but see further findings below);
6. Based on DOR Table 3 the Appellant could afford to pay 8.00 % of his income -- or \$349 per month -- for health insurance coverage in 2020 (but see further findings below). (The calculation is 8.00% (the maximum amount) multiplied by \$52,330 AGI = \$ 4, 186, 40 per year divided by 12 months = \$348.86 per month.)

7. Based on DOR Table 4 (Region 2) the Appellant could obtain individual health insurance coverage at his age and location for \$269 per month in 2020 (but see further findings below).
8. At the conclusion of the appeal hearing on February 28, 2022, I entered an Open Record Order (Exhibit 5) that sought additional information from the Appellant to support his appeal. The Appellant submitted the documents marked as Exhibits 6 through 14 in response to the Open Record Order. The Health Connector did not submit a response.
9. I find that the Appellant's Open Record responses support the assertion that the Appellant made in his initial Letter Supporting Appeal (Exhibit 2) and in his appeal hearing testimony that he had made multiple efforts to apply for government-subsidized health insurance, either through MassHealth or through the Health Connector.
10. I find that the Appellant was penalized in 2019 because he did not have health insurance and that, based on his appeal hearing testimony, he paid the 2019 penalty assessment to the DOR. See Exhibit 1 and Testimony.
11. The Appellant received two letters dated June 15, 2020, concerning his health insurance status.
 - a. The letter from the Health Connector approved the Appellant's application for Type 3B health insurance with a \$35 per month Advance Premium Tax Credit (or subsidy) to reduce the cost of his health insurance premium (Exhibit 6).
 - b. The letter from MassHealth denied the Applicant's application for subsidized health insurance benefits (Exhibit 7).
12. The Appellant received two further letters in 2020.
 - a. The letter from MassHealth dated 7/23/20 again denied the Appellant's application for government-subsidized health insurance (Exhibit 8).
 - b. The letter from the Health Connector dated 9/18/20 reaffirmed the Appellant's eligibility for Type 3B government-subsidized health insurance

and increased the amount of the Advanced Premium Tax Credit subsidy to \$110 per month at 250.20% of the Federal Poverty Level (Exhibit 9).

- c. In 2021 the Appellant received two further letters dated 8/31/21 from the Health Connector. One letter approved the Appellant's application for government-subsidized dental care through Delta Dental, with coverage starting October 1, 2021 (Exhibit 10). The second letter approved the Appellant's application for government-subsidized health insurance through Fallon Community Health Plan, with coverage also starting October 1, 2021 (Exhibit 11). See also Exhibit 12 (2021 IRS Form W-2 issued to Appellant by Fallon Community Health Plan).

13. I find that the letters just summarized in Findings of Fact, Nos. 11 and 12, support the Appellant's assertion in Exhibit 2 and in his appeal hearing testimony that he made efforts in 2020 and in 2021 to obtain government-subsidized health insurance and that his applications were approved by the Health Connector.

14. I find that the Appellant was laid off from his job at the outset of the coronavirus pandemic in March 2020, that his lay off continued through June 2020, and that he was employed only part-time thereafter. The Appellant received unemployment insurance benefits from March 2020 to March 2021. Testimony and Exhibit 2. See also Exhibit 1 (unemployment insurance benefits included in \$52,330 AGI).

15. The Appellant's income remained limited in 2021 – the year after the period covered by the DOR penalty assessment in this appeal. Testimony and Exhibit 2. See the 2021 IRS Form W-2s provided by the Appellant in response to the Open Record Order: Exhibit 12 (\$4,662 from Insurer) and Exhibit 13 (\$13,167 from Employer).

16. The Appellant's living expenses include a \$29,000 loan to purchase a Jeep in 2019 that was still pending throughout 2020 and into 2021, that was regularly "past due," and that reflected at most a moderate reduction in the balance due. Exhibit 14 (12 pages). Other expenses include \$200 per month for car insurance, \$1,000 for student loans, and the approximately \$100,000 that his parents paid for college expenses. Testimony.

17. 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 2020 Massachusetts income tax return.

18. I take administrative notice of the financial information set forth in Tables 1 through 6 of the DOR 2020 Massachusetts Schedule HC Health Care Instructions and Worksheet. Tables 3 and 4 incorporate the affordability schedules adopted by the board of directors for the Commonwealth Health Insurance Connector Authority (Health Connector or Connector) for 2020. 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 2020.)

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 2020. 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 – 2020 that the Appellant signed and filed in this case. See Exhibit 2.

In this appeal the Appellant has supported his assertions that he made efforts spanning 2019, 2020, and 2021 to obtain government-subsidized health insurance. Most importantly, in his response to the Open Record Order the Appellant demonstrated that in 2020 the Health Connector approved his applications for government-subsidized health insurance in letters dated June 15, 2020 (Exhibit 6 (\$35 per month subsidy based on 292.59% of Federal Poverty Level) and updated its eligibility decision in its September 18, 2020, letter (Exhibit 9 (\$110per month subsidy based on 250.20% of Federal Poverty Level)).

The Health Connector’s actual eligibility decisions that it based on income that the Appellant reported and updated are a more reliable indicator of the Appellant’s situation than the annualized calculations that I made based on DOR Tables 2, 3 and 4. Compare Findings of Fact, Nos. 5, 6 and 7 to Nos. 11(a) and 12(b), above. I also note that it is of no consequence that the Appellant mistakenly referred to MassHealth (a common error).

Left unexplained is why the Appellant failed to report in his 2020 state income tax return that he had obtained health insurance coverage for at least some of the months in 2020. That failure cannot, however, stand up to the other evidence presented in this appeal.

After considering all the circumstances, I conclude that it is appropriate to waive the entire penalty assessed against the Appellant for 2020. The Appellant was either insured under government-subsidized health insurance or, due to his loss of employment in the coronavirus pandemic (COVID-19), he sustained a financial hardship under the Health Connector's regulations See, e.g., 956 Code Mass. Regs. 6.08 (1) (e).

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: Massachusetts Health Connector Appeals Unit

Massachusetts Health Connector Appeals Unit

FINAL APPEAL DECISION: PA20-1177

Appeal Decision: Appeal Approved

Hearing Issue: Appeal of the 2020 Tax Year Penalty

Hearing Date: February 18, 2022

Decision Date: March 15, 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 February 18, 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 January 20, 2022	2 pages
Exhibit 2	Appeal Case Info. fr. Sch. HC 2020	1 page
Exhibit 3	Letter Rec'd 11.5.21 Requesting Reopening	1 page
Exhibit 4	One Year Renewal Lease Brooklyn, NY dated 8/29/19	1 page
Exhibit 5	Enrollment in Medicaid NY State of Health Letter	8 pages

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

FINDINGS OF FACT

The record shows, and I so find:

1. The Appellant turned 23 years old in September 2020. The Appellant filed their Federal Income Tax Return as a single individual, with no dependents claimed. (Exhibit 2).
2. The Appellant lived in Nantucket County, MA beginning in November 2020. (Appellant's Testimony, which I credit and Exhibit 2).
3. The Appellant's Federal Adjusted Gross Income (AGI) for 2020 was \$32,340.00 as shown on Schedule HC for 2020. (Exhibit 2).
4. The Appellant did not have health insurance that met Minimum Creditable Coverage (MCC) during twelve (12) months of tax year 2020 according to Appeal Case Information from Schedule HC for 2020. (Exhibit 2).
5. The Appellant has been assessed a five (5)-month tax penalty for 2020, which they have appealed. (Exhibit 2).
6. I take administrative notice of the financial information set forth in Tables 1 through 6 of the DOR 2020 Massachusetts Schedule HC Health Care Instructions and Worksheet. Tables 3 and 4 incorporate affordability and premium schedules adopted by the Board of Directors for the Commonwealth Health Insurance Connector Authority for 2020. Table 2 sets forth income at 300% of the Federal poverty level and Tables 5 and 6 set forth tax penalties in effect for 2020.
7. In accordance with Table 3 of Schedule HC for 2020, the Appellant filing the Federal tax return as a single individual, with no dependents claimed, with an annual adjusted gross income of \$32,340.00, could afford to pay \$175.18 per month for government-sponsored health insurance. In accordance with Table 4, the Appellant, age 23 years, living in Norfolk County could have purchased private market health insurance for \$343.00 per month. (Table 4, Schedule HC for 2020). Thus, private insurance was not affordable for the Appellant in 2020.
8. Employer-sponsored insurance (ESI) was not available to Appellant during 2020. (Appellant's Testimony).
9. The Appellant was income-eligible for ConnectorCare coverage in 2020 because their adjusted gross income of \$32,340.00 was less than 300% of the Federal poverty level, which was \$37,470.00 in 2020 (Schedule HC, Table 2). (Exhibit 2).
10. The Appellant did not move to Massachusetts until the end of August 2020. They lived temporarily with friends and a relative until finding a job in November 2020 with a non-profit organization located in Nantucket, where they moved. (Exhibits 3 – 5 and Appellant's Testimony, which I credit.)

11. Appellant's employer did not offer health insurance during 2020, and Appellant was unaware that they may have qualified for subsidized insurance through the Health Connector. They were not familiar with the individual mandate, being a new resident to Massachusetts. (Exhibit 3 and Appellant's Testimony, which I credit).
12. Appellant completed their own tax forms for 2020 and mistakenly did not indicate that they lived in Massachusetts only for four months during 2020, from September through December 2020. (Appellant's Testimony, which I credit).
13. The Appellant lived with friends and relatives from August through October 2020 and beginning in November lived in a dormitory owned by his employer/non-profit organization. Their monthly living expenses of \$425.00 included: Rent - \$300.00, Phone - \$25.00, and Food - \$100. (Appellant's Testimony).
14. The Appellant does not currently live in Massachusetts. They have returned to living in New York state. (Appellant's Testimony).

ANALYSIS AND CONCLUSIONS OF LAW

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

The Appellant's Letter, dated 11.5.21, requested reopening of their vacated appeal and explained that they had lived in New York State from January through August, 2020, where they had health insurance Coverage. Thus, Appellant only lived in Massachusetts for four months, September through December 2020. (Exhibit 3 and Appellant's Testimony, which I credit).

I find that the Appellant did not move to Massachusetts until the end of August 2020. They lived temporarily with friends and a relative until finding a job with a non-profit organization in Nantucket in November 2020, where they moved. (Exhibits 3 – 5 and Appellant's Testimony, which I credit.). Appellant completed their own tax forms for 2020 and mistakenly did not indicate that they lived in Massachusetts only for four months during 2020. (Appellant's Testimony, which I credit).

Thus, as an initial matter, I find that Appellant did not have MCC-compliant health insurance for four months during 2020, September through December 2020. Applying the three-month grace

period discussed above, I find that Appellant should have been assessed a penalty for only one (1) month during 2020.

To determine if the one (1)-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 2020, the Appellant filing the Federal tax return as a single individual, with no dependents claimed, with an annual adjusted gross income of \$32,340.00, could afford to pay \$175.18 per month for government-sponsored health insurance. In accordance with Table 4, the Appellant, age 23 years, living in Norfolk County could have purchased private market health insurance for \$343.00 per month. (Table 4, Schedule HC for 2020). Thus, private insurance was not affordable for the Appellant during 2020.

Employer-sponsored insurance (ESI) was not available to Appellant during 2020. (Appellant's Testimony).

The Appellant was income-eligible for ConnectorCare coverage in 2020 because their adjusted gross income of \$32,340.00 was less than 300% of the Federal poverty level, which was \$37,470.00 in 2020 (Schedule HC, Table 2). (Exhibit 2).

Appellant's employer did not offer health insurance during 2020, and Appellant was unaware that they may have qualified for subsidized insurance through the Health Connector. They were not familiar with the individual mandate, being a young, new resident to Massachusetts. (Exhibit 3 and Appellant's Testimony, which I credit).

The Appellant lived with friends and relatives from August through October 2020 and beginning in November lived in a dormitory owned by their employer/non-profit organization. Their monthly living expenses of \$425.00 included: Rent - \$300.00, Phone - \$25.00, and Food - \$100. (Appellant's Testimony).

The Appellant does not currently live in Massachusetts. They have returned to living in New York state. (Appellant's Testimony).

Based on all the credible evidence contained in this administrative record and the totality of the circumstances, I conclude that Appellant's MA Form HC-2020 was completed incorrectly and that during 2020, the Appellant lived in Massachusetts for four months and should have been assessed a one (1)-month penalty. Further, they experienced hardship and uncertainty within the meaning of 956 CMR 6.08 (1) and (3). For all these reasons, payment for the five (5)-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 2020. The Appellant should not assume that a similar determination

will be made for subsequent tax years should they again be assessed a tax penalty for failure to have health insurance in Massachusetts, as the individual mandate requires.

PENALTY ASSESSED

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

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

NOTIFICATION OF YOUR RIGHT TO APPEAL TO COURT

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

Hearing Officer

cc: Connector Appeals Unit

Massachusetts Health Connector Appeals Unit

FINAL APPEAL DECISION: PA20-1178

Appeal Decision: Appeal Approved
Hearing Issue: Appeal of the 2020 Tax Year Penalty
Hearing Date: February 18, 2022
Decision Date: March 16, 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 February 18, 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 January 20, 2022	2 pages
Exhibit 2	Appeal Case Info. fr. Sch. HC 2020	1 page
Exhibit 3	Statement of Grounds for Appeal	7 pages
Exhibit 4	Supporting Letter	1 page

FINDINGS OF FACT

The record shows, and I so find:

1. The Appellant turned 35 years old in March 2020. The Appellant filed their Federal Income Tax Return as a single individual, with no dependents claimed. (Exhibit 2).

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

2. The Appellant lived in Suffolk County, MA during 2020. (Appellant's Testimony, which I credit and Exhibit 2).
3. The Appellant's Federal Adjusted Gross Income (AGI) for 2020 was \$32,340.00 as shown on Schedule HC for 2020. (Exhibit 2).
4. The Appellant did not have health insurance that met Minimum Creditable Coverage (MCC) during twelve (12) months of tax year 2020 according to Appeal Case Information from Schedule HC for 2020. (Exhibit 2).
5. The Appellant has been assessed a twelve (12)-month tax penalty for 2020, which they have appealed. (Exhibit 2).
6. I take administrative notice of the financial information set forth in Tables 1 through 6 of the DOR 2020 Massachusetts Schedule HC Health Care Instructions and Worksheet. Tables 3 and 4 incorporate affordability and premium schedules adopted by the Board of Directors for the Commonwealth Health Insurance Connector Authority for 2020. Table 2 sets forth income at 300% of the Federal poverty level and Tables 5 and 6 set forth tax penalties in effect for 2020.
7. In accordance with Table 3 of Schedule HC for 2020, the Appellant filing the Federal tax return as a single individual, with no dependents claimed, with an annual adjusted gross income of \$23,708.00, could afford to pay \$57.29 per month for government-sponsored health insurance. In accordance with Table 4, the Appellant, age 35 years, living in Suffolk County could have purchased private market health insurance for \$298.00 per month. (Table 4, Schedule HC for 2020). Thus, private insurance was not affordable for the Appellant in 2020.
8. Employer-sponsored insurance (ESI) was not available to Appellant during 2020 as they were self-employed. (Appellant's Testimony).
9. The Appellant was income-eligible for ConnectorCare coverage in 2020 because their adjusted gross income of \$23,708.00 was less than 300% of the Federal poverty level, which was \$37,470.00 in 2020 (Schedule HC, Table 2). (Exhibit 2).
10. The Appellant was a self-employed, free-lancing Information Technology (IT) consultant during 2020. Their business income was reduced substantially that year because of the Covid-19 pandemic. (Appellant's Testimony, which I credit).
11. The Appellant was married in 2019 and had a baby with their spouse in April 2020. The Appellant's spouse and baby moved to their home country outside the United States sometime after April 2020 to be with family during the pandemic. The Appellant joined their family living outside the United States from approximately May 2020 through December 2020, about eight (8) months. (Appellant's Testimony and Exhibits 3 and 4).

12. The Appellant completed their own 2020 tax forms and mistakenly failed to explain that they were a non-resident of Massachusetts for about eight (8) months that year. (Appellant's Testimony, which I credit).
13. The Appellant lived with a relative during the approximately four (4) months they lived in Massachusetts during 2020. Their monthly living expenses of \$740.00 included: Heat - \$200.00, Electricity - \$100.00, Gas - \$100.00, Telephone - \$40.00, Food - \$300.00. (Appellant's Testimony).
14. The Appellant did not understand that they may have qualified for subsidized ConnectorCare coverage, as they were not familiar with the individual mandate. (Appellant's Testimony, which I credit).
15. The Appellant does not currently live in Massachusetts. (Appellant's Testimony).

ANALYSIS AND CONCLUSIONS OF LAW

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

The Appellant checked "Other" on their Statement of Grounds for Appeal and explained in their Supporting Letter and testimony that they had a baby with their spouse in 2020 who moved outside the United States during the pandemic, their business income was reduced substantially that year, they have been attempting to support their family living outside the country, and the Appellant moved outside the country as well. (Appellant's Testimony and Exhibits 3 and 4).

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

In accordance with Table 3 of Schedule HC for 2020, the Appellant filing the Federal tax return as a single individual, with no dependents claimed, with an annual adjusted gross income of \$23,208.00, could afford to pay \$57.29 per month for government-sponsored health insurance. In accordance with Table 4, the Appellant, age 35 years, living in Suffolk County could have

purchased private market health insurance for \$298.00 per month. (Table 4, Schedule HC for 2020). Thus, private insurance was not affordable for the Appellant in 2020.

Employer-sponsored insurance (ESI) was not available to Appellant during 2020 as they were self-employed. (Appellant's Testimony).

The Appellant was income-eligible for ConnectorCare coverage in 2020 because their adjusted gross income of \$23,708.00 was less than 300% of the Federal poverty level, which was \$37,470.00 in 2020 (Schedule HC, Table 2). (Exhibit 2).

The Appellant was a self-employed, free-lancing Information Technology (IT) consultant during 2020. Their business income was reduced substantially that year because of the Covid-19 pandemic. (Appellant's Testimony, which I credit).

The Appellant was married in 2019 and had a baby with their spouse in April 2020. The Appellant's spouse and baby moved to their home country outside the United States sometime after April 2020 to be with family during the pandemic. The Appellant joined their family living outside the United States from approximately May 2020 through December 2020, about eight (8) months. (Appellant's Testimony and Exhibits 3 and 4)

The Appellant completed their own 2020 tax forms and mistakenly failed to explain that they were a non-resident of Massachusetts for about eight (8) months that year. (Appellant's Testimony, which I credit).

The Appellant lived with a relative during the approximately four (4) months they lived in Massachusetts during 2020. Their monthly living expenses of \$740.00 included: Heat - \$200.00, Electricity - \$100.00, Gas - \$100.00, Telephone - \$40.00, Food - \$300.00. (Appellant's Testimony).

The Appellant did not understand that they may have qualified for subsidized ConnectorCare coverage, as they were not familiar with the individual mandate. (Appellant's Testimony, which I credit).

The Appellant does not currently live in Massachusetts. (Appellant's Testimony).

As an initial matter, I find that Appellant lived in Massachusetts for approximately four (4) months during 2020 and then lived outside the United States for the balance of that year. Based on all the credible evidence contained in this administrative record and the totality of the circumstances, I further conclude that Appellant experienced hardship and uncertainty within the meaning of 956 CMR 6.08 (1) and (3) during the time they lived in Massachusetts. For all these reasons, payment for the twelve (12)-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 2020. The Appellant should not assume that a similar determination

will be made for subsequent tax years should they again be assessed a tax penalty for failure to have health insurance in Massachusetts, as the individual mandate requires.

PENALTY ASSESSED

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

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

NOTIFICATION OF YOUR RIGHT TO APPEAL TO COURT

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

Hearing Officer

cc: Connector Appeals Unit

Massachusetts Health Connector Appeals Unit

FINAL APPEAL DECISION: PA20-1180

Appeal Decision: Appeal Approved

Hearing Issue: Appeal of the 2020 Tax Year Penalty

Hearing Date: February 18, 2022

Decision Date: March 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 RECORD¹

The Appellant appeared at the hearing, which was held by telephone, on February 18, 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 January 20, 2022	2 pages
Exhibit 2	Appeal Case Info. fr. Sch. HC 2020	1 page
Exhibit 3	Letter Rec'd 11.10.21 Requesting Reopening	2 pages

FINDINGS OF FACT

The record shows, and I so find:

1. The Appellant turned 25 years old in July 2020. The Appellant filed their Federal Income Tax Return as a married individual filing separately, with no dependents claimed. (Exhibit 2).

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

2. The Appellant lived in Worcester County, MA during 2020. (Appellant's Testimony, which I credit and Exhibit 2).
3. The Appellant's Federal Adjusted Gross Income (AGI) for 2020 was \$51,468.00 as shown on Schedule HC for 2020. (Exhibit 2).
4. The Appellant did not have health insurance that met Minimum Creditable Coverage (MCC) during twelve (12) months of tax year 2020 according to Appeal Case Information from Schedule HC for 2020. (Exhibit 2).
5. The Appellant has been assessed a twelve (12)-month tax penalty for 2020, which they have appealed. (Exhibit 2).
6. I take administrative notice of the financial information set forth in Tables 1 through 6 of the DOR 2020 Massachusetts Schedule HC Health Care Instructions and Worksheet. Tables 3 and 4 incorporate affordability and premium schedules adopted by the Board of Directors for the Commonwealth Health Insurance Connector Authority for 2020. Table 2 sets forth income at 300% of the Federal poverty level and Tables 5 and 6 set forth tax penalties in effect for 2020.
7. In accordance with Table 3 of Schedule HC for 2020, the Appellant filing the Federal tax return as a single individual, with no dependents claimed, with an annual adjusted gross income of \$51,468.00, could afford to pay \$343.12 per month for government-sponsored health insurance. In accordance with Table 4, the Appellant, age 25 years, living in Worcester County could have purchased private market health insurance for \$269.00 per month. (Table 4, Schedule HC for 2020). Thus, private insurance was affordable for the Appellant in 2020.
8. Employer-sponsored insurance (ESI) was not available to Appellant during 2020 after they learned they no longer were covered under their father's new health insurance policy and their own employer's open enrollment period had closed. (Exhibit 3 and Appellant's Testimony).
9. The Appellant was not income-eligible for ConnectorCare coverage in 2020 because their adjusted gross income of \$51,468.00 was more than 300% of the Federal poverty level, which was \$37,470.00 in 2020 (Schedule HC, Table 2). (Exhibit 2).
10. The Appellant had been covered under health insurance coverage provided through their father's employer prior to 2020. Appellant's father was at high risk for contracting Covid-19 because he suffered from numerous underlying health conditions. Consequently, he left his job at the beginning of 2020 and secured health insurance through a private company. Neither Appellant's father nor the Appellant was aware that the newly-purchased health insurance did not include coverage for the Appellant. (Appellant's Testimony, which I credit, and Exhibit 3).

11. The Appellant was married in August 2020. They have been covered under their spouse's health insurance policy since the beginning of 2021. (Appellant's Testimony, which I credit, and 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 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 their letter to vacate dismissal of their appeal that the basis for the appeal was "Other." They stated that they had been covered under their father's health insurance policy but their father left his job at the beginning of 2020 because of underlying health conditions and risks associated with Covid-19. Their father secured new health insurance coverage through a private insurance company but did not realize that the Appellant was not covered under the new policy. (Exhibit 2 and Appellant's Testimony, which I credit).

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

In accordance with Table 3 of Schedule HC for 2020, the Appellant filing the Federal tax return as a single individual, with no dependents claimed, with an annual adjusted gross income of \$51,468.00, could afford to pay \$343.12 per month for government-sponsored health insurance. In accordance with Table 4, the Appellant, age 25 years, living in Worcester County could have purchased private market health insurance for \$269.00 per month. (Table 4, Schedule HC for 2020). Thus, private insurance was affordable for the Appellant in 2020.

Employer-sponsored insurance (ESI) was not available to Appellant during 2020 after they learned they no longer were covered under their father's new health insurance policy and their own employer's open enrollment period had closed. (Exhibit 3 and Appellant's Testimony).

The Appellant was not income-eligible for ConnectorCare coverage in 2020 because their adjusted gross income of \$51,468.00 was more than 300% of the Federal poverty level, which was \$37,470.00 in 2020 (Schedule HC, Table 2). (Exhibit 2).

The Appellant had been covered under health insurance coverage provided through their father's employer prior to 2020. Appellant's father was at high risk for contracting Covid-19 because he suffered from numerous underlying health conditions. Consequently, he left his job at the beginning of 2020 and secured health insurance through a private company. Neither Appellant's father nor the Appellant was aware that the newly-purchased health insurance did not include coverage for the Appellant. (Appellant's Testimony, which I credit, and Exhibit 3).

The Appellant was married in August 2020. They have been covered under their spouse's health insurance policy since the beginning of 2021. (Appellant's Testimony, which I credit, and Exhibit 3).

Based on all the credible evidence contained in this administrative record and the totality of the circumstances, I conclude that Appellant experienced circumstances, uncertainty and hardship within the meaning of 956 CMR 6.08(3) that caused them not to have health insurance coverage during 2020. The Appellant currently has health insurance coverage through their spouse's employer. For all these reasons, payment for the twelve (12)-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 2020. The Appellant should not assume that a similar determination will be made for subsequent tax years should they again be assessed a tax penalty for failure to have health insurance in Massachusetts, as the individual mandate requires.

PENALTY ASSESSED

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

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

NOTIFICATION OF YOUR RIGHT TO APPEAL TO COURT

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

Hearing Officer

cc: Connector Appeals Unit

Massachusetts Health Connector Appeals Unit

Tax Penalty Appeal Decision—Docket No. PA20-1182 (CM + SM)

Appeal Decision: Appeal Approved -- 2020 tax penalty overturned.

Hearing Issue: Appeal of the 2020 Tax Year Penalty

Hearing Date: March 7, 2022

Decision Date: March 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 (Husband) appeared for the telephone hearing on behalf of himself and his Wife, the Co-Appellant, who was not present. 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. Appellants' Statement of Grounds for Appeal with Handwritten Note (4 pages);
3. Appellants' Letter in Support of Appeal (1 page)
4. Swiss Insurer's 2020 Coverage Statement for Husband and Wife (1 page, dated 9/14/21);
5. Swiss Insurer's 2020 Summary of Husband's Costs (1 page, dated 9/14/21);
6. Swiss Insurer's 2020 Summary of Wife's Costs (1 page, dated 9/14/21);
7. Husband's Swiss Work Permit (2 pages, dated 9/28/18);
8. Wife's Swiss Work Permit (2 pages, dated 9/3/18) and
9. 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 Appellants (Husband and Wife) appealed from the Department of Revenue's assessment of a 24 month penalty for 2020 (12 months for Husband and 12 months for Wife). The basis for the penalty was that the Appellants were not insured at any time in 2020. Exhibits 1 and 2. Based on the evidence presented at the appeal hearing I find that the penalty assessment is not accurate, as set forth in more detail below.

2. The Appellants set forth the grounds for their appeal in a handwritten addition to the pre-printed Statement of Grounds for Appeal that stated: "Foreign plan meets all requirements." Exhibit 2, page 2. The Appellants also submitted a letter explaining the basis for their appeal in more detail with supporting Swiss documents. Exhibits 4 – 8. The Appellants did not assert affordability as a reason for their appeal. Exhibit 1 (listing federal adjusted gross income (AGI)).

3. I find that the Husband was not a resident of Massachusetts in 2020 and that he had health insurance in Switzerland for all of 2020. The Appellants (Husband and Wife) had relocated from Massachusetts to Switzerland starting in 2018 when the Husband accepted a job in Switzerland. Exhibit 3 and Testimony. See also Exhibits 4 – 8. The Appellants did, however, retain ownership of their home in Massachusetts, where their adult children resided. Exhibit 3 and Testimony.

4. I find that in mid-2020 the Wife returned to Massachusetts from Switzerland when she accepted employment as a teacher at a private school starting in August 2020 and enrolled in the health insurance plan offered by her employer.

5. The penalty assessment set forth in Exhibit 1 does not accurately reflect the Appellants' circumstances in 2020. I find that the documents that the Appellants submitted in support of their appeal and the Husband's testimony during the appeal hearing are more persuasive than the entries in Exhibit 1 reflecting a lack of health insurance in 2020. Exhibits 2 – 8 and Testimony.

6. 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 2020 Massachusetts income tax return.

7. I take administrative notice of the financial information set forth in Tables 1 through 6 of the DOR 2020 Massachusetts Schedule HC Health Care Instructions and Worksheet. Tables 3 and 4 incorporate the affordability schedules adopted by the board of directors for the Commonwealth Health Insurance Connector Authority (Health Connector or Connector) for 2020. 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 2020.)

ANALYSIS AND CONCLUSIONS OF LAW

The case is before me on the Appellants' appeal from the state Department of Revenue's (DOR) assessment of a 24 month tax penalty against the Husband and Wife because they did not have health insurance coverage in 2020. 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 – 2020 that the Appellant signed and filed in this case. See Exhibit 2.

The central issue presented by this appeal is that the penalty imposed by Massachusetts law applies only to people who are residents of Massachusetts. See Mass. Gen. Law, c. 111M, sec. 2 (a). The evidence shows that the Husband relocated from Massachusetts to Switzerland in 2018 and that he remained in Switzerland for all of 2020, where he was employed and had health insurance coverage. Consequently, no penalty should be assessed against the Husband for 2020.

The Wife also relocated from Massachusetts to Switzerland with her Husband in 2018, and she had health insurance coverage in Switzerland. A penalty should not be assessed against the Wife for two reasons. First, while she remained in Switzerland at the beginning of 2020 she, like her Husband, was not subject to the state law requirement to obtain health insurance in Massachusetts. Second, when the Wife returned to Massachusetts and started a teaching job with health insurance coverage in August 2022 she was not subject to a penalty because she was actually insured for the period when she resided in Massachusetts. (The 3 month grace period described earlier would cover any transitional period.)

I note that when the Wife filed her 2020 Massachusetts income tax return she should have stated that she was a part-year state resident and she also should have reported that she was insured during the period that she was a Massachusetts resident. These errors in the preparation of the tax return are not, however, a reason to impose a

penalty after the corrected information was supplied on appeal. See 2020 Massachusetts Schedule HC Instructions, page HC-2.

In sum, the penalty that the DOR assessed against both Husband and Wife for 2020 are vacated.

PENALTY ASSESSED

Number of Months Appealed (Husband) : __12__ Number of Months Assessed: __-0-__
Number of Months Appealed (Wife) 12 Number of Month 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: Massachusetts Health Connector Appeals Unit

Massachusetts Health Connector Appeals Unit

Tax Penalty Appeal Decision—Docket No. PA20-1183

Appeal Decision: Appeal Approved -- 2020 tax penalty overturned.

Hearing Issue: Appeal of the 2020 Tax Year Penalty

Hearing Date: March 7, 2022

Decision Date: March 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 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 with Handwritten Comments (4 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 2020. The basis for the penalty was that the Appellant was not insured at any time in 2020. Exhibits 1 and 2. Based on Exhibit 1 and the Appellant's hearing testimony, I find that the penalty assessment is accurate.
2. The Appellant filed a Massachusetts personal income tax return for 2020 as a single person with no dependents. The Appellant's federal adjusted gross income (AGI) for 2020 was \$20,257. Exhibit 1.
3. The Appellant was 30 years old at the beginning of 2020 and resided in [name of city or town omitted] in Middlesex County, Massachusetts. Exhibit 1.
4. The Appellant's AGI was more than 150% of the federal poverty level. On this basis I conclude that the Appellant was not automatically exempt from the assessment of a tax penalty in 2020. DOR Table 1.
5. The Appellant's 2020 AGI (\$20,257) was less than 300% of the federal poverty level (\$37,470 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 2.90 % of her income -- or \$48.95 per month -- for health insurance coverage in 2020. (The calculation is 2.90% multiplied by \$20,257 AGI = \$587.45 per year divided by 12 months = \$48.95 per month.)
7. Based on DOR Table 4 (Region 2) the Appellant could obtain individual health insurance coverage at her age and location for \$269 per month in 2020.
8. The Appellant lost her job in early 2020 due to the coronavirus pandemic (COVID-19). After a number of years working in service jobs (including restaurants) the Appellant had just achieved her goal of an office job with benefits. She expected to be enrolled in her new employer's health insurance plan imminently when she was furloughed. Testimony and Exhibit 2, page 2 (handwritten comment on preprinted appeal form that, "Due to Covid-19, I lost my job, so I could not afford health insurance.")

9. The Appellant did not apply for unemployment insurance benefits when she lost her job on the mistaken belief that she was not eligible because her new employer had furloughed her. The Appellant subsequently learned that her employer did not intend to recall her to work and that she was eligible for unemployment benefits. There was a long delay in processing her claim, and the Appellant did not receive her unemployment benefits until 2021. Testimony and Exhibit 2, page 2.
10. The Appellant also lost her long-time apartment after she lost her job. She found it difficult and stressful to find a new place to live while she was not working, with the need to pay a new landlord first and last months' rent plus security deposit. Testimony.
11. The Appellant's effort to return to office work has not been successful. She has worked in the "gig" economy, as she put it, including working as an Uber driver. Testimony.
12. The Appellant withdrew funds from her Roth IRA retirement fund to help cover her living expenses. Testimony.
13. The Appellant has been in debt though much of her working career, but she does not have student loan debt. She has approximately \$10,000 in credit card debt. Testimony.
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 2020 Massachusetts income tax return.
15. I take administrative notice of the financial information set forth in Tables 1 through 6 of the DOR 2020 Massachusetts Schedule HC Health Care Instructions and Worksheet. Tables 3 and 4 incorporate the affordability schedules adopted by the board of directors for the Commonwealth Health Insurance Connector Authority (Health Connector or Connector) for 2020. 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 2020.)

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 2020. 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 – 2020 that the Appellant signed and filed in this case. See Exhibit 2.

The onset of the coronavirus pandemic (COVID-19) in early 2020 disrupted the Appellant's life. She was laid off by her new employer, ending her dream of moving into an office job with benefits. She was left with no current income, and she was not able to enroll in her new employer's health insurance plan at the end of a short waiting period, as she had anticipated

The loss of her new job was compounded by the loss of her long-term apartment. One consequence was that she had to cover the cost of relocating, including paying first and last month's rent plus security deposit.

Through a misunderstanding the Appellant did not obtain unemployment insurance benefits when she lost her job. Her application was then delayed, so that she did not receive unemployment benefits until 2021.

The Appellant covered her living expenses by working as an Uber driver, among similar part-time jobs. She also withdrew funds from her IRA retirement account. The Appellant also owes \$10,000 in credit card debt.

The objective standards in DOR Tables 3 and 4 support the Appellant's argument that she could not afford health insurance. On her annual income the Appellant could afford to pay \$48.95 per month for health insurance that would cost \$269 per month. See Findings of Fact, Nos. 6 and 7, above.

After considering all the circumstances, I conclude that it is appropriate to waive the entire penalty assessed against the Appellant for 2020. 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 [her] to experience a serious deprivation of food, shelter, clothing or other necessities.").

The Appellant should not assume that penalties will be waived or reduced in future years if she does not obtain health insurance coverage as required by law. The Appellant can seek government-subsidized health insurance by filing an application with the Health Connector or for MassHealth.

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: Massachusetts Health Connector Appeals Unit

Massachusetts Health Connector Appeals Unit

Tax Penalty Appeal Decision—Docket No. PA20-1184 (L.R.)

Appeal Decision: Appeal Approved -- 2020 tax penalty overturned.

Hearing Issue: Appeal of the 2020 Tax Year Penalty

Hearing Date: March 7, 2022

Decision Date: March 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 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 – 2020 (4 pages);
3. Insurer's Coverage Notification with Appellant's Handwritten Note (2 pages, dated 10/22/2021);
4. Appellant's Separation Agreement (1 page); and
5. 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 2020. The basis for the penalty was that the Appellant was not insured at any time in 2020. Exhibits 1 and 2. Based on Exhibit 1 and the Appellant's hearing testimony, I find that the penalty assessment is accurate (except to the extent noted below).
2. The Appellant filed a Massachusetts personal income tax return for 2020 as a single person with no dependents. The Appellant's federal adjusted gross income (AGI) for 2020 was \$33,861. Exhibit 1.
3. The Appellant was 57 years old at the beginning of 2020 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. On this basis I conclude that the Appellant was not automatically exempt from the assessment of a tax penalty in 2020. DOR Table 1.
5. The Appellant's 2020 AGI (\$33,861) was less than 300% of the federal poverty level (\$37,470 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 5.00 % of her income -- or \$141 per month -- for health insurance coverage in 2020. (The calculation is 5.00% multiplied by \$33,861 AGI = \$1,693.05 per year divided by 12 months = \$141.08 per month.)
7. Based on DOR Table 4 (Region 2) the Appellant could obtain individual health insurance coverage at her age and location for \$432 per month in 2020.
8. The Appellant is divorced. Under the court-approved separation agreement the Appellant's former Husband was required to provide health insurance coverage to

her, which he did for a number of years after the divorce. The separation agreement also provided that the Husband should give advance notice to the Appellant if there were any changes in her health insurance coverage. Exhibit 4 and Testimony.

9. The Appellant reasonably assumed that her health insurance coverage continued in 2020 under the terms of the separation agreement as she had not received any notice to the contrary. Exhibit 4 and Testimony.
10. The Appellant learned that she did not have coverage when she sought to be tested for COVID-19 in 2020. Her former Husband's insurer subsequently confirmed in a letter to the Appellant that the Appellant had coverage from July 1, 2015 through July 1, 2020. The Appellant also learned that notice of the coverage change had been sent to a different address. Exhibit 3, page 1, and Testimony.
11. The Appellant sought to enroll in her own employer's health plan after she learned that she was no longer covered by her former Husband's insurer under the terms of the separation agreement. By the time that the Appellant had learned she was no longer covered it was too late to enroll in her employer's health plan for 2020 under the terms of the open enrollment policy. Testimony
12. The Appellant's coverage under her employer's health plan took effect in 2021, and it continued into 2022. Testimony.
13. 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 2020 Massachusetts income tax return.
14. I take administrative notice of the financial information set forth in Tables 1 through 6 of the DOR 2020 Massachusetts Schedule HC Health Care Instructions and Worksheet. Tables 3 and 4 incorporate the affordability schedules adopted by the board of directors for the Commonwealth Health Insurance Connector Authority (Health Connector or Connector) for 2020. 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 2020.)

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 2020. 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 – 2020 that the Appellant signed and filed in this case. See Exhibit 2.

Coverage is the principal issue presented by this appeal. For a number of years the Appellant had been insured through her former husband's insurer under the terms of a court-ordered separation agreement (Exhibit 4). The Appellant reasonably assumed that the coverage continued in 2020 – the year at issue in this appeal – because she had not received any notice to the contrary, as required by the separation agreement.

The Appellant learned that there was a coverage issue when she sought a COVID-19 test later in 2020. Her former Husband's insurer subsequently confirmed that she had been covered under her Husband's health plan starting in July 1, 2015, but that the coverage had ended on July 1, 2020. (Exhibit 3, page 1).

The Appellant learned that it was too late to enroll in her own employer's health plan in 2020 because the open enrollment period had already expired. Enrollment in her employer's health plan took effect at the beginning of 2021.

For 2020 the objective standards set forth in DOR Tables 3 and 4 establish that the Appellant could not afford health insurance in 2020. On her income the Appellant could afford to pay \$141 per month but insurance at her age would cost \$422 per month. See Findings of Fact, Nos. 6 and 7, above.

The appeal appears to present another issue, but it has no practical effect because the Appellant is entitled to relief based on what I have already said. The DOR assessed a 12 month penalty for 2020 based on the representation in the Appellant's tax return that she did not have health insurance coverage at any time in 2020 (Exhibit 1). The letter that the Appellant received from the insurer in October 2021 stated that the Appellant did have coverage for January through June 2020 (six months). See Exhibit 3, page 1. On this basis the penalty would be reduced from 12 months to 6 months and further reduced to 3 months after the three month administrative grace period is applied.

After considering all the circumstances, I conclude that it is appropriate to waive the entire penalty assessed against the Appellant for 2020.

It was not the Appellant's fault that she was not insured for all of 2020, and she took corrective action. DOR Tables 3 and 4 demonstrate that the Appellant could not

afford health insurance in 2020, and she is entitled to relief under the Health Connector's hardship regulations. See, e.g., 956 Code Mass. Regs. 6.08 (1) (e).

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: Massachusetts Health Connector Appeals Unit

Massachusetts Health Connector Appeals Unit

Tax Penalty Appeal Decision—Docket No. PA20-1185 (WW + KJ)

Appeal Decision: Appeal Approved -- 2020 tax penalty overturned.

Hearing Issue: Appeal of the 2020 Tax Year Penalty

Hearing Date: March 7, 2022

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

1. DOR Appeal Case Information from Schedule HC (1 page);
2. Appellant's Statement of Grounds for Appeal – 2020 (4 pages);
3. Employer's Letter Supporting W.W. (1 page, dated 11/4/21);
4. Condominium Deed (4 pages, dated 4/26/21);
5. Insurer's Membership Cards for WW and JK (1 page, undated);
6. 2020 Amended Mass. DOR Schedule HC (3 pages);
7. Appellants' (WW) Letter to DOR Concerning Schedule HC and Health Insurance (1 page, dated 11/9/21); and
8. 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 Appellants (W.W. and J.K.) appealed from the Department of Revenue's assessment of a 24 month penalty for 2020 (12 months for Husband and 12 months for Wife). The basis for the penalty was that the Appellants were not insured at any time in 2020. Exhibits 1 and 2. Based on Exhibit 1 and the Appellants' hearing testimony, I find that the penalty assessment is accurate. See also Exhibit 6, page 1, line 3 (No MCC/None for Taxpayer and Spouse).
2. The Appellants filed a Massachusetts personal income tax return for 2020 as a married couple filing jointly with no dependents. The Appellant's federal adjusted gross income (AGI) for 2020 was \$114,546. Exhibit 1.
3. Both of the Appellants were 39 years old at the beginning of 2020 and resided in [name of city or town omitted] in Norfolk County, Massachusetts. Exhibit 1.
4. The Appellants' AGI was more than 150% of the federal poverty level. On this basis I conclude that the Appellant was not automatically exempt from the assessment of a tax penalty in 2020. DOR Table 1.
5. The Appellants' 2020 AGI (\$114,546) was more than 300% of the federal poverty level (\$50,730 for a two 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. See also Exhibit 6, page, line 11.
6. Based on DOR Table 3 the Appellants could afford to pay 8.00 % of their income -- or \$763.64 per month -- for health insurance coverage in 2020. (The calculation is 8.00 % multiplied by \$114,546 AGI = \$9,163.68 per year divided by 12 months = \$763.64 per month.)
7. Based on DOR Table 4 (Region 2) the Appellant could obtain coverage for a married couple with no dependents at their age and location for \$591 per month in 2020.

See also Exhibit 6, page 3, line 11 (no eligible for government-subsidized health insurance) and line 12 (able to purchase private health insurance).

8. The Appellant WW is an “infant teacher” who worked for a private employer that has two locations in the Greater Boston area. WW expected to obtain health insurance for herself and for KJ, the Co-Appellant. This expectation was frustrated by the advent of the coronavirus pandemic (COVID-19) when a state government agency required the employer to close its doors. As the employer states in its letter supporting WW’s appeal, it was not able to offer WW health insurance after it reopened its doors as needed additional time to amend its business plan. Exhibit 3 and Testimony. See also Exhibit 7 (“I contacted my employer [name omitted] several times during 2020 to request for [sic] health insurance that it had promised to offer. . . .”). See also Exhibit 6, page 3, line 10 (employer did not offer WW affordable health insurance in 2020).
9. The Appellant WW collected unemployment insurance benefits in 2020. Testimony.
10. The Co-Appellant JK was employed in 2020, but his employer did not offer health insurance as a job benefit during the first year of employment. Exhibit 7. For this reason the Appellants had been seeking health insurance coverage through WW’s employer. Testimony. See also Exhibit 3, page 3. Line 10 (JK’s employer did not offer affordable health insurance in 2020).
11. The Co-Appellant JK became eligible for health insurance coverage through his employer in early 2021. JK enrolled himself and WW in his employer’s health plan, as evidenced by the Tufts Health Plan membership cards issued to WW and JK. Exhibit 5 and Testimony.
12. In 2020 the Appellants were also seeking to save money so that they could purchase their first residence, which they completed in 2021. Testimony and Exhibits 4 and 7.
13. 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 2020 Massachusetts income tax return.

14. I take administrative notice of the financial information set forth in Tables 1 through 6 of the DOR 2020 Massachusetts Schedule HC Health Care Instructions and Worksheet. Tables 3 and 4 incorporate the affordability schedules adopted by the board of directors for the Commonwealth Health Insurance Connector Authority (Health Connector or Connector) for 2020. 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 2020.)

ANALYSIS AND CONCLUSIONS OF LAW

The case is before me on the Appellants' appeal from the state Department of Revenue's (DOR) assessment of a 24 month tax penalty because the Appellants (Husband and Wife) did not have health insurance coverage in 2020. 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 – 2020 that the Appellant signed and filed in this case. See Exhibit 2.

This is another tax penalty appeal where the Appellants’ expectations were disrupted by the advent of the world-wide coronavirus pandemic (COVID-19) in early 2020.

Here the Co-Appellants sought health insurance coverage for 2020 through the wife’s (W.W.) employer because the husband’s (J.K.) employer did not offer health insurance as a job benefit during the employer’s initial year on the job. W.W. did not get health insurance when her employer, a pre-school program, was forced to close its doors by a state government agency. Even after the pre-school program reopened, it was not able to address W.W.’s request for health insurance as it reconsidered and adjusted its business plan in light of the pandemic.

In the meantime, J.K. reached the point where he was eligible for health insurance through his employer. J.K. enrolled himself and W.W. in his employer-sponsored health plan with coverage beginning in early 2021.

This may appear to be a somewhat closer case than some others due to the Appellant’s more substantial income, augmented by the fact that W.W. was collecting unemployment insurance benefits during the pandemic. Nevertheless, the Appellants had a reasonable plan to obtain health insurance coverage in 2020 that was thwarted by the pandemic and the forced closure of the pre-school program. Even when the pre-school reopened the impact that the pandemic has on the employer kept it from honoring its employee’s request for health insurance. The Appellants also had a backup plan and obtained health insurance as soon as possible through J.K.’s employer.

After considering all the circumstances, I conclude that it is appropriate to waive the entire penalty assessed against both of the Appellants for 2020.

PENALTY ASSESSED

Number of Months Appealed (W.W.) 12____ Number of Months Assessed: -0-_____
Number of Months Appealed (J.K.) 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: Massachusetts Health Connector Appeals Unit

Massachusetts Health Connector Appeals Unit

FINAL APPEAL DECISION: PA16-806

Appeal Decision: Penalty Overturned in Full

Hearing Issue: Appeal of the 2016 Tax Year Penalty

Hearing Date: February 8, 2022

Decision Date: March 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 February 8, 2022, and testified under oath. The hearing record consists of the appellant's testimony and the following documents which were admitted into evidence without his objection:

Ex. 1—Statement of Grounds for Appeal-2016

Ex. 2—Appeal Case Information from Schedule HC ¹

Ex. 3—Notice of Hearing ²

FINDINGS OF FACT

The record shows, and I so find:

1. The appellant is 53-years-old, is single, and does not have children. In 2016, he resided in Berkshire County. He did not have health insurance in 2016. (Testimony, Exs. 1,2)
2. Prior to 2016, the appellant last had health insurance in 2010 through his employer. He was not assessed a penalty for tax years 2011-2014 for failure to obtain health insurance. (Testimony)
3. The appellant was employed in 2016 and had access to employer health insurance. The monthly premium for an individual plan was approximately \$400.00/month which he determined was unaffordable. (Testimony, Ex. 1)

¹ Ex. 2 is a computer printout that extracts information submitted by the appellant on Schedule HC as part of his 2016 Massachusetts income tax return. It also contains information about prior appeals, if any.

² The appellant filed an appeal of the penalty assessed for the 2015 tax year (PA15-1127) and it was scheduled to be heard after the instant appeal. Since both appeals share a common set of facts, the appellant agreed to consolidate them and hear them together.

4. Prior to his employment, the appellant owned a business and filed incomplete income tax returns for the 2004-2010 tax years. As a result, in 2010, the Internal Revenue Service (IRS) issued a tax lien in the amount of \$99,189.89 for unpaid taxes and other associated statutory penalties. Beginning in 2011, the IRS required the appellant's employer to garnish his wages in the amount of \$396.32/week. This obligation continued until August 19, 2020 when the lien was released. (Testimony, Ex. 1)
5. In addition to the IRS, the state Department of Revenue also issued a lien for unpaid taxes for the aforementioned time frame, beginning in 2011 and continuing until 2015. The appellant's wages were garnished and his driver's license was revoked until April, 2017. (Testimony, Ex.1)
6. The appellant's take home pay after IRS payments and other deductions was \$198.11/week in 2016. (Testimony)
7. The appellant has been enrolled in employer health insurance since 2021, the first opportunity to afford a monthly premium subsequent to the release of the IRS lien. (Testimony)
8. The appellant reported an adjusted gross income of \$46,912.00 on his 2016 federal tax return, and reported that he was single with no dependents. (Ex. 2)
9. In 2016, the appellant had regular monthly expenses of approximately \$1095.00 for rent (\$375.00), electricity (\$100.00), heat (\$175.00), cell phone (\$45.00), and food (\$400.00). He owned two cars which were repossessed and was on a payment plan with the oil company. (Testimony)

In addition to the foregoing, I take administrative notice of the 2016 Schedule HC Instructions and Worksheets, available at <http://www.mass.gov.dor/docs/dor/health-care/2016>, and in particular, Tables 1-6 which, as discussed below, include the Affordability Schedule and other financial information used in making 2016 individual mandate tax penalty determinations.

ANALYSIS AND CONCLUSIONS OF LAW

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

The appellant submitted a statement of grounds for appeal (Ex. 1) in which he claimed that the individual mandate did not apply to him in 2016 because the cost of purchasing insurance would have caused a serious deprivation of food, shelter, clothing and other necessities. He also submitted a letter with his statement in which he stated in part that the IRS levy was a huge financial burden and he could barely take care of his regular monthly expenses due to the garnishment of his wages, making the purchase of health insurance, even if subsidized, impossible.

The appellant did not have insurance from January through December. According to M.G.L. c. 111M, s. 2, residents are permitted a 63-day gap between periods of coverage without facing a tax penalty; for Tax Year 2016, Administrative Bulletin 03-10: Guidance Regarding M.G.L. c. 111M and M.G.L. c. 176Q, as implemented by 956 CMR 6.00, interprets the 63-day gap in coverage to be three months. As a result, gaps of three months are not subject to penalty. Since the appellant was uninsured for the entire year, he was assessed and is appealing a penalty of twelve months.

The appellant testified credibly that he owned a business and filed incomplete tax returns for the 2004-2010 tax years. He testified that the IRS issued a tax lien of close to \$100,000.00 for unpaid taxes, and beginning in 2011, ordered garnishment of his wages in the amount of \$396.32/week. He testified that the lien was released in August, 2020. He testified that the state DOR also issued a tax lien for the same time period beginning in 2011 and continuing until 2015. He testified that his driver's license was revoked until 2017 and his two cars were repossessed. He testified that he was employed in 2016 and had access to employer health insurance which would have cost approximately \$400.00/month. Finally, he testified that he could barely pay his monthly living expenses during this financial turmoil, and was not able to enroll in health insurance until 2021, after the lien had been lifted.

The first issue to consider is whether the appellant had access to affordable employer health insurance. The appellant testified credibly that the cost of an individual plan through his employer was approximately \$400.00 per month. (No Open Record Request was made to obtain information from the employer about the terms and cost of insurance given the amount of time that has elapsed since 2016.) Pursuant to 26 IRC section 36B and 45 CFR section 155.305(f), applicants are eligible for an Advanced Premium Tax Credit (APTC) if they meet qualifying income levels and other eligibility requirements. Massachusetts residents may also be eligible for additional state premium assistance through the Health Connector's ConnectorCare program if: a) their household income does not exceed 300 percent of the Federal Poverty Level (FPL) and b) they are eligible for an APTC. 956 CMR 12.09(1) An applicant who has access to other qualifying health insurance, including insurance through an employer, will be blocked from eligibility for an APTC if the coverage is affordable and meets minimum value standards, as those terms are defined by the law. See 26 CFR section 1.36B-2(c)(3). Coverage for plan year 2016 is considered to be affordable if the employee's contribution for an individual plan is 9.66 percent or less of the employee's projected household modified adjusted income (MAGI). The coverage is considered to meet minimum value standards if it has an actuarial value of at least 60 percent. (It is not known whether the employer's insurance met minimum value standards.)

In this case, the monthly cost for an individual plan through the appellant's employer was approximately \$400.00. That cost is more than 9.66 percent of the appellant's projected household MAGI for 2016 (i.e., 9.66 percent of \$46,912.00 is \$4532.00 or \$377.64/month).³ Hence, since the employer coverage is more than \$377.64/month, he is not considered to have had access to qualifying health insurance. See 956 CMR 12.05 and 45 CFR section 155.305 (f)(1)(ii)(B).

The next issue to consider is whether the appellant had access to affordable private insurance. The evidence provided by the appellant established that his income for 2016, \$46,912.00, was greater than 300% of the federal poverty level (FPL), which for 2016 was \$35,310.00 for a single person. Table 3 of the Affordability Schedule indicates that an individual filing separately with no dependents with a federal adjusted gross income between \$41,196.00 and \$47,080.00 is deemed to be able to afford a monthly premium of \$297.11 (7.60% of \$46,912.00/12). Table 4 of the Premium Schedule indicates that a 46-year-old individual (the appellant's age in 2016) in Berkshire County (where the appellant resided in 2016) could have purchased private health insurance for \$286.00 per month, less than the monthly amount deemed affordable from Table 3. Thus, according to the foregoing analysis, the appellant could have purchased affordable private health insurance in 2018.

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

Even though private health insurance may have been affordable to the appellant under the law, he may nevertheless not be subject to a penalty for failing to get health insurance for the months in question if he can show that he experienced a hardship during 2016. Examples of hardships include being homeless or overdue in rent or mortgage payments, receiving a shut-off notice for utilities, or incurring unexpected increases in basic living expenses due to domestic violence, death of a family member, sudden responsibility for providing care for a family member or fire, flood or natural disaster. In addition, the appellant's tax penalty for 2016 could be waived if he experienced financial circumstances such that the expense of purchasing health insurance would have caused him to experience a serious deprivation of food, shelter, clothing or other necessities. See 956 CMR 6.08.

The evidence presented by the appellant in this case is sufficient to establish that he experienced a financial hardship as defined by law so as to waive his penalty for the months in question. The appellant testified that in 2016, he incurred basic monthly expenses of approximately \$2680.00, including the monthly payment of \$1585.00 which was garnished by the IRS. Although those expenses were less than his regular monthly pre-tax income of approximately \$3909.00, the difference between income and expenses of \$1229.00 was an inadequate cushion to cover a monthly premium of \$286.00 for private health insurance, particularly in light of unforeseen expenses which inevitably arise. Moreover, the appellant's expenses do not include his payments to the DOR, which means that he even had less of a safety net between income and expenses. Thus, it is concluded that the totality of the evidence presented by the appellant established that he experienced financial circumstances such that the expense of purchasing health insurance that met minimum creditable coverage standards would have caused him to experience a serious deprivation of food, shelter, clothing or other necessities. See 956 CMR 6.08 (1)(e).

Based on the foregoing, it is concluded that the appellant did not have access to affordable employer health insurance and could not have afforded private insurance during 2016. As such, his request for a waiver from the penalty is **granted** for the months in question. The determination that the appellant is eligible for a hardship waiver is with respect to 2016, only and is based upon the extent of information submitted by him in this appeal.

PENALTY ASSESSED

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

The Connector has notified the Department of Revenue that, pursuant to its decision, you should be assessed a penalty for Tax Year 2016 for the amount equal to one half of the lowest cost health insurance plan available to you for each month you have been assessed the penalty, as listed above, plus applicable interest back to the due date of the return without regard to extension.

If the number of months assessed is zero (0) because your penalty has been overturned, the Connector has notified the Department of Revenue that you should NOT be assessed a penalty for Tax Year 2016.

NOTIFICATION OF YOUR RIGHT TO APPEAL TO COURT

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

Hearing Officer

Cc: Connector Appeals Unit

Massachusetts Health Connector Appeals Unit

FINAL APPEAL DECISION: PA17-854

Appeal Decision Appeal Approved.

Hearing Issue: Appeal of the 2017 Tax Year Penalty

Hearing Date: February 9, 2022

Decision Date: March 31, 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 February 9, 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 (1-18-22) (2 pages);
- Exhibit 2: Information from Schedule HC TY 2017 (1 page);
- Exhibit 3: Statement of Grounds for Appeal (7-7-21) (2 pages); and
- Exhibit 4: Emails between DOR and Health Connector (8-23-21) (1 page).

FINDINGS OF FACT

The record shows, and I so find:

1. Appellant, age 28 during 2017, from Hampshire County, filed single on the tax return with a family size of 1. (Exhibit 2).
2. Appellant did not have health insurance for 2017. (Appellant's testimony, Exhibits 2, 3).
3. Appellant's Federal Adjusted Gross Income for 2017 was \$40,423.00. (Exhibit 2).
4. Appellant's employer did not offer health insurance and Appellant believed that health insurance was otherwise unaffordable. (Appellant's testimony, Exhibit 2).
5. Appellant's expenses for food, shelter, clothing, and other necessities used most of the income. Appellant's expenses totaled approximately \$3,000.00 per month or \$36,000.00 per year.

6. I take administrative notice of the financial information set forth in Tables 1 through 6 in the DOR 2017 Massachusetts Schedule HC Health Care Instructions and Worksheets. Tables 3 and 4 incorporate affordability and premium schedules adopted by the Board of Directors for the Commonwealth Health Insurance Connector Authority for 2017. Table 2 sets forth income at 300% of the Federal poverty level and Tables 5 and 6 set forth tax penalties in effect for 2017.
7. Appellant could afford health insurance based on the tables in Schedule HC. According to Table 4, the health insurance would cost \$218.00 for coverage at that time. According to Table 3, Appellant was deemed to afford \$249.00.
8. Private insurance was affordable for the Appellant in 2017. (Schedule HC for 2017).
9. Appellant's AGI was over 300% of the Federal Poverty Level, and Appellant therefore would not have qualified for subsidized health insurance through the Health Connector. (Schedule HC for 2017).
10. Appellant claimed that they should be granted a waiver based on the grounds that paying for health insurance would have caused a serious deprivation of food, shelter, clothing and other necessities. (Testimony of Appellant, Exhibit 3).
11. Appellant did not incur significant and unexpected increases in essential expenses as a result of domestic violence; due to the death of a spouse, family member, or partner who shared household expenses; the sudden responsibility for providing full care for an aging parent or other family member. Appellant did not incur additional expenses as a result of a fire, flood, or other natural or man-made disaster in 2017. (Exhibit 3).
12. Appellant was not homeless, was not thirty days or more behind in rent in 2017, and Appellant did not receive a shut-off notice for basic utilities. (Appellant's Testimony, Exhibit 3).

ANALYSIS AND CONCLUSIONS OF LAW

The issue on appeal is whether the tax penalty assessed by the Massachusetts Department of Revenue for 2017 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 2017. 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 affordable for the Appellant during 2017. According to Tables 3 and 4 of the HC Schedule for 2017, Appellant, with an adjusted gross income of \$40,423.00 was deemed to have been able to afford health insurance on the private market. According to Table 3, Appellant could have afforded to pay \$249.00 per month; according to Table 4, Appellant, who was 28 years old in 2017, from Hampshire County, and filed the 2017 Massachusetts taxes as single with a family size of 1, would have had to pay \$218.00 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 paying for health insurance would have caused a serious deprivation of food, shelter, clothing and other necessities. Appellant's expenses for necessities used most of the income. For these reasons, the waiver of the penalty is approved.

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

NOTIFICATION OF YOUR RIGHT TO APPEAL TO COURT

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

Hearing Officer

Cc: Connector Appeals Unit

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: PA17-856

Appeal Decision Appeal Approved.

Hearing Issue: Appeal of the 2017 Tax Year Penalty

Hearing Date: February 9, 2022

Decision Date: March 31, 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

Appellants appeared at the hearing, which was held by telephone, on February 9, 2022. The record was left open to allow the Appellants to submit additional information about expenses for 2017, but not additional information or documents were submitted. The hearing record consists of the Appellants' testimony, and the following documents which were admitted into evidence without objection by Appellant:

- Exhibit 1: Notice of Hearing (1-18-22) (2 pages);
- Exhibit 2: Information from Schedule HC TY 2017 (1 page); and
- Exhibit 3: Statement of Grounds for Appeal (with letter) (10-22-21) (4 pages).

FINDINGS OF FACT

The record shows, and I so find:

1. Appellants, ages 30 and 34 during 2017, from Essex County, filed married filing jointly on the tax return with a family size of 2. (Exhibit 2).
2. Appellants did not have health insurance for 2017. (Appellant's testimony, Exhibits 2, 3).
3. Appellants' Federal Adjusted Gross Income for 2017 was \$85,923.00. (Exhibit 2).
4. Appellants' employers did not offer health insurance. Appellants moved to Massachusetts from Arizona in April 2017, and were not aware that Massachusetts had a penalty but were aware that the federal penalty had been suspended. (Appellant's testimony, Exhibit 2).

5. Appellants obtained health insurance through the Health Connector in 2018 and continued to have health insurance since that time. (Appellant's testimony).
6. I take administrative notice of the financial information set forth in Tables 1 through 6 in the DOR 2017 Massachusetts Schedule HC Health Care Instructions and Worksheets. Tables 3 and 4 incorporate affordability and premium schedules adopted by the Board of Directors for the Commonwealth Health Insurance Connector Authority for 2017. Table 2 sets forth income at 300% of the Federal poverty level and Tables 5 and 6 set forth tax penalties in effect for 2017.
7. Appellants could afford health insurance based on the tables in Schedule HC. According to Table 4, the health insurance would cost \$498.00 for coverage at that time. According to Table 3, Appellants were deemed to afford \$584.00.
8. Private insurance was affordable for the Appellants in 2017. (Schedule HC for 2017).
9. Appellants' AGI was over 300% of the Federal Poverty Level, and Appellants therefore would not have qualified for subsidized health insurance through the Health Connector. (Schedule HC for 2017).
10. Appellants claimed that they should be granted a waiver based on the grounds that they moved to Massachusetts during 2017 and were unaware that there would be a penalty for that year. (Testimony of Appellant, Exhibit 3).
11. Appellants did not incur significant and unexpected increases in essential expenses as a result of domestic violence; due to the death of a spouse, family member, or partner who shared household expenses; the sudden responsibility for providing full care for an aging parent or other family member. Appellants did not incur additional expenses as a result of a fire, flood, or other natural or man-made disaster in 2017. (Exhibit 3).
12. Appellants were not homeless, were not thirty days or more behind in rent in 2017, and Appellants did not receive a shut-off notice for basic utilities. (Appellant's Testimony, Exhibit 3).

ANALYSIS AND CONCLUSIONS OF LAW

The issue on appeal is whether the tax penalty assessed by the Massachusetts Department of Revenue for 2017 should be waived in whole, in part, or not at all.

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

Appellants did not have health insurance for 2017. They moved to Massachusetts in April 2017. They have been assessed a tax penalty for six months. Appellants appealed the assessment. See Exhibits 2, and 3. To determine if the penalty should be waived in whole or in part, we must consider whether

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

Private insurance was affordable for the Appellants during 2017. According to Tables 3 and 4 of the HC Schedule for 2017, Appellants, with an adjusted gross income of \$85,923.00 were deemed to have been able to afford health insurance on the private market. According to Table 3, Appellants could have afforded to pay \$584.00 per month; according to Table 4, Appellants, who were 30 and 34 years old in 2017, from Essex County, and filed the 2017 Massachusetts taxes as married filing jointly with a family size of 2, would have had to pay \$498.00 for coverage per month for insurance on the private market. See CMR 6.05 (1)(2), Schedule HC Tables 3 and 4, and Exhibit 2.

With regard to the hardship waiver of the penalty, Appellants claimed that they moved to Massachusetts in April 2017, and believed that there would be no penalty. In addition, they obtained health insurance for 2018 and have maintained it since that time. For these reasons, the waiver of the penalty is approved.

Appellants should note that the waiver of the penalty is based upon the facts that I have determined to be true for the 2017 appeal. They should not assume that a similar determination will be made in the future should they again be assessed a penalty for failure to have health insurance which meets the Commonwealth's minimum creditable coverage standards.

PENALTY ASSESSED

Number of Months Appealed: 6/6 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 2017.

NOTIFICATION OF YOUR RIGHT TO APPEAL TO COURT

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

Hearing Officer

Cc: Connector Appeals Unit

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: PA19-886

Appeal Decision: Penalty Overturned in Full

Hearing Issue: Appeal of the 2019 Tax Year Penalty

Hearing Date: February 8, 2022

Decision Date: March 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 February 8, 2022, and testified under oath. The hearing record consists of the appellant's testimony and the following documents which were admitted into evidence without her objection:

- Ex. 1—Statement of Grounds for Appeal—2019
- Ex. 2—Appeal Case Information from Schedule HC ¹
- Ex. 3—Notice of Hearing dated October 19, 2020
- Ex. 4—Hearing Record Sheet dated November 18, 2020
- Ex. 5—Health Connector Record of Dismissal of Appeal dated November 19, 2020
- Ex. 6—Request to Vacate Dismissal dated July 23, 2021
- Ex. 7—Final Appeal Decision in PA18-1133 dated May 18, 2020
- Ex. 8—Notice of Hearing dated January 18, 2022

FINDINGS OF FACT

The record shows, and I so find:

1. The appellant is 38-years-old, is single, and has one minor child. She did not have a permanent address in 2019, and used a mailing address in Essex County, MA. She did not have health insurance in 2019. (Testimony, Ex. 2)
2. Prior to 2019, the appellant last had health insurance from January through May, 2018 with MassHealth. (Testimony, Ex. 7)

¹ Ex. 2 is a computer printout that extracts information submitted by the appellant on Schedule HC as part of her 2019 Massachusetts income tax return. It also contains information about prior appeals, if any.

3. The appellant was employed as a bartender in 2019. The employer did not offer health insurance. (Testimony)
4. The appellant had a substance abuse problem in 2019 which began a couple of years earlier. She entered a rehabilitation facility in July, 2019, and has been sober since then. (Testimony, Ex. 1)
5. The appellant did not have a permanent address in 2019. She could not enter into a lease as most of her money went towards her drug consumption. She lived with friends and relatives and paid them approximately \$1000.00/month for living expenses including rent, heat and electricity. She did not own a car and used cabs and public transportation. She frequently took cabs home after her evening shifts which cost between \$50.00-\$75.00/night. (Testimony, Ex. 1)
6. The appellant lost her job from March, 2020 until April, 2021 due to Covid. (Testimony, Ex. 1)
7. The appellant was assessed a penalty of four months for not having insurance from June through December, 2018. She appealed the penalty and a hearing was held. The hearing officer concluded that the penalty should be waived because the appellant was homeless, lost her phone service and could not have afforded to obtain health insurance because the cost would have caused a serious deprivation of food, shelter, clothing or other necessities. (Ex. 7)
8. The appellant has been enrolled in health insurance with MassHealth since 2020. (Testimony)
9. The appellant reported an adjusted gross income of \$49,220.00 on her 2019 federal tax return, and reported that she was single with no dependents. (Ex. 2)
10. In 2019, the appellant had regular monthly expenses of approximately \$1715.00 for rent, heat and electricity (\$1000.00); cable and internet service (\$100.00); cell phone (\$215.00); and food (\$400.00). In addition, she incurred approximately \$5000.00 for emergency dental work and paid \$400.00 each time she had a dental appointment. (Testimony)

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

ANALYSIS AND CONCLUSIONS OF LAW

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

The appellant submitted a statement of grounds for appeal (Ex. 1), claiming that the individual mandate did not apply to her during 2019 because 1) she was homeless; more than 30 days in arrears in rent or mortgage payments; or received an eviction or foreclosure notice; and 2) the expense of purchasing health insurance would have caused a serious deprivation of food, shelter, clothing and other necessities. She also submitted a letter with her statement in which she stated in part that she had a drug problem, was homeless and could not afford any basic living expenses such as rent, food or a cell phone.

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

The appellant testified credibly that she was employed in 2019, but the employer did not offer health insurance. She testified that she had a substance abuse problem and could not sustain a permanent address because most of her income went towards drugs. She testified that she lived with friends and relatives and paid them \$1000.00/month for rooming costs, heat and electricity. She testified that she entered a rehabilitation facility in July, 2019, and has been sober since then. Finally, she testified that she has been enrolled in health insurance with MassHealth since 2020.

With respect to the ground of serious deprivation, the evidence provided by the appellant established that her income for 2019, \$49,220.00, was greater than 300% of the federal poverty level (FPL), which for 2019 was \$36,420.00 for a single person. Table 3 of the Affordability Schedule indicates that an individual filing separately with no dependents with a federal adjusted gross income greater than \$48,241.00 is deemed to be able to afford a monthly premium of \$330.20 (8.05% of \$49,222.00/12). Table 4 of the Premium Schedule indicates that a 35-year-old individual (the appellant's age in 2019) in Essex County (where the appellant had a mailing address in 2019) could have purchased private health insurance for \$286.00 per month, less than the monthly amount deemed affordable from Table 3. Thus, according to the foregoing analysis, the appellant could have purchased affordable private health insurance in 2019.

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

The evidence presented by the appellant in this case is insufficient to establish that she experienced a financial hardship as defined by law so as to waive her penalty for the months in question. The appellant testified that in 2019 she incurred basic monthly expenses of approximately \$2132.00, including approximately \$417.00/month for emergency dental work. Those expenses were less than her regular monthly pre-tax income of approximately \$4102.00, thereby making a private insurance premium of \$286.00 seemingly manageable. While it is recognized that an approximate difference between income and expenses of \$1970.00/month is not a panacea, it does not appear on its face that the payment of \$286.00 for health insurance would have caused an undue hardship.

Based on the foregoing, it is concluded that the appellant could have afforded private health insurance and failed to establish that she experienced a financial hardship that would entitle her to a waiver of the penalty. Notwithstanding this conclusion, the penalty will be waived for the following reason. The appellant offered compelling testimony that she had a substance abuse problem which began prior to 2019 and which used up a significant amount of her income. As a result, she could not afford to rent an apartment and cover her monthly living expenses, causing her to live without a permanent address for the year. Moreover, she has been enrolled in

MassHealth insurance since 2020 thereby demonstrating that the mandate to obtain insurance was not lost on her.

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

PENALTY ASSESSED

Number of Months Appealed: 12

Number of Months Assessed: 0

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

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

NOTIFICATION OF YOUR RIGHT TO APPEAL TO COURT

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

Hearing Officer

Cc: Connector Appeals Unit

Massachusetts Health Connector Appeals Unit

FINAL APPEAL DECISION: PA19-931

Appeal Decision: Penalty Overturned in Full

Hearing Issue: Appeal of the 2019 Tax Year Penalty

Hearing Date: February 8, 2022

Decision Date: March 15, 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 husband appeared at the hearing which was held by telephone on February 8, 2022, and testified under oath. The hearing record consists of his testimony and the following documents which were admitted into evidence without his objection:

- Ex. 1—Statement of Grounds for Appeal—2019
- Ex. 2—Appeal Case Information from Schedule HC ¹
- Ex. 3—Notice of Hearing dated November 5, 2020
- Ex. 4—Hearing Record Sheet dated December 3, 2020
- Ex. 5—Health Connector Record of Dismissal of Appeal dated December 4, 2020
- Ex. 6—Request to Vacate Dismissal dated March 25, 2021
- Ex. 7—Notice of Hearing dated August 31, 2021
- Ex. 8—Hearing Record Sheet dated October 8, 2021
- Ex. 9—Request to Vacate Dismissal dated October 14, 2021
- Ex. 10—Final Appeal Decision in PA18-1135 dated May 25, 2020
- Ex. 11—Notice of Hearing dated January 18, 2022

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

- Ex. 12—Regulations and Administrative Rules of the Staff Health Insurance Fund of the International Labor Organization

FINDINGS OF FACT

The record shows, and I so find:

¹ Ex. 2 is a computer printout that extracts information submitted by the appellants on Schedule HC as part of their 2019 Massachusetts income tax return. It also contains information about prior appeals, if any.

1. The appellant husband is 68-years-old, the appellant wife is 55-years-old and they have one minor child and one adult child. (Testimony, Ex. 2)
2. The appellants and their children had health insurance in 2019 through an international labor organization which employed the husband until 2015 when he retired. The organization is based in Switzerland and provides insurance to all employees throughout their retirement, regardless of where they live. The appellants lived in Switzerland until the husband retired and moved back to Massachusetts (where they are originally from) in late 2015 or 2016. (Testimony, Ex. 1)
3. The appellant husband was employed for a while after returning to Massachusetts. The employer offered health insurance, but the appellant determined that the plan did not offer the same range of benefits offered by his former employer and also cost more. When the husband became eligible for insurance under Medicare at 65-years-old, he compared the cost and benefits with his former employer's plan, and once again concluded that the coverage under the latter was more comprehensive and cheaper. (Testimony)
4. The appellants were not employed in 2019. (Testimony)
5. In a letter from the executive secretary of the Staff Health Insurance Fund dated March 27, 2020, he certified that the fund covers from 80% to 100% of the cost of preventive and curative medical care, medicines, surgery and pharmaceuticals; in case of hospitalization, the fund covers a stay in a semi-private room, within the limits laid down by the Administrative Rules, as well as the cost of treatment during that stay; and the protection is valid worldwide. (Ex. 1)
6. The current monthly cost of the insurance plan for the appellants and their children is \$470.00. (Testimony)
7. The appellants were assessed a penalty of twelve months each for failure to obtain minimum creditable coverage (MCC) health insurance for the 2018 tax year. They appealed the penalty and following a hearing, it was waived. The hearing officer concluded that they were precluded from purchasing affordable health insurance, and they preferred their coverage under the husband's former employer because it was less expensive and offered a wider range of benefits. (Ex. 10)
8. Massachusetts MCC-compliant plans must provide the following coverage: ambulatory patient services, diagnostic imaging and screening procedures, emergency services, hospitalization, maternity and newborn care, medical/surgical care, mental health and substance abuse services, prescription drugs and radiation/chemotherapy. Annual deductibles cannot exceed \$2000.00 for an individual and \$4000.00 for a family for in-network services. Out-of-pocket spending for in-network covered services cannot exceed \$5000.00 for an individual and \$10,000.00 for a family. Prescription drug deductibles cannot exceed \$250.00 for an individual and \$500.00 for a family, and there can be no limits on prescription drug benefits and for the amount paid for a particular illness in a single year. See 956 CMR 5.03. <http://www.mass.gov/dor/tax-professionals/current-year-tax-information/health-care-faqs-for-insurance-carriers/general-questions.html>
9. The appellants reported an adjusted gross income of \$101,279.00 on their jointly filed 2019 federal tax return, and reported that they were married with two dependents. (Ex. 2)

ANALYSIS AND CONCLUSIONS OF LAW

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

The appellants submitted a statement of grounds for appeal (Ex. 1), claiming that the individual mandate did not apply to them during 2019 because of “other” reasons. They also submitted a letter with their statement in which the husband stated in part that they have insurance coverage for life through his former employer.

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

The appellant husband testified credibly that he and his family have had health insurance through his former employer in Switzerland since his retirement in 2015. He testified that they moved back to Massachusetts after his retirement and are entitled to coverage for the rest of his life, regardless of where he lives. He testified that the benefits offered under the plan are superior to those offered by his former Massachusetts employer as well as those under Medicare, and the cost is less expensive.

Although the appellants filed their appeal for “other” reasons, given their circumstances, the appropriate ground on which they should have filed is: that during 2019, the husband purchased health insurance that didn't meet minimum creditable coverage standards because that is what his employer offered, and he felt that his circumstances prevented him from buying other insurance that met the requirements. The appeal will be analyzed on that specific ground since the appellant presented sufficient facts for such an examination.

The record was left open for the appellant husband to submit a summary of the benefits offered under his plan. He did not submit a summary, but instead provided the regulations and administrative rules of the insurance fund. Save for one small paragraph, there was nothing in that material which referred to the terms and benefits of the insurance plan. The summary of benefits was requested in order to do a side-by-side comparison with the standards required by the state and determine whether the insurance coverage was comprehensive and offered a broad range of medical benefits as defined in 956 CMR 5.03. While that analysis could not be done, it is concluded that the appellant’s plan appears to provide the wide and generous range of benefits envisioned by MCC-compliant insurance, including 80%-100% coverage of preventive, surgical and pharmaceutical costs, as well as coverage for hospitalization.

Based upon the totality of the evidence, the appellants’ request for a waiver from the penalty is **granted** for the months for which they were assessed. In reaching this conclusion, consideration was given to the fact that the appellants have been enrolled in health insurance since the husband retired and returned to Massachusetts, thereby demonstrating that the mandate to obtain insurance was not lost on them. The determination that the appellants are eligible for a waiver is with respect to 2019, only and is based upon the extent of information submitted by them in this appeal.

PENALTY ASSESSED

Number of Months Appealed (husband): 12

Number of Months Assessed (husband): 0

Number of Months Appealed (wife): ___12___

Number of Months Assessed (wife): ___0___

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

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

NOTIFICATION OF YOUR RIGHT TO APPEAL TO COURT

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

Hearing Officer

Cc: Connector Appeals Unit

Massachusetts Health Connector Appeals Unit

FINAL APPEAL DECISION: PA20-131

Appeal Decision Appeal Allowed

Hearing Issue: Appeal of the 2020 Tax Year Penalty

Hearing Date: February 1, 2022

Decision Date: March 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 February 1, 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 January 11, 2022
- Exhibit 2: Appeal Case Information from form Schedule HC
- Exhibit 3: Statement of Grounds for Appeal Dated March 3, 2022
- Exhibit 4: Open Record Documents

FINDINGS OF FACT

The record shows, and I so find:

1. The appellant is twenty-eight years old and is single. He lives in Middlesex County, Massachusetts.
2. Appellant was going to school and had health coverage through school until July 2020. Appellant then had health coverage from October through December through MassHealth.
3. The Appellant's monthly expenses totaled \$1,200.00, as he was living with his parents, consisting of student loan \$100.00, car insurance \$100.00, cell phone \$100.00, car gas \$200.00, credit card \$400.00, food \$200.00, clothing \$50.00, toiletries \$30.00, entertainment \$20.00.
4. The Appellant did submit a Statement of Grounds for Appeal-2020 under the grounds for Appeal "Other. During 2020 other circumstances, such as: applying the Affordability Tables in Schedule HC to you is inequitable" but should also have appealed under "During 2020, the expense of purchasing health insurance would have caused a serious deprivation of food, shelter or other necessities". I will hear his appeal under both grounds.
5. I take administrative notice of the information set forth in tables 1 through 6 in the Department of Revenue Schedule HC Health Care Instructions and Worksheets (Schedule HC Instructions). Tables 3 & 4 incorporate the affordability schedules adopted by the board of directors of the Commonwealth Health Insurance Connector Authority for 2020. Table 1 sets forth the income eligibility standards for various family sizes at 150% of the federal poverty level and Table 2 sets forth the income eligibility standards for various family sizes at 300 per cent of the federal poverty level, which is the income eligibility standard for the government-subsidized health insurance program. See Mass. G.L. c. 118H, s.3(a)(1). Tables 5 and 6 set forth the tax penalties for 2020.
6. Based on the appellant's federal adjusted gross income and the above referenced tables, I find the appellant may have been eligible for subsidized health insurance, because Appellant's income of \$23,185.00 was less than \$37,470.00. The monthly premium for health insurance available on the private market in Middlesex County for a 27 year old single person was \$269.00. The tables reflect that Appellant could afford \$56.03. 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-2020 under the grounds for Appeal “Other. During 2020 other circumstances, such as: applying the Affordability Tables in Schedule HC to you is inequitable” but should also have appealed under “During 2020, the expense of purchasing health insurance would have caused a serious deprivation of food, shelter or other necessities”. I will hear his appeal under both grounds.

The Health Care Reform Act of 2006 requires every adult resident of Massachusetts to obtain and maintain creditable insurance coverage “so long as it is deemed affordable” under the schedule established by the board of the Connector. Mass. Gen. Laws ch. 111M, § 2(a). Massachusetts residents who fail to indicate on their state tax returns that they obtained the mandated creditable coverage are subject to a tax penalty for each month in which that the individual did not have creditable health insurance. *Id.* at § 2(b). However, individuals with incomes up to 150 percent of the Federal Poverty Level (“FPL”) are not subject to any penalty for non-compliance with the individual mandate. See Massachusetts Department of Revenue Technical Information Release (“TIR”) 13-1, available at <http://www.mass.gov/dor/businesses/help-and-resources/legal-library/tirs/tirs-by-years/2013-releases/tir-13-1.html>. For 2020, 150 percent of the FPL was \$18,3735.00 for a single person with zero dependents. *Id.* In addition, a lapse in coverage of 63 days or less is not subject to the section 2(b) penalty. See Administrative Bulletin 03-10 (Dec. 7, 2010), available at <https://www.mahealthconnector.org/portal/binary/com.epicentric.contentmanagement.servlet.ContentDeliveryServlet/Health%2520Care%2520Reform/Regulations/documents/Administrative%20Information%20Bulletin%2003-10.pdf>; see also 830 Mass. Code Regs. 111M.2.1(5)(c) (2008). Thus, no penalty is imposed for lapses in coverage consisting of three or fewer consecutive calendar months. *Id.*

Since Appellant’s 2020 income was more than 150 percent of the FPL, making him potentially subject to an individual mandate penalty, the threshold issue to be addressed is whether creditable health insurance coverage was affordable to him in 2020. In determining affordability, consideration is given first to the amount Appellant is deemed able to afford for health insurance premiums under the Affordability Schedule and second to the cost of health insurance that was available through employer-sponsored plans, government-subsidized programs or on the private insurance market. See 2020 Schedule HC Instructions and Worksheets, *supra*.

Appellant reported a federal AGI of \$23,185.00 in 2020, and Appellant’s filing status was single. EX 2. According to the Affordability Schedule established by the Connector’s board and included in the Instructions and Worksheets of the 2020 Massachusetts Schedule HC, Appellant could afford to pay \$56.03 monthly for health insurance. See 2020 Schedule HC Instructions and Worksheets, *supra* at Table 3. Private insurance would have been available to him from the Premium Tables, at a cost of \$269.00 monthly for coverage with zero dependents *Id.* at Table 4.

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

Appellant was going to school and had health coverage through school until July 2020. Appellant then had health coverage from October through December through MassHealth.

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

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

PENALTY ASSESSED

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

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

OR

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

NOTIFICATION OF YOUR RIGHT TO APPEAL TO COURT

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

Hearing Officer

Cc: Connector Appeals Unit

Massachusetts Health Connector Appeals Unit

FINAL APPEAL DECISION: PA20-365

Appeal Decision: Penalty Overturned in Full

Hearing Issue: Appeal of the 2020 Tax Year Penalty

Hearing Date: February 15, 2022

Decision Date: March 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 February 15, 2022 and testified under oath. The hearing record consists of her testimony and the following documents which were admitted into evidence without her objection:

- Ex. 1—Statement of Grounds for Appeal—2020
- Ex. 2—Appeal Case Information from Schedule HC ¹
- Ex. 3—Notice of Hearing dated July 2, 2021
- Ex. 4—Hearing Record Sheet dated July 26, 2021
- Ex. 5—Health Connector’s Record of Dismissal of Appeal dated July 26, 2021
- Ex. 6—Request to Vacate Dismissal received on September 1, 2021
- Ex. 7—Notice of Hearing dated January 20, 2022

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

- Ex. 8—2020 Form 1095-C

FINDINGS OF FACT

The record shows, and I so find:

1. The appellant is 24–years-old, is single, and does not have children. She had minimum essential coverage (MEC) health insurance for all of 2020. (Testimony, Ex. 2)

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

2. The appellant was enrolled in MEC health insurance under her father's employer provided insurance for all of 2020. The employer is based in the state of New York. (Testimony, Ex. 8)
3. The appellant prepared her 2020 taxes using a tax program and did not have a copy of the 2020 Form 1095-C showing her insurance enrollment because it had been sent to her father. As a result, she indicated on her Schedule HC that she was uninsured for the entire year. (Testimony, Ex. 2)
4. The appellant reported an adjusted gross income of \$46,471.00 on her 2020 federal tax return, and reported that she was single with no dependents. (Testimony, Ex. 2)

ANALYSIS AND CONCLUSIONS OF LAW

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

The appellant submitted a statement of grounds for appeal (Ex. 1) claiming that the individual mandate did not apply to her during 2020 for "other" reasons. On the statement, she indicated that she was insured under her parents' plan.

Although the appellant was insured from January through December, she indicated on her Schedule HC that she was uninsured for the entire year. According to M.G.L. c. 111M, s. 2, residents are permitted a 63-day gap between periods of coverage without facing a tax penalty; for Tax Year 2020, Administrative Bulletin 03-10: Guidance Regarding M.G.L. c. 111M and M.G.L. c. 176Q, as implemented by 956 CMR 6.00, interprets the 63-day gap in coverage to be three months. As a result, gaps of three months are not subject to penalty. Since the appellant indicated that she was uninsured for the entire year, she was assessed and is appealing a penalty of twelve months.

The appellant testified credibly that she was enrolled in insurance under her parents' plan for all of 2020. She testified that she prepared her own tax returns and indicated on her Schedule HC that she was uninsured for the whole year because the documentation evidencing coverage was sent to her father's home.

In response to an Open Record Request, the appellant submitted a Form 1095-C which indicated that she and other family members had insurance coverage for twelve months in 2020. The form in question is used to report certain information to the Internal Revenue Service (IRS) and to taxpayers about individuals who are covered by minimum essential coverage (MEC). On its own, the form does not establish that the appellant was enrolled in minimum creditable coverage (MCC) insurance, the standard required by the state for all residents who obtain health insurance. Insurance that meets MEC standards under the Affordable Care Act does not necessarily meet MCC standards. Since the employer is based in New York, it is unlikely that the insurance met Massachusetts standards. Nonetheless, at the very least the appellant complied with the spirit of the mandate with her full-year coverage, and it would be unnecessarily harsh to penalize her for having insurance that may not have met state requirements.

Based on the totality of the evidence, the appellant's request for a waiver from the penalty is **granted**. The determination that the appellant is eligible for a waiver is with respect to 2020, only and is based upon the extent of information submitted by her in this appeal.

PENALTY ASSESSED

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

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

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

NOTIFICATION OF YOUR RIGHT TO APPEAL TO COURT

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

Hearing Officer

Cc: Connector Appeals Unit

Massachusetts Health Connector Appeals Unit

FINAL APPEAL DECISION: PA20-514

Appeal Decision: Penalty Overturned in Full

Hearing Issue: Appeal of the 2020 Tax Year Penalty

Hearing Date: February 24, 2022

Decision Date: March 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 at the hearing which was held by telephone on February 24, 2022, and testified under oath. The hearing record consists of the appellant's testimony and the following documents which were admitted into evidence without his objection:

Ex. 1—Statement of Grounds for Appeal—2020

Ex. 2—Appeal Case Information from Schedule HC ¹

Ex. 3—Notice of Hearing dated August 5, 2021

Ex. 4—Hearing Record Sheet dated September 14, 2021

Ex. 5—Health Connector's Notice of Dismissal of Appeal dated September 16, 2021

Ex. 6—Request to Vacate Dismissal dated October 1, 2021

Ex. 7—Health Connector's Record of Approval to Vacate Dismissal dated October 6, 2021

Ex. 8—Notice of Hearing dated January 25, 2022

FINDINGS OF FACT

The record shows, and I so find:

1. The appellant is 30-years-old, is single, and does not have children. In 2020, he resided in Middlesex County, MA. He did not health insurance in 2020. (Testimony, Ex. 2)
2. Prior to 2020, the appellant last had health insurance through his employer from August through December, 2019, at which time he lost his job. He remained unemployed throughout 2020. (Testimony)

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

3. The appellant was not familiar with the Health Connector and did not investigate any options for health insurance in 2020. (Testimony)
4. The appellant received unemployment compensation which was his sole source of income in 2020. (Testimony)
5. The appellant has not resided in Massachusetts since December, 2020. (Testimony)
6. The appellant reported an adjusted gross income of \$35,745.00 on his 2020 federal tax return, and reported that he was single with no dependents. (Ex. 2)
7. In 2020, the appellant had regular monthly expenses of approximately \$3000.00 for rent which included heat (\$2400.00), electricity (\$55.00), cell phone (\$100.00), internet/cable service (\$45.00), and food (\$400.00). In addition, the appellant paid approximately \$250.00/month towards credit card debt and \$450.00/month for medications. (Testimony, Ex. 1)

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

ANALYSIS AND CONCLUSIONS OF LAW

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

The appellant submitted a statement of grounds for appeal (Ex. 1), claiming that the individual mandate did not apply to him during 2020 because the expense of purchasing health insurance would have caused a serious deprivation of food, clothing, shelter or other necessities. He also submitted a letter with his statement in which he stated in part that his only source of income was unemployment compensation which barely covered his monthly living expenses.

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

The appellant testified credibly that he had employer health insurance from August through December, 2019, at which time he lost his job. He testified that he was unemployed throughout 2020 and did not investigate health insurance options through the Health Connector because he was not familiar with the agency. He testified that his only source of income in 2020 was unemployment compensation.

The evidence provided by the appellant established that his income for 2020, \$35,745.00, was less than 300% of the federal poverty level (FPL), which for 2020 was \$37,470.00 for an individual. Table 3 of the Affordability

Schedule indicates that an individual filing separately with no dependents with a federal adjusted gross income between \$31,226.00 and \$37,470.00 is deemed to be able to afford a monthly premium of \$148.94 (5.00% of \$35,745.00/12). Table 4 of the Premium Schedule indicates that a 28-year-old individual (the age of the appellant in 2020) in Middlesex County (where the appellant resided in 2020) could have purchased private health insurance for \$269.00 per month, more than the monthly amount deemed affordable from Table 3. Thus, according to the foregoing analysis, the appellant could not have purchased affordable private health insurance in 2019.

Since the appellant's income was within 300% of the FPL, the appellant should have qualified for subsidized health insurance through the Health Connector, assuming he met all other eligibility criteria, and for which he would have been subject to a subsidized premium of approximately \$148.94 per month, pursuant to the aforementioned Affordability Schedule in Table 3.

Even though subsidized health insurance may have been affordable to the appellant under the law, he may nevertheless not be subject to a penalty for failing to get health insurance for the months in question if he can show that he experienced a hardship during 2020. Examples of hardships include being homeless or overdue in rent or mortgage payments, receiving a shut-off notice for utilities, or incurring unexpected increases in basic living expenses due to domestic violence, death of a family member, sudden responsibility for providing care for a family member or fire, flood or natural disaster. In addition, the appellant's tax penalty for 2020 could be waived if he experienced financial circumstances such that the expense of purchasing health insurance would have caused him to experience a serious deprivation of food, shelter, clothing or other necessities. See 956 CMR 6.08.

The evidence presented by the appellant in this case is sufficient to establish that he experienced a financial hardship as defined by law so as to waive his penalty for the months in question. The appellant testified that in 2020, he incurred basic monthly expenses of approximately \$3250.00, including credit card debt. Those expenses were more than his regular monthly pre-tax income of approximately \$2978.75 thereby making a subsidized health insurance premium of \$148.94/month unmanageable. Hence, it is concluded that the totality of the evidence presented by the appellant established that he experienced financial circumstances such that the expense of purchasing health insurance that met minimum creditable coverage standards would have caused him to experience a serious deprivation of food, shelter, clothing or other necessities. See 956 CMR 6.08 (1)(e).

Based on the totality of the evidence, the appellant's request for a waiver from the penalty is **granted** for the months for which he was assessed. The determination that the appellant is eligible for a hardship waiver is with respect to 2020 only and is based upon the extent of information submitted in this appeal.

PENALTY ASSESSED

Number of Months Appealed: 12

Number of Months Assessed: 0

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

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

NOTIFICATION OF YOUR RIGHT TO APPEAL TO COURT

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

Hearing Officer

Cc: Connector Appeals Unit

Massachusetts Health Connector Appeals Unit

FINAL APPEAL DECISION: PA20-522

Appeal Decision: Penalty Overturned in Full

Hearing Issue: Appeal of the 2020 Tax Year Penalty

Hearing Date: February 24, 2022

Decision Date: March 30, 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 February 24, 2022, and testified under oath. The hearing record consists of the appellant's testimony and the following documents which were admitted into evidence without her objection:

Ex. 1—Statement of Grounds for Appeal—2020

Ex. 2—Appeal Case Information from Schedule HC ¹

Ex. 3—Notice of Hearing

FINDINGS OF FACT

The record shows, and I so find:

1. The appellant is 45-years-old, is single, and has an adult child. In 2020, she resided in Middlesex County, MA. She did not have health insurance in 2020. (Testimony, Ex. 2)
2. Prior to 2020, the last time the appellant had health insurance was in 2011. With the exception of 2019, she was never subject to a penalty for being uninsured. (Testimony)
3. The appellant has worked for the same employer for several years in the positions of personal care assistant and registered nurse. The employer offers health insurance but she has never enrolled because she did not feel that the cost was affordable. In 2020, the cost of an individual plan was \$411.49/month. If she had enrolled, the employer would have considered her a "benefitted employee" and would have reduced her salary by \$4.00/hour. She determined that with the pay cut, the cost of employer insurance would have exceeded eleven percent of her adjusted gross income, and concluded that the cost was unaffordable. (Testimony, Ex. 1)

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

4. The appellant's total wages in 2020 from employment were \$51,062.75. (Ex. 1)
5. The appellant investigated health insurance options through the Health Connector and determined that a monthly premium would have cost approximately \$287.82 which she could not afford. (Testimony, Ex. 1)
6. In 2020, the appellant cared for the same client as both a nurse and personal care attendant. The client was hospitalized approximately five times during the year for varying lengths of time. During those periods, the appellant filed for and received unemployment compensation. (Testimony, Ex. 1)
7. The appellant was homeless from 2016 until 2018 when she was able to rent an apartment. During that period, she stayed at a long-term care hotel and with friends and family. She rented a storage unit where she kept many items of value. She still has the unit for which she pays \$154.00/month. She is often late with the payment and incurs high late payment fees as a result. As of March, 2021, there was a lien on the unit for approximately \$472.00. (Testimony, Ex. 1)
8. The appellant owes the state Department of Revenue approximately \$5242.00 for back taxes and tax penalty assessments for lack of health insurance. (Testimony, Ex. 1)
9. The appellant was a full-time nursing student from 2018 until the end of 2020. She accumulated approximately \$12,000.00 in student loans which she began to repay in September, 2021. (Testimony, Ex. 1)
10. The appellant has several thousand dollars of credit card debt which has been in collection since 2021. (Testimony, Ex. 1)
11. The appellant enrolled in a no-cost health insurance plan through the Health Connector from July-December, 2021, because she received unemployment compensation during the year. At the time of the instant hearing, she was not enrolled in health insurance. (Testimony)
12. The appellant reported an adjusted gross income of \$85,425.00 on her 2020 federal tax return, and reported that she was single with no dependents. (Ex. 2)
13. In 2020, the appellant had regular monthly expenses of approximately \$2170.00 for rent which included heat and utilities (\$1600.00), cell phone (\$120.00), internet (\$50.00), and food (\$400.00). She did not own a car and was able to walk to her work assignment. When necessary, due to weather or late hours, she would take a cab or a ride-share which cost approximately \$30.00/month. (Testimony, Ex. 1)

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

ANALYSIS AND CONCLUSIONS OF LAW

Massachusetts General Laws c. 111M, section 2, also known as the "individual mandate", requires every adult resident of the state to obtain health insurance coverage "[s]o long as it is deemed affordable." Residents who do

not obtain insurance are subject to a tax penalty. The tax penalty was enacted by the Massachusetts Legislature to encourage compliance with the mandate that is part of the Health Care Reform Act of 2006.

The appellant submitted a statement of grounds for appeal (Ex. 1), claiming that the individual mandate did not apply to her during 2020 for “other” reasons. She also submitted a letter with her statement in which she stated in part that she could have enrolled in employer health insurance, but her hourly pay rate would have been reduced by \$4.00. She stated that she received unemployment compensation in addition to her regular salary because her client was hospitalized several times during the year, some of them for lengthy periods of time when she was without income. She stated that she has significant credit card debt which is in collection and owes \$12,000.00 in student loans which she started to repay in 2021. Finally, she stated that she owes the state DOR over \$5000.00 in back taxes and tax penalties for not having health insurance.

The appellant did not have insurance from January through December. According to M.G.L. c. 111M, s. 2, residents are permitted a 63-day gap between periods of coverage without facing a tax penalty; for Tax Year 2020, Administrative Bulletin 03-10: Guidance Regarding M.G.L. c. 111M and M.G.L. c. 176Q, as implemented by 956 CMR 6.00, interprets the 63-day gap in coverage to be three months. As a result, gaps of three months are not subject to penalty. Since the appellant was uninsured for the entire year, she was assessed and is appealing a penalty of twelve months.

The appellant testified credibly that prior to 2020, she last had health insurance in 2011, and has never been subject to a tax penalty for not having insurance, with the exception of the 2019 tax year. She testified that she was employed in 2020 and could have enrolled in health insurance which would have cost \$411.49/month, but she would have had to forfeit \$4.00/hour in pay, which was not manageable. She testified that she investigated her eligibility for insurance through the Health Connector and determined that a monthly premium would have cost her \$287.82 which she could not afford. She testified that she was homeless from 2016-2018 and lived in a long-term care hotel and with friends and family. She testified that she owes \$12,000.00 in student loans, over \$5000.00 to the Department of Revenue, and has significant credit card debt which is currently in collection. Finally, she testified that she had health insurance through the Health Connector for part of 2021, and has not enrolled in insurance for 2022.

The first issue to consider is whether the appellant had access to affordable employer health insurance. The appellant submitted employer insurance information which indicated that the cost of an individual plan was approximately \$411.49 per month. Pursuant to 26 IRC section 36B and 45 CFR section 155.305(f), applicants are eligible for an Advanced Premium Tax Credit (APTC) if they meet qualifying income levels and other eligibility requirements. Massachusetts residents may also be eligible for additional state premium assistance through the Health Connector’s ConnectorCare program if: a) their household income does not exceed 300 percent of the Federal Poverty Level (FPL) and b) they are eligible for an APTC. 956 CMR 12.09(1) An applicant who has access to other qualifying health insurance, including insurance through an employer, will be blocked from eligibility for an APTC if the coverage is affordable and meets minimum value standards, as those terms are defined by the law. See 26 CFR section 1.36B-2(c)(3). Coverage for plan year 2020 is considered to be affordable if the employee’s contribution for an individual plan is 9.78 percent or less of the employee’s projected household modified adjusted income (MAGI). The coverage is considered to meet minimum value standards if it has an actuarial value of at least 60 percent. (It is not known whether the employer’s insurance met minimum value standards.)

In this case, the monthly cost for an individual plan through the appellant’s employer was approximately \$411.49. That cost is less than 9.78 percent of the appellant’s projected household MAGI for 2020 (i.e., 9.78 percent of

\$85,425.00 is \$8354.57 or \$696.22/month).² Hence, since the employer coverage is less than \$696.22/month, she is considered to have had access to qualifying health insurance, and would have been blocked from eligibility for an APTC or ConnectorCare. See 956 CMR 12.05 and 45 CFR section 155.305 (f)(1)(ii)(B).

The next issue to consider is whether the appellant had access to affordable private health insurance. The evidence provided by the appellant established that her income for 2020, \$85,425.00, was greater than 300% of the federal poverty level (FPL), which for 2020 was \$37,470.00 for an individual. Table 3 of the Affordability Schedule indicates that an individual filing separately with no dependents with a federal adjusted gross income greater than \$49,961.00 is deemed to be able to afford a monthly premium of \$569.50 (8.00% of \$85,425.00/12). Table 4 of the Premium Schedule indicates that a 43-year-old individual (the age of the appellant in 2020) in Middlesex County (where the appellant resided in 2020) could have purchased private health insurance for \$316.00 per month, less than the monthly amount deemed affordable from Table 3. Thus, according to the foregoing analysis, the appellant could have purchased affordable private health insurance in 2020.

Even though private health insurance and employer health insurance may have been affordable to the appellant under the law, she may nevertheless not be subject to a penalty for failing to get health insurance for the months in question if she can show that she experienced a hardship during 2020. Examples of hardships include being homeless or overdue in rent or mortgage payments, receiving a shut-off notice for utilities, or incurring unexpected increases in basic living expenses due to domestic violence, death of a family member, sudden responsibility for providing care for a family member or fire, flood or natural disaster. In addition, the appellant's tax penalty for 2020 could be waived if she experienced financial circumstances such that the expense of purchasing health insurance would have caused her to experience a serious deprivation of food, shelter, clothing or other necessities. See 956 CMR 6.08.

The evidence presented by the appellant in this case is insufficient to establish that she experienced a financial hardship as defined by law so as to waive her penalty for the months in question. The appellant testified that in 2020, she incurred basic monthly expenses of approximately \$2284.00, including her storage unit and transportation costs. Those expenses were less than her regular monthly pre-tax income of approximately \$7119.00, thereby making a private health insurance premium of \$316.00/month and an employer premium of \$411.49 seemingly manageable. While it is recognized that an approximate difference between income and expenses of \$4835.00/month is not a panacea, it does not appear on its face that the payment of \$411.49 or \$316.00 for health insurance would have caused an undue hardship.

Based on the foregoing, it is concluded that the appellant could have afforded private health insurance and employer health insurance and failed to establish that she experienced a financial hardship that would entitle her to a waiver of the penalty. Notwithstanding this conclusion, the penalty will be waived for the following reason. The appellant established that she underwent extremely difficult personal circumstances from 2016 until 2018 and is still reeling from the financial ruin it caused, including unpaid taxes to the DOR, credit card debt in collection and over \$12,000.00 in student loan debt. Furthermore, although her employer insurance appears affordable, she would be penalized with a pay cut if she elected to take it, thereby reducing her salary and compounding her level of financial distress. Moreover, given the level of debt the appellant is currently struggling with, assessing an insurance penalty would only exacerbate the problem further.

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

Accordingly, based upon the totality of the evidence, it is concluded that the appellant's request for a waiver from the penalty is **granted** for the months in question. The determination that the appellant is eligible for a waiver is with respect to 2020, only and is based upon the extent of information submitted by her in this appeal.

PENALTY ASSESSED

Number of Months Appealed: 12

Number of Months Assessed: 0

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

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

NOTIFICATION OF YOUR RIGHT TO APPEAL TO COURT

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

Hearing Officer

Cc: Connector Appeals Unit

ADDENDUM

The appellant is advised not to rely on a similar extension of leniency should she be assessed and appeal a tax penalty in the future.

Massachusetts Health Connector Appeals Unit

FINAL APPEAL DECISION: PA20-545

Appeal Decision: Penalty Overturned in Full

Hearing Issue: Appeal of the 2020 Tax Year Penalty

Hearing Date: February 24, 2022

Decision Date: March 31, 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 February 24, 2022, and testified under oath. The hearing record consists of the appellant's testimony and the following documents which were admitted into evidence without her objection:

- Ex. 1—Statement of Grounds for Appeal—2020
- Ex. 2—Appeal Case Information from Schedule HC ¹
- Ex. 3—Notice of Hearing dated August 5, 2021
- Ex. 4—Hearing Record Sheet dated September 22, 2021
- Ex. 5—Notice of Hearing dated January 25, 2022

FINDINGS OF FACT

The record shows, and I so find:

1. The appellant is 28-years-old, is single, and does not have children. In 2020, she resided in Suffolk County, MA. She did not health insurance in 2020. (Testimony, Ex. 2)
2. Prior to 2020, the appellant last had health insurance through most of 2019 until she began a new job in the fall. She was initially hired on a part-time basis and was not eligible for employer health insurance. She became a full-time employee in February or March, 2020, but was not able to enroll in health insurance at that time, because the practice for which she worked was undergoing a management change. There was no further opportunity during the year and she had to wait until the end of the year to enroll for 2021. (Testimony)

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

3. The appellant investigated health insurance options through the Health Connector and determined that the cost was not affordable (Testimony)
4. The appellant has remained enrolled in employer health insurance since 2021. (Testimony)
5. The appellant lived with her mother in 2020 and they shared some of the household expenses including rent and utilities. (Testimony)
6. The appellant reported an adjusted gross income of \$34,073.00 on her 2020 federal tax return, and reported that she was single with no dependents. (Ex. 2)
7. In 2020, the appellant had regular monthly expenses of approximately \$1890.00 for rent (\$1200.00), electricity (\$200.00), public transportation (\$140.00), and food (\$350.00). (Testimony)

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

ANALYSIS AND CONCLUSIONS OF LAW

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

The appellant submitted a statement of grounds for appeal (Ex. 1), claiming that the individual mandate did not apply to her during 2020 because 1) the expense of purchasing health insurance would have caused a serious deprivation of food, clothing, shelter or other necessities; and 2) she incurred a significant, unexpected increase in essential expenses resulting directly from the consequences of: domestic violence; the death of a spouse, family member or partner with primary responsibility for child care where household expenses were shared; the sudden responsibility for providing full care for an aging parent or other family member, including a major, extended illness of a child that required her to hire a full-time caretaker for the child.

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

The appellant testified credibly that she had employer health insurance in 2019 until she began a new job in the fall. She testified that she was not initially eligible for employer insurance because she was a part-time employee. She testified that she became full-time in February or March, but was unable to enroll because the practice for which she worked was undergoing a management change. She testified that there was no further opportunity for the remainder of the year. She testified that she investigated insurance options through the Health Connector and determined that the cost was unaffordable. Finally, she testified that she has remained enrolled in employer insurance since 2021.

With respect to the ground of significant, unexpected increase in essential expenses, the appellant failed to present any evidence of circumstances which would qualify her for relief on that basis. Accordingly, her appeal will be analyzed on the other ground upon which her appeal is based--that of serious deprivation.

The evidence provided by the appellant established that her income for 2020, \$34,073.00, was less than 300% of the federal poverty level (FPL), which for 2020 was \$37,470.00 for an individual. Table 3 of the Affordability Schedule indicates that an individual filing separately with no dependents with a federal adjusted gross income between \$31,226.00 and \$37,470.00 is deemed to be able to afford a monthly premium of \$141.97 (5.00% of \$34,073.00/12). Table 4 of the Premium Schedule indicates that a 26-year-old individual (the age of the appellant in 2020) in Suffolk County (where the appellant resided in 2020) could have purchased private health insurance for \$269.00 per month, more than the monthly amount deemed affordable from Table 3. Thus, according to the foregoing analysis, the appellant could not have purchased affordable private health insurance in 2019.

Since the appellant's income was within 300% of the FPL, the appellant should have qualified for subsidized health insurance through the Health Connector, assuming she met all other eligibility criteria, and for which she would have been subject to a subsidized premium of approximately \$141.97 per month, pursuant to the aforementioned Affordability Schedule in Table 3.

Even though subsidized health insurance may have been affordable to the appellant under the law, she may nevertheless not be subject to a penalty for failing to get health insurance for the months in question if she can show that she experienced a hardship during 2020. Examples of hardships include being homeless or overdue in rent or mortgage payments, receiving a shut-off notice for utilities, or incurring unexpected increases in basic living expenses due to domestic violence, death of a family member, sudden responsibility for providing care for a family member or fire, flood or natural disaster. In addition, the appellant's tax penalty for 2020 could be waived if she experienced financial circumstances such that the expense of purchasing health insurance would have caused her to experience a serious deprivation of food, shelter, clothing or other necessities. See 956 CMR 6.08.

The evidence presented by the appellant in this case is insufficient to establish that she experienced a financial hardship as defined by law so as to waive her penalty for the months in question. The appellant testified that in 2020, she incurred basic monthly expenses of approximately \$1890.00. Those expenses were less than her regular monthly pre-tax income of approximately \$2839.42 thereby making a subsidized health insurance premium of \$141.97/month seemingly manageable. While it is recognized that an approximate difference between income and expenses of \$949.00/month is not a panacea, it does not appear on its face that the payment of \$141.97/month for health insurance would have caused an undue hardship.

Based on the foregoing, it is concluded that the appellant could have afforded subsidized health insurance and failed to establish that she experienced a financial hardship that would entitle her to a waiver of the penalty. Notwithstanding this conclusion, the penalty will be waived for the following reason. The appellant established that she was enrolled in health insurance both before and after 2020, and it is not unreasonable to assume that she would have enrolled in 2020, but for the roadblock she encountered involving a management change. Her consistent enrollment for several years demonstrates that the mandate to obtain insurance has not been lost on her.

Based on the totality of the evidence, the appellant's request for a waiver from the penalty is **granted** for the months for which she was assessed. The determination that the appellant is eligible for a waiver is with respect to 2020 only and is based upon the extent of information submitted in this appeal.

PENALTY ASSESSED

Number of Months Appealed: 12

Number of Months Assessed: 0

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

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

NOTIFICATION OF YOUR RIGHT TO APPEAL TO COURT

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

Hearing Officer

Cc: Connector Appeals Unit

Massachusetts Health Connector Appeals Unit

FINAL APPEAL DECISION: PA20-653

Appeal Decision Appeal Allowed

Hearing Issue: Appeal of the 2020 Tax Year Penalty

Hearing Date: February 28, 2022

Decision Date: March 31, 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 February 28, 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 February 1, 2022
- Exhibit 2: Appeal Case Information from form Schedule HC
- Exhibit 3: Statement of Grounds for Appeal, dated April 18, 2022
- Exhibit 4: Written Statement of Appeal Dated 4/12/21
- Exhibit 5: Open Record Document

FINDINGS OF FACT

The record shows, and I so find:

1. The appellant is twenty-eight years old and is single. He lives in Suffolk County.
2. Appellant had health insurance through his family for January through May. Appellant also had insurance from September through the remainder of the year. Appellant provided proof though the submission of a 1095C of his health insurance for January 2020 through May 2020.
3. Appellant did have health insurance in 2021 and 2022.
4. The Appellant did submit a Statement of Grounds for Appeal-2020 "Other. During 2020 other circumstance, such as applying the Affordability Tables in Schedule HC to you is inequitable" Appellant had health insurance in 2020.
5. I take administrative notice of the information set forth in tables 1 through 6 in the Department of Revenue Schedule HC Health Care Instructions and Worksheets (Schedule HC Instructions). Tables 3 & 4 incorporate the affordability schedules adopted by the board of directors of the Commonwealth Health Insurance Connector Authority for 2020. Table 1 sets forth the income eligibility standards for various family sizes at 150% of the federal poverty level and Table 2 sets forth the income eligibility standards for various family sizes at 300 per cent of the federal poverty level, which is the income eligibility standard for the government-subsidized health insurance program. See Mass. G.L. c. 118H, s.3(a)(1). Tables 5 and 6 set forth the tax penalties for 2020.

ANALYSIS AND CONCLUSIONS OF LAW

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

Appellant had health insurance through his family for January through May. Appellant also had insurance from September through the remainder of the year. Appellant provided proof though the submission of a 1095C of his health insurance for January 2020 through May 2020.

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

The Health Care Reform Act of 2006 requires every adult resident of Massachusetts to obtain and maintain creditable insurance coverage “so long as it is deemed affordable” under the schedule established by the board of the Connector. Mass. Gen. Laws ch. 111M, § 2(a). Massachusetts residents who fail to indicate on their state tax returns that they obtained the mandated creditable coverage are subject to a tax penalty for each month in which that the individual did not have creditable health insurance. *Id.* at § 2(b). However, individuals with incomes up to 150 percent of the Federal Poverty Level (“FPL”) are not subject to any penalty for non-compliance with the individual mandate. See Massachusetts Department of Revenue Technical Information Release (“TIR”) 13-1, available at <http://www.mass.gov/dor/businesses/help-and-resources/legal-library/tirs/tirs-by-years/2013-releases/tir-13-1.html>. For 2020, 150 percent of the FPL was \$18,735.00 for a single person. *Id.* In addition, a lapse in coverage of 63 days or less is not subject to the section 2(b) penalty. See Administrative Bulletin 03-10 (Dec. 7, 2010), available at <https://www.mahealthconnector.org/portal/binary/com.epicentric.contentmanagement.servlet.ContentDeliveryServlet/Health%2520Care%2520Reform/Regulations/documents/Administrative%20Information%20Bulletin%2003-10.pdf>; see also 830 Mass. Code Regs. 111M.2.1(5)(c) (2008). Thus, no penalty is imposed for lapses in coverage consisting of three or fewer consecutive calendar months. *Id.*

Since Appellant’s 2020 income was more than 150 percent of the FPL, making her potentially subject to an individual mandate penalty, the threshold issue to be addressed is whether creditable health insurance coverage was affordable to him in 2020. In determining affordability, consideration is given first to the amount Appellant is deemed able to afford for health insurance premiums under the Affordability Schedule and second to the cost of health insurance that was available through employer-sponsored plans, government-subsidized programs or on the private insurance market. See 2020 Schedule HC Instructions and Worksheets, *supra*.

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

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

PENALTY ASSESSED

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

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

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: PA20-656

Appeal Decision Appeal Allowed

Hearing Issue: Appeal of the 2020 Tax Year Penalty

Hearing Date: February 28, 2022

Decision Date: March 17, 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 February 28, 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 February 1, 2022
- Exhibit 2: Appeal Case Information from form Schedule HC
- Exhibit 3: Statement of Grounds for Appeal, dated April 18, 2022
- Exhibit 4: Written Statement of Appeal
- Exhibit 5: Open Record Document

FINDINGS OF FACT

The record shows, and I so find:

1. The appellant is twenty-seven years old and is single. She lives in California but lived in Middlesex county in 2020.
2. Appellant had health insurance through her company from Kaiser Permanente Union. Appellant provided proof though the submission of a 1095B of her health insurance for January 2020 through December 2020.
3. Appellant did have health insurance in 2021 and 2022.
4. The Appellant did submit a Statement of Grounds for Appeal-2020 “Other. During 2020 other circumstance, such as applying the Affordability Tables in Schedule HC to you is inequitable” Appellant had health insurance in 2020.
5. I take administrative notice of the information set forth in tables 1 through 6 in the Department of Revenue Schedule HC Health Care Instructions and Worksheets (Schedule HC Instructions). Tables 3 & 4 incorporate the affordability schedules adopted by the board of directors of the Commonwealth Health Insurance Connector Authority for 2020. Table 1 sets forth the income eligibility standards for various family sizes at 150% of the federal poverty level and Table 2 sets forth the income eligibility standards for various family sizes at 300 per cent of the federal poverty level, which is the income eligibility standard for the government-subsidized health insurance program. See Mass. G.L. c. 118H, s.3(a)(1). Tables 5 and 6 set forth the tax penalties for 2020.

ANALYSIS AND CONCLUSIONS OF LAW

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

Appellant had health insurance through her company from Kaiser Permanente Union. Appellant provided proof though the submission of a 1095B of her health insurance for January 2020 through December 2020.

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

The Health Care Reform Act of 2006 requires every adult resident of Massachusetts to obtain and maintain creditable insurance coverage “so long as it is deemed affordable” under the schedule established by the board of the Connector. Mass. Gen. Laws ch. 111M, § 2(a). Massachusetts residents who fail to indicate on their state tax returns that they obtained the mandated creditable coverage are subject to a tax penalty for each month in which that the individual did not have creditable health insurance. *Id.* at § 2(b). However, individuals with incomes up to 150 percent of the Federal Poverty Level (“FPL”) are not subject to any penalty for non-compliance with the individual mandate. See Massachusetts Department of Revenue Technical Information Release (“TIR”) 13-1, available at <http://www.mass.gov/dor/businesses/help-and-resources/legal-library/tirs/tirs-by-years/2013-releases/tir-13-1.html>. For 2020, 150 percent of the FPL was \$18,735.00 for a single person. *Id.* In addition, a lapse in coverage of 63 days or less is not subject to the section 2(b) penalty. See Administrative Bulletin 03-10 (Dec. 7, 2010), available at <https://www.mahealthconnector.org/portal/binary/com.epicentric.contentmanagement.servlet.ContentDeliveryServlet/Health%2520Care%2520Reform/Regulations/documents/Administrative%20Information%20Bulletin%2003-10.pdf>; see also 830 Mass. Code Regs. 111M.2.1(5)(c) (2008). Thus, no penalty is imposed for lapses in coverage consisting of three or fewer consecutive calendar months. *Id.*

Since Appellant’s 2020 income was more than 150 percent of the FPL, making 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 2020. In determining affordability, consideration is given first to the amount Appellant is deemed able to afford for health insurance premiums under the Affordability Schedule and second to the cost of health insurance that was available through employer-sponsored plans, government-subsidized programs or on the private insurance market. See 2020 Schedule HC Instructions and Worksheets, *supra*.

On these facts, I find that Appellant has shown that she had health insurance during 2020. 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 2020 penalty assessed is **OVERTURNED**.

PENALTY ASSESSED

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

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

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: PA20-666

Appeal Decision Appeal Allowed

Hearing Issue: Appeal of the 2020 Tax Year Penalty

Hearing Date: February 28, 2022

Decision Date: March 17, 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 February 28. 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 February 1, 2022

Exhibit 2: Appeal Case Information from form Schedule HC

Exhibit 3: Statement of Grounds for Appeal, dated April 13, 2022

FINDINGS OF FACT

The record shows, and I so find:

1. The appellant is forty years old and is single. She lives in Hamden County, Massachusetts. Appellant works in the personal care business.
2. Appellant was working in 2020 and noticed that she did not have a deduction for healthcare insurance. She spoke to her manager and was informed that it was probably just an error. When Appellant found out she was omitted from health insurance it was too late to apply for health insurance in 2020.
3. Appellant does have health insurance in 2022 and did have insurance in 2021.
4. The Appellant's monthly expenses totaled \$3,196.00, consisting of rent \$1,200.00, heat & light \$175.00, internet and cable \$150.00, car payment \$396.00 car insurance \$125.00, car gas \$100.00, food \$300.00, credit card \$400.00, clothing \$150.00, toiletries \$100.00.
5. The Appellant did submit a Statement of Grounds for Appeal-2020 "During 2020, the expense of purchasing health insurance would have caused a serious deprivation of food, shelter, clothing or other necessities" .
6. I take administrative notice of the information set forth in tables 1 through 6 in the Department of Revenue Schedule HC Health Care Instructions and Worksheets (Schedule HC Instructions). Tables 3 & 4 incorporate the affordability schedules adopted by the board of directors of the Commonwealth Health Insurance Connector Authority for 2020. Table 1 sets forth the income eligibility standards for various family sizes at 150% of the federal poverty level and Table 2 sets forth the income eligibility standards for various family sizes at 300 per cent of the federal poverty level, which is the income eligibility standard for the government-subsidized health insurance program. See Mass. G.L. c. 118H, s.3(a)(1). Tables 5 and 6 set forth the tax penalties for 2020.
7. Based on the appellant's federal adjusted gross income and the above referenced tables, I find the appellant would not have been eligible for subsidized health insurance, since Appellant's income of \$48,325.00 was more than \$37,470.00. The monthly premium for health insurance available on the private market in Hamden County for a 39 year old single person was \$265.00. The tables reflect that Appellant could afford \$322.16 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.

Appellant was working in 2020 and noticed that she did not have a deduction for healthcare insurance. She spoke to her manager and was informed that it was probably just an error. When Appellant found out she was omitted from health insurance it was too late to apply for health insurance in 2020.

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

Since Appellant’s 2020 income was more than 150 percent of the FPL, making 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 2020. In determining affordability, consideration is given first to the amount Appellant is deemed able to afford for health insurance premiums under the Affordability Schedule and second to the cost of health insurance that was available through employer-sponsored plans, government-subsidized programs or on the private insurance market. *See* 2020 Schedule HC Instructions and Worksheets, *supra*.

Appellant reported a federal AGI of \$48,325.00 in 2020, and Appellant’s filing status was single . EX 2. According to the Affordability Schedule established by the Connector’s board and included in the Instructions and Worksheets of the 2020 Massachusetts Schedule HC, Appellant could afford to pay \$322.16 monthly for health insurance. *See* 2020 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 \$265.00 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 \$322.16 for health insurance coverage because of her income. Private insurance in the market place was \$265.00 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 2020. 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 2020 penalty assessed is **OVERTURNED**.

PENALTY ASSESSED

Number of Months Appealed: ____12____ Number of Months Assessed: ____0____

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

OR

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

NOTIFICATION OF YOUR RIGHT TO APPEAL TO COURT

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

Hearing Officer

Cc: Connector Appeals Unit

Massachusetts Health Connector Appeals Unit

FINAL APPEAL DECISION: PA20-684

Appeal Decision Appeal Allowed

Hearing Issue: Appeal of the 2020 Tax Year Penalty

Hearing Date: January 19, 2022

Decision Date: February 3, 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 January 14, 2022. The procedures to be followed during the hearing were reviewed with the Appellant wife 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 February 1, 2021
- Exhibit 2: Appeal Case Information from form Schedule HC
- Exhibit 3: Statement of Grounds for Appeal, dated April 21, 2021
- Exhibit 4: Written Statement of Appeal dated April 21, 2021

FINDINGS OF FACT

The record shows, and I so find:

1. The appellant is fifty-nine years old and is married and his wife is sixty-four years old. He lives in Suffolk County, Massachusetts.
2. Appellant's wife is suffering from cancer and cannot work. Appellant was laid off from his job in September 2019. Appellant found contract work until May 2020 when he was laid off due to Covid. Appellant found full time work in March of 2021. Appellant was laid off from his job in 2020 due to Covid 19. Appellant opted to insure his wife due to her illness but could not afford health insurance for himself. Appellant fell behind on his mortgage payments. Appellant withdrew \$35,000.00 from his IRA to bring his mortgage current and to pay for his wife's medical bills.
3. Appellants did have health insurance in 2021. Appellants have Health insurance in 2022.
4. The Appellant's monthly expenses totaled \$5,478.00, consisting of mortgage \$1,643.00, heat & light \$300.00, internet & cable \$200.00, cell phone \$85.00, car payment \$550.00, car insurance \$275.00, car gas \$250.00, food \$800.00, toiletries \$80.00, credit card \$250.00, clothing \$400.00, student loan \$325.00, personal loan parents \$100.00.
5. The Appellant did submit a Statement of Grounds for Appeal-2020 under "During 2020, you were homeless; more than 30 days in arrears in rent or mortgage payments or received an eviction or foreclosure notice.: but should also have appealed under "During 2020, the expense of purchasing health insurance would have caused a serious deprivation of food, shelter, clothing or other necessities" I will hear their appeal under both grounds.
6. I take administrative notice of the information set forth in tables 1 through 6 in the Department of Revenue Schedule HC Health Care Instructions and Worksheets (Schedule HC Instructions). Tables 3 & 4 incorporate the affordability schedules adopted by the board of directors of the Commonwealth Health Insurance Connector Authority for 2020. Table 1 sets forth the income eligibility standards for various family sizes at 150% of the federal poverty level and Table 2 sets forth the income eligibility standards for various family sizes at 300 per cent of the federal poverty level, which is the income eligibility standard for the government-subsidized health insurance program. See Mass. G.L. c. 118H, s.3(a)(1). Tables 5 and 6 set forth the tax penalties for 2020.
7. Based on the appellant's federal adjusted gross income and the above referenced tables, I find the appellant may have been eligible for subsidized health insurance, since Appellant's income of \$88,232.00 was more than 50,730.00. The monthly premium for health insurance available on the private market in Suffolk County for a 59-year-old married person was \$864.00. The tables reflect that Appellant could afford \$588.21 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’s wife is suffering from cancer and cannot work. Appellant was laid off from his job in September 2019. Appellant found contract work until May 2020 when he was laid off due to Covid. Appellant found full time work in March of 2021. Appellant was laid off from his job in 2020 due to Covid 19. Appellant opted to insure his wife due to her illness but could not afford health insurance for himself. Appellant fell behind on his mortgage payments. Appellant withdrew \$35,000.00 from his IRA to bring his mortgage current and to pay for his wife’s medical bills.

The Appellant did submit a Statement of Grounds for Appeal-2020 under “During 2020, you were homeless; more than 30 days in arrears in rent or mortgage payments or received an eviction or foreclosure notice.: but should also have appealed under “During 2020, the expense of purchasing health insurance would have caused a serious deprivation of food, shelter, clothing or other necessities” I will hear their appeal under both grounds.

The Health Care Reform Act of 2006 requires every adult resident of Massachusetts to obtain and maintain creditable insurance coverage “so long as it is deemed affordable” under the schedule established by the board of the Connector. Mass. Gen. Laws ch. 111M, § 2(a). Massachusetts residents who fail to indicate on their state tax returns that they obtained the mandated creditable coverage are subject to a tax penalty for each month in which that the individual did not have creditable health insurance. *Id.* at § 2(b). However, individuals with incomes up to 150 percent of the Federal Poverty Level (“FPL”) are not subject to any penalty for non-compliance with the individual mandate. See Massachusetts Department of Revenue Technical Information Release (“TIR”) 13-1, available at <http://www.mass.gov/dor/businesses/help-and-resources/legal-library/tirs/tirs-by-years/2013-releases/tir-13-1.html>. For 2020, 150 percent of the FPL was 25,365.00 for a married persons. *Id.* In addition, a lapse in coverage of 63 days or less is not subject to the section 2(b) penalty. See Administrative Bulletin 03-10 (Dec. 7, 2010), available at <https://www.mahealthconnector.org/portal/binary/com.epicentric.contentmanagement.servlet.ContentDeliveryServlet/Health%2520Care%2520Reform/Regulations/documents/Administrative%20Information%20Bulletin%2003-10.pdf>; see also 830 Mass. Code Regs. 111M.2.1(5)(c) (2008). Thus, no penalty is imposed for lapses in coverage consisting of three or fewer consecutive calendar months. *Id.*

Since Appellant’s 2020 income was more than 150 percent of the FPL, making him potentially subject to an individual mandate penalty, the threshold issue to be addressed is whether creditable health insurance coverage was affordable to him in 2020. In determining affordability, consideration is given first to the amount Appellant is deemed able to afford for health insurance premiums under the Affordability Schedule and second to the cost of health insurance that was available through employer-sponsored plans, government-subsidized programs or on the private insurance market. See 2020 Schedule HC Instructions and Worksheets, *supra*.

Appellant reported a federal AGI of \$80,232.00 in 2020, and Appellant’s filing status was married with two dependents. EX 2. According to the Affordability Schedule established by the Connector’s board and included in the Instructions and Worksheets of the 2020 Massachusetts Schedule HC, Appellant could afford to pay \$588.21 monthly for health insurance. See 2020 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 \$864.00 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 \$588.210 for health insurance coverage because of his income. Private insurance in the market place was \$864.00 per month, which is more than he could afford. On these facts, I find that Appellant has shown that he was precluded from purchasing affordable health insurance during 2020. 956 Mass. Code Regs. 6.08(3) (2008). Accordingly, I conclude that he is exempt from a tax penalty for her non-compliance with the individual mandate.

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

PENALTY ASSESSED

Number of Months Appealed: 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.

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: PA20-691

Appeal Decision Appeal Demied

Hearing Issue: Appeal of the 2020 Tax Year Penalty

Hearing Date: February 28, 2022

Decision Date: March 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 February 28, 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 February 1, 2022
- Exhibit 2: Appeal Case Information from form Schedule HC
- Exhibit 3: Statement of Grounds for Appeal Dated May 6, 2021
- Exhibit 4: Written Statement of Appeal

FINDINGS OF FACT

The record shows, and I so find:

1. The appellant is thirty-six years old and is single. He lives in Suffolk County, Massachusetts.
2. Appellant worked in a food business.
3. Appellant does have health insurance in 2022 and did have health insurance in 2021.
4. The Appellant's monthly expenses totaled \$2,840.00, consisting of rent \$700.00, cell phone \$101.00, car insurance \$54.00, car gas \$40.00, clothing \$200.00, toiletries \$50.00, family in Ghana \$1,000.00.
5. The Appellant did submit a Statement of Grounds for Appeal-2020 under the grounds for Appeal "During 2020, the expense of purchasing health insurance would have caused a serious deprivation of food, shelter or other necessities".
6. I take administrative notice of the information set forth in tables 1 through 6 in the Department of Revenue Schedule HC Health Care Instructions and Worksheets (Schedule HC Instructions). Tables 3 & 4 incorporate the affordability schedules adopted by the board of directors of the Commonwealth Health Insurance Connector Authority for 2020. Table 1 sets forth the income eligibility standards for various family sizes at 150% of the federal poverty level and Table 2 sets forth the income eligibility standards for various family sizes at 300 per cent of the federal poverty level, which is the income eligibility standard for the government-subsidized health insurance program. See Mass. G.L. c. 118H, s.3(a)(1). Tables 5 and 6 set forth the tax penalties for 2020.
7. Based on the appellant's federal adjusted gross income and the above referenced tables, I find the appellant would not have been eligible for subsidized health insurance, because Appellant's income of \$84,002.00 was more than \$37,470.00. The monthly premium for health insurance available on the private market in Suffolk County for a 35 year old single person was \$298.00. The tables reflect that Appellant could afford \$560.01. This is less than what the appellant is deemed to afford. (Tables 2, 3 & 4 of the Schedule HC Instructions)

ANALYSIS AND CONCLUSIONS OF LAW

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

The Appellant did submit a Statement of Grounds for Appeal-2020 under the grounds for Appeal “During 2020, 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 2020, 150 percent of the FPL was \$18,3735.00 for a single person with zero dependents. *Id.* In addition, a lapse in coverage of 63 days or less is not subject to the section 2(b) penalty. See Administrative Bulletin 03-10 (Dec. 7, 2010), available at <https://www.mahealthconnector.org/portal/binary/com.epicentric.contentmanagement.servlet.ContentDeliveryServlet/Health%2520Care%2520Reform/Regulations/documents/Administrative%20Information%20Bulletin%2003-10.pdf>; see also 830 Mass. Code Regs. 111M.2.1(5)(c) (2008). Thus, no penalty is imposed for lapses in coverage consisting of three or fewer consecutive calendar months. *Id.*

Since Appellant’s 2020 income was more than 150 percent of the FPL, making him potentially subject to an individual mandate penalty, the threshold issue to be addressed is whether creditable health insurance coverage was affordable to him in 2020. In determining affordability, consideration is given first to the amount Appellant is deemed able to afford for health insurance premiums under the Affordability Schedule and second to the cost of health insurance that was available through employer-sponsored plans, government-subsidized programs or on the private insurance market. See 2020 Schedule HC Instructions and Worksheets, *supra*.

Appellant reported a federal AGI of \$84,002.00 in 2020, and Appellant’s filing status was single. EX 2. According to the Affordability Schedule established by the Connector’s board and included in the Instructions and Worksheets of the 2020 Massachusetts Schedule HC, Appellant could afford to pay \$560.01 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 worked in a food business.

On these facts, I find that Appellant has shown that he was not precluded from purchasing affordable health insurance during 2020. 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 2020 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 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: PA20-725

Appeal Decision: Appeal Approved.

Hearing Issue: Appeal of the 2020 Tax Year Penalty

Hearing Date: February 28, 2022

Decision Date: March 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

The Appellant appeared at the hearing, which was held by telephone, on February 28, 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: Health Connector Appeals Unit Notice of Hearing dated February 1, 2022.
- Exhibit 2: Appeal Case Information from Schedule HC 2020.
- Exhibit 3: Statement of Grounds for Appeal dated May 5, 2021, with an attachment.
- Exhibit 4: Health Connector Appeals Unit Open Record Form dated February 28, 2022.
- Exhibit 5: Additional information submitted by the Appellant during the record open period.

FINDINGS OF FACT

The record shows, and I so find:

1. The Appellant age 37 in November 2020, filed their 2020 Federal Income Tax return as a single person with no dependents claimed (Exhibit 2).
2. The Appellant lived in Suffolk County, MA in 2020 (Exhibit 2).
3. The Appellant's Federal Adjusted Gross Income for 2020 was \$29,099 (Exhibit 2).
4. According to the information on the Schedule HC 2020, the Appellant did not have health insurance for any months in tax year 2020 and is assessed a twelve-month tax penalty (Exhibit 2).
5. The Appellant filed an appeal of the assessment in May, 2021 (Exhibits 3, 4).

6. I take administrative notice of the financial information set forth in Tables 1 through 6 in the DOR 2020 Massachusetts Schedule HC Health Care Instructions and Worksheets. Tables 3 and 4 incorporate affordability and premium schedules adopted by the Board of Directors for the Commonwealth Health Insurance Connector Authority for 2020. Table 2 sets forth income at 300% of the Federal poverty level and Tables 5 and 6 set forth tax penalties in effect for 2020.
7. In accordance with Table 3 of Schedule HC for 2020, the Appellant filing the Federal tax return as a single person with no dependents claimed, with an annual adjusted gross income of \$29,099 could afford to pay \$102 per month for health insurance. In accordance with Table 4, the Appellant, age 37, living in Suffolk County, could have purchased private insurance for \$298 per month for a plan (Schedule HC for 2020). Private insurance was not affordable for the Appellant in tax year 2020.
8. The Appellant had no access to employer sponsored health insurance in 2020. The Appellant would have been eligible for ConnectorCare coverage in 2020 because the Appellant's income was less than 300% of the federal poverty level, which was \$37,470 for a household of one in 2020 (See Table 2 of Schedule HC-2020 and 956 CMR 12.04) (Exhibit 2).
9. The Appellant testified that they had insurance through December 2019. The Appellant explained that they planned to study abroad during the period of March 1, 2020 through June 25, 2020. The Appellant planned to move on January 28, 2020 but the program got cancelled due to the Covid 19 pandemic. The Appellant said that by this time they had missed open enrollment. The Appellant said that they worked as a Pilates instructor but again due to the pandemic was out of work from March 2020 through July 1, 2020. The Appellant said that they were not making much money and finally found a new job on November 9, 2020. The Appellant said that they did have employer sponsored health insurance for the months of November and December 2020 (Exhibits 3, 5 and Appellant Testimony).
10. The record was left open until March 15, 2020 to allow the Appellant to submit additional information (Exhibit 4).
11. The Appellant submitted verification of their planned study abroad program as well as a copy of a 1095-B 2020 verifying the Appellant's enrollment in employer sponsored health insurance for the months of November and December 2020 (Exhibit 5).
12. The Appellant testified that they lived in a shared housing situation in tax year 2020. The Appellant's portion of expenses included: rent- \$950; heat and electricity-\$100; telephone-\$42; MBTA pass-\$90 and food-\$217. The Appellant testified that between their study abroad being cancelled and an extended period of unemployment the Appellant struggled to meet their expenses. I found the Appellant's testimony to be credible (Appellant Testimony),

ANALYSIS AND CONCLUSIONS OF LAW

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

Administrative Bulletin 03-10: Guidance Regarding M.G.L. c. 111M and M.G.L. c.176Q as implemented by 956 CMR 6.00, which interprets the 63-day gap in coverage to be three months. The Connector's regulations provide for a waiver of the tax penalty in the case of financial hardship. See 956 CMR 6.08.

The Appellant filed their 2020 tax return as a single person with no dependents claimed. The Appellant's Schedule HC indicated that the Appellant did not have health insurance for any months of tax year 2020 and consequently the Appellant was assessed a twelve-month penalty. Information provided by the Appellant during the Appeal process verified that the Appellant did have health insurance for the months of November and December 2020. Given the three months grace period outlined above, the Appellant should not be subject to a tax penalty for the months of August through December. The remaining issue is the seven-month period of January through July in tax year 2020. The Appellant appealed this determination citing financial hardship as well as other unexpected circumstances.

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

In accordance with Table 3 of Schedule HC for 2020, the Appellant filing the Federal tax return as a single person with no dependents claimed with an adjusted gross income of \$29,099 could afford to pay \$102 per month for health insurance. According to Table 4, the Appellant, age 37, living in Suffolk County, could have purchased a private insurance plan for \$298 month. See Schedule HC for 2020. Private insurance was not affordable for the Appellant in tax year 2020.

The Appellant did not have access to employer sponsored health insurance in tax year 2020. Had the Appellant applied in a timely manner, they would have been eligible for ConnectorCare coverage based upon the Appellant's income which was less than 300% of the federal poverty level which was \$37,470 for their household of one. See Table 2 of Schedule HC 2020 and 956 CMR 12.04 for eligibility criteria. Since affordable insurance was available to the Appellant in 2020, it must be determined whether the Appellant experienced a financial hardship pursuant to 956 CMR 6.08(1).

The Appellant testified that they had planned to be out of the country for a study abroad program for the first half of tax year 2020 and did not enroll in health insurance for this reason. The Appellant explained that the program was cancelled due to the pandemic but by the time the Appellant was notified they had missed open enrollment. 45 CFR § 155.420, 956 CMR 12.10(5).

The Appellant further explained that they were working as a Pilates instructor in 2020 but due to the pandemic was unemployed from March through June in tax year 2020. The Appellant began working again and found a new job with health insurance on November 9, 2020. The Appellant verified substantial monthly living expenses for tax year 2020 and struggled to meet these expenses especially during the period of unemployment. The Appellant has demonstrated that the cost of purchasing health insurance would have caused the Appellant to experience a significant financial hardship. The Appellant's twelve-month penalty is waived. See 956 CMR 6.08(3).

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

PENALTY ASSESSED

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

Cc: Connector Appeals Unit

Massachusetts Health Connector Appeals Unit

FINAL APPEAL DECISION: PA20-767

Appeal Decision: Appeal Approved

Hearing Issue: Appeal of the 2020 Tax Year Penalty

Hearing Date: February 28, 2022

Decision Date: March 7, 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 and their Spouse appeared at the hearing, which was held by telephone, on February 28, 2022. The procedures to be followed during the hearing were reviewed with the Appellants who were then sworn in. Exhibits were marked and admitted into evidence with no objection from the Appellants. The hearing record consists of the Appellants' testimony and the following documents which were admitted into evidence:

- Exhibit 1: Health Connector Appeals Unit Notice of Hearing dated February 1, 2022.
- Exhibit 2: Appeal Case Information from Schedule HC 2020.
- Exhibit 3: The Statement of Grounds for Appeal signed by the Appellants on May 12, 2021.
- Exhibit 4: Appellants' letter in support of this appeal, with attachments.

FINDINGS OF FACT

The record shows, and I so find:

1. The Appellants with one partner age 64 in June 2020, filed their Federal Income Tax return as a married couple with no dependents claimed (Exhibit 2).
2. The Appellants reported on their Schedule HC 2020 that they were full year residents of MA, living in Plymouth County in 2020 (Exhibit 2).
3. The Appellants' Federal Adjusted Gross Income for 2020 was \$45,826 (Exhibit 2).
4. The Appellants had health insurance that did not meet Massachusetts Minimum Creditable Coverage standards in tax year 2020 (Exhibit 4 and Appellant Testimony).
5. The Appellants have each been assessed a twelve-month tax penalty for 2020. The Appellants filed an appeal of the assessment in May 2021 (Exhibits 2, 3, 4).

6. I take administrative notice of the financial information set forth in Tables 1 through 6 in the DOR 2020 Massachusetts Schedule HC Health Care Instructions and Worksheets. Tables 3 and 4 incorporate affordability and premium schedules adopted by the Board of Directors for the Commonwealth Health Insurance Connector Authority for 2020. Table 2 sets forth income at 300% of the Federal poverty level and Tables 5 and 6 set forth tax penalties in effect for 2020.
7. In accordance with Table 3 of Schedule HC for 2020, the Appellants filing the Federal tax return as a married couple, with no dependents claimed, with an annual adjusted gross income of \$45,826 could afford to pay \$283 per month for health insurance. In accordance with Table 4, the Appellants, with one partner age 64, living in Plymouth County, could have purchased private insurance for \$864 per month for a plan (Schedule HC for 2020). Private insurance was not affordable for the Appellants in 2020.
8. The Appellant (Primary taxpayer) testified that they and their Spouse were living in another country and did not come to the United States until June 26 of tax year 2020. The Appellant explained they came to Massachusetts intending to stay for two or three months to look for a job but did not find employment in Massachusetts until 2021 after passing a required test. All income for tax year 2020 was from the Appellant's employment in their home country. The Appellant Spouse had no income. The Appellant said that due to travel restrictions they were not able to travel back to their home country. The Appellant explained that they sold their home and used the money to purchase property in Massachusetts, intending to make it their home after returning to their country of origin to close their business there. The Appellant said that they used the Turbo Tax program to file their taxes and made a mistake regarding full year residency. In addition, the Appellant stated that they purchased health insurance in their home country that remained in effect for all of tax year 2020 as well as travel insurance that covered health care. The Appellant's credible testimony is supported by documentation submitted with the appeal request verifying health insurance coverage for tax year 2020 (Exhibit 4 and Appellant Testimony).
9. The Appellant Spouse testified that they paid for the foreign health insurance with pesos. The cost fluctuated due to the exchange rate fluctuations and the Spouse estimated the monthly cost to be about \$200. The Spouse said that the health insurance met their needs in tax year 2020 and they did not incur any uncovered medical expenses (Spouse Testimony).
10. The Appellants would have been financially eligible for ConnectorCare coverage because their income of \$45,826 was less than 300% of the federal poverty level, which was \$50,730 for a household of two in tax year 2020. Residency and other eligibility factors would have had to have been established (See Table 2 of Schedule HC-2019 and 956 CMR 12.04).
11. The Appellants' monthly living expenses included: property taxes-\$500; heat-\$100; electricity-\$75; food-\$1,000; car insurance-\$150; gasoline-\$217 and telephone/internet \$50 (Testimony of Appellants).

ANALYSIS AND CONCLUSIONS OF LAW

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

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

Any health insurance policy must also satisfy the Massachusetts “minimum creditable coverage standards” (MCC) to avoid the tax penalty. Mass. Gen. Laws c. 111M, sec. 2(b). In addition to financial hardship, the Connector may also consider the extent to which insurance obtained deviated from or substantially met minimum creditable coverage standards when determining if a penalty should be waived. See 956 CMR 6.08(2)(d).

The Appellants filed their joint income tax return as full-time residents of Massachusetts in tax year 2020. The Appellants used a tax preparation program and made a mistake when reporting their residency. The Appellants were living in another country and did not come to Massachusetts until the end of June in tax year 2020. The Appellant Primary testified that their plan was to come to Massachusetts for a couple of months to search for a job and then travel back to their home country to close their business down there. Due to the pandemic travel restrictions this did not happen. The Appellants had sold their property in their home country and used the proceeds to purchase a home in Plymouth County. The Appellants were not residents of Massachusetts prior to June 26, 2020 and therefore were not subject to a tax penalty for this seven-month period and the three-month grace period outlined above.

In accordance with Table 3 of Schedule HC for 2020, the Appellants filing the Federal tax return as a married couple with no dependents claimed with an adjusted gross income of \$45,826 could afford to pay \$283 per month for health insurance. According to Table 4, the Appellants with one partner age 64, living in Plymouth County, could have purchased a private insurance plan for \$864 per month. See Table 4 of Schedule HC for 2020. Private insurance was not affordable for the Appellants while living in Massachusetts in tax year 2020.

The Appellants’ income of \$45,826 was less than 300% of the federal poverty level which was \$50,730 for a household of two in 2020. The Appellants were financially eligible for ConnectorCare but would have to establish all other eligibility factors to receive ConnectorCare. See Table 2 of Schedule HC 2020 and 956 CMR 12.04 for eligibility criteria.

The Appellants did have health insurance that they purchased in their home country prior to coming to Massachusetts. There is insufficient information in this record to establish that the insurance met MCC standards, but the Appellant and their Spouse both testified that it was sufficient to meet their needs. The Appellants were paying \$200 for their health insurance. In addition, the Appellants identified substantial monthly living expenses for the period of July through December in tax year 2020. Purchasing additional health insurance would have caused the Appellants to experience a substantial financial hardship pursuant to 956 CMR 6.08 (1). Under these circumstances the twelve-month penalties for the Appellant and their Spouse are waived

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

PENALTY ASSESSED

Appellant Primary Taxpayer: Number of Months Appealed: 12 Number of Months Assessed: 0
Appellant Spouse: 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 you reside, or Suffolk County Superior Court within thirty (30) days of your receipt of this decision.

Cc: Connector Appeals Unit

ADDENDUM

The Appellants are advised to file an amended tax return for tax year 2020 and report their part time residency status.

Cc: Connector Appeals Unit

Massachusetts Health Connector Appeals Unit

FINAL APPEAL DECISION: PA20-837

Appeal Decision: Appeal Approved.

Hearing Issue: Appeal of the 2020 Tax Year Penalty

Hearing Date: March 21, 2022

Decision Date: March 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 March 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: Health Connector Appeals Unit Notice of Hearing dated February 25, 2022.
- Exhibit 2: Appeal Case Information from Schedule HC 2020.
- Exhibit 3: Statement of Grounds for Appeal dated March 24 2021.
- Exhibit 4: Appellant's letter in support of this appeal, with attachments.

FINDINGS OF FACT

The record shows, and I so find:

1. The Appellant, age 38 in June 2020, filed their 2020 Federal Income Tax return as a single person with no dependents claimed (Exhibit 2).
2. The Appellant lived in Suffolk County, MA in 2020 (Exhibit 2).
3. The Appellant's Federal Adjusted Gross Income for 2020 was \$40,338 (Exhibit 2).
4. The Appellant had health insurance for the month of January but did not have health insurance for the period of February through December in tax year 2020. The Appellant has been assessed an eight-month penalty (Exhibit 2).
5. The Appellant filed an appeal of the assessment in March, 2021 (Exhibits 3, 4).

6. I take administrative notice of the financial information set forth in Tables 1 through 6 in the DOR 2020 Massachusetts Schedule HC Health Care Instructions and Worksheets. Tables 3 and 4 incorporate affordability and premium schedules adopted by the Board of Directors for the Commonwealth Health Insurance Connector Authority for 2020. Table 2 sets forth income at 300% of the Federal poverty level and Tables 5 and 6 set forth tax penalties in effect for 2020.
7. In accordance with Table 3 of Schedule HC for 2020, the Appellant filing the Federal tax return as a single person with no dependents claimed, with an annual adjusted gross income of \$40,338 could afford to pay \$250 per month for health insurance. In accordance with Table 4, the Appellant, age 38, living in Suffolk County, could have purchased private insurance for \$298 per month for a plan (Schedule HC for 2020). Private insurance was not affordable for the Appellant in tax year 2020.
8. The Appellant testified that they had employer sponsored health insurance in January, but it ended because they were laid off. The Appellant said that they received unemployment compensation for the remainder of 2020 and used their limited funds to meet their living expenses and help their elderly parents (Exhibits 2, 3, 4 and Appellant Testimony).
9. The Appellant would not have been eligible for ConnectorCare coverage in 2020 because the Appellant's income was greater than 300% of the federal poverty level, which was \$37,470 for a household of one in 2020 (See Table 2 of Schedule HC-2020 and 956 CMR 12.04) (Exhibit 2).
10. For the period February through December 2020 the Appellant did not have access to affordable health insurance through the private market, their employer, or a government sponsored program. See Tables 3 and 4 of Schedule HC-2020 (Exhibits 2, 3, 4 and Appellant Testimony).

ANALYSIS AND CONCLUSIONS OF LAW

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

The Appellant filed their 2020 tax return as a single person with no dependents claimed. The Appellant had employer sponsored health insurance in January 2020 but did not have health insurance for the period of February through December in tax year 2020. The Appellant was laid off in February and remained unemployed for the rest of tax year 2020. The Appellant has been assessed an eight-month penalty. The Appellant appealed the penalty citing financial hardship.

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

In accordance with Table 3 of Schedule HC for 2020, the Appellant filing the Federal tax return as a single person with no dependents claimed, with an adjusted gross income of \$40,338 could afford to pay \$250 per month for health insurance. In accordance with Table 4, the Appellant, age 38 living in Suffolk County, could have purchased private insurance for \$298 per month (Schedule HC for 2020). Private insurance was not affordable for the Appellant in 2020.

The Appellant did not have access to employer sponsored health insurance during the period of February through December in tax year 2020. The Appellant would not have been eligible for ConnectorCare coverage in 2020 because the Appellant's income of \$40,338 was greater than 300% of the federal poverty level, which was \$37,470 for a household of one in 2020.

The Appellant had no affordable health insurance available to them for the period of February through December in tax year 2020 through employment, the private market or through a government program such as ConnectorCare. Because of this, the eight-month penalty must be waived in full. See Massachusetts General Laws, Chapter 111M, Section 2. Since the penalty is waived, there is no need to determine if Appellant experienced a financial hardship in 2020.

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

PENALTY ASSESSED

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

Cc: Connector Appeals Unit

Massachusetts Health Connector Appeals Unit

FINAL APPEAL DECISION: PA20-838

Appeal Decision: Appeal Approved.

Hearing Issue: Appeal of the 2020 Tax Year Penalty

Hearing Date: March 21, 2022

Decision Date: March 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 (Primary Taxpayer) and their Spouse appeared at the hearing, which was held by telephone, on March 21, 2022. The procedures to be followed during the hearing were reviewed with the Appellants who were then sworn in. Exhibits were marked and admitted into evidence with no objection from the Appellants. The hearing record consists of the Appellants' testimony and the following documents which were admitted into evidence:

- Exhibit 1: Health Connector Appeals Unit Notice of Hearing dated February 25, 2022.
- Exhibit 2: Appeal Case Information from Schedule HC 2020.
- Exhibit 3: Statement of Grounds for Appeal dated May 14, 2021.
- Exhibit 4: Appellants' letter in support of this appeal.

FINDINGS OF FACT

The record shows, and I so find:

1. The Appellants with one partner age 57 in 2020, filed their 2020 Federal Income Tax return as a married couple with no dependents claimed (Exhibit 2).
2. The Appellants lived in Hampden County, MA in 2020 (Exhibit 2).
3. The Appellants' Federal Adjusted Gross Income for 2020 was \$57,511 (Exhibit 2).
4. The Appellants did not have health insurance for any months in tax year 2020 and consequently both have been assessed a twelve-month tax penalty (Exhibit 2).
5. The Appellants filed an appeal of the assessment in May, 2021 (Exhibits 3, 4).

6. I take administrative notice of the financial information set forth in Tables 1 through 6 in the DOR 2020 Massachusetts Schedule HC Health Care Instructions and Worksheets. Tables 3 and 4 incorporate affordability and premium schedules adopted by the Board of Directors for the Commonwealth Health Insurance Connector Authority for 2020. Table 2 sets forth income at 300% of the Federal poverty level and Tables 5 and 6 set forth tax penalties in effect for 2020.
7. In accordance with Table 3 of Schedule HC for 2020, the Appellants filing the Federal tax return as a married couple with no dependents claimed, with an annual adjusted gross income of \$57,511 could afford to pay \$357 per month for health insurance. In accordance with Table 4, the Appellants, with one partner age 57, living in Hampden County, could have purchased private insurance for \$774 per month for a plan (Schedule HC for 2020). Private insurance was not affordable for the Appellants in tax year 2020.
8. The Appellant testified that their employer offered health insurance, but the monthly premium was about \$500 to cover the Appellant and their Spouse. The Appellant Spouse was unemployed until March 2020 and then worked part time. The Appellant Spouse did not have access to employer sponsored health insurance. The Appellant said that they could not afford insurance and Health Connector had said they made too much money to receive assistance paying (Exhibits 3, 4 and Appellant Testimony).
9. The cost of the Appellant's employer sponsored health insurance exceeded the \$357 deemed affordable for the Appellants in accordance with Table 3 of Schedule HC for 2020. The Appellant Spouse did not have access to affordable employer sponsored health insurance. The Appellants would not have been eligible for ConnectorCare coverage in 2020 because the Appellants' income of \$57,511 was greater than 300% of the federal poverty level, which was \$50,730 for a household of two in 2020 (See Table 2 of Schedule HC-2020 and 956 CMR 12.04) (Exhibit 2).
10. In tax year 2020 the Appellants did not have access to affordable health insurance through the private market, their employers, or a government sponsored program. See Tables 3 and 4 of Schedule HC-2020 (Exhibits 2, 3, 4 and Appellant Testimony).

ANALYSIS AND CONCLUSIONS OF LAW

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

The Appellants filed their 2020 tax return as a married couple with no dependents claimed. The Appellants did not have health insurance for any months in tax year 2020 and consequently each has been assessed a twelve-month penalty. The Appellants appealed the penalty citing financial hardship.

To determine if the penalty should be waived in whole or in part, there must be an evaluation of whether affordable insurance which met minimum creditable coverage standards was available to the Appellants 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 Appellants because the Appellants experienced a financial hardship as defined in 956 CMR 6.08.

In accordance with Table 3 of Schedule HC for 2020, the Appellants filing the Federal tax return as a married couple with no dependents claimed, with an adjusted gross income of \$57,511 could afford to pay \$357 per month for health insurance. In accordance with Table 4, the Appellants with one partner age 57 living in Hampden County, could have purchased private insurance for \$774 per month (Schedule HC for 2020). Private insurance was not affordable for the Appellants in 2020.

The Appellant's employer offered health insurance at a monthly cost of \$500. This is more than the \$357 deemed affordable to the Appellants under Table 3 of Schedule HC 2020. The Appellant Spouse did not have access to employer sponsored health insurance in tax year 2020. The Appellants would not have been eligible for ConnectorCare coverage in 2020 because the Appellants' income of \$57,511 was greater than 300% of the federal poverty level, which was \$50,730 for a household of two in 2020.

The Appellants had no affordable health insurance available to them in tax year 2020 through employment, the private market or through a government program such as ConnectorCare. Because of this, the twelve-month penalty for the Appellant and their Spouse must be waived in full. See Massachusetts General Laws, Chapter 111M, Section 2. Since the penalty is waived, there is no need to determine if Appellants experienced a financial hardship in 2020.

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

PENALTY ASSESSED

Appellant Primary Taxpayer:	Number of Months Appealed: 12	Number of Months Assessed: 0
Appellant Spouse:	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 you reside, or Suffolk County Superior Court within thirty (30) days of your receipt of this decision.

Cc: Connector Appeals Unit

Massachusetts Health Connector Appeals Unit

FINAL APPEAL DECISION: PA20-858

Appeal Decision: Appeal Denied.

Hearing Issue: Appeal of the 2020 Tax Year Penalty

Hearing Date: March 21, 2022

Decision Date: March 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 and their Spouse appeared at the hearing, which was held by telephone, on March 21, 2022. The procedures to be followed during the hearing were reviewed with the parties who were then sworn in. Exhibits were marked and admitted into evidence with no objection from the Appellant or their Spouse. The hearing record consists of the Appellant's testimony, their Spouse's testimony and the following documents which were admitted into evidence:

- Exhibit 1: Health Connector Appeals Unit Notice of Hearing dated February 25, 2022.
- Exhibit 2: Appeal Case Information from Schedule HC 2020.
- Exhibit 3: Statement of Grounds for Appeal signed by the Appellant on May 28, 2021.
- Exhibit 4: The Appellant's letter in support of this appeal.

FINDINGS OF FACT

The record shows, and I so find:

1. The Appellant, age 39 in March and their Spouse, age 45 in August, filed their Federal Income Tax return as a married couple with no dependents (Exhibit 2).
2. The Appellant and their Spouse lived together in Norfolk County, MA in 2020 (Exhibit 2 and Appellant Testimony).
3. The Household's Federal Adjusted Gross Income for 2020 was \$115,819 (Exhibit 2).
4. The Appellant's Spouse had health insurance for all months of tax year 2020 and is therefore not subject to a tax penalty (Exhibit 2).
5. The Appellant did not have health insurance for any months of tax year 2020 and is being assessed a twelve-month tax penalty (Exhibit 2).

6. The Appellant filed an appeal of the assessment in May, 2021 citing grounds other than financial hardship (Exhibits 2, 3, 4).
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. In accordance with Table 3 of Schedule HC for 2020, the Appellant filing their Federal tax return as a married couple with no dependents claimed, with an annual adjusted gross income of \$155,819 could afford to pay \$1,039 per month for health insurance. In accordance with Table 4, the Appellant, with one household member age 45, living in Norfolk County, could have purchased private insurance for \$722 per month for a married couple (Schedule HC for 2020). Private insurance was affordable for the Appellant in tax year 2020.
9. The Appellant was not financially eligible for ConnectorCare in tax year 2020 because their income of \$155,819 was more than 300% of the federal poverty level which was \$50,730 for a household of two (Table 2 of Schedule HC-2020 and 956 CMR 12.04).
10. The Appellant testified that they work in construction and health insurance is available through the union based on the number of hours worked. The Appellant said that they did not qualify for coverage in tax year 2020. The Appellant said that construction is slow in the winter months, and they were unemployed for period. The Appellant said that their income was from unemployment compensation (Appellant Testimony).
11. The Appellant's Spouse testified that they attempted to add the Appellant to their employer sponsored health insurance at the beginning of the year but made a mistake with the paperwork and missed an Email from their employer. The Appellant's Spouse said that they found out about the mistake in February and it was too late to correct it because the enrollment period had ended. The Appellant Spouse testified that they paid \$117.19 biweekly for their health insurance plan (Spouse Testimony).
12. The 2020 monthly living expenses of \$4,979.25 for the Appellant's household included: rent-\$2,195; heat-\$170; electricity-\$200; car loan-\$869; car insurance-\$220; telephone-\$120; gasoline-\$217; food-\$563; cable/internet-\$170 and Spouse's health insurance-\$255.25 (Spouse Testimony).
13. The Appellant was asked if they made any attempt to purchase health insurance after learning in February 2020 that they were not covered under their Spouse's policy and the Appellant testified that they did not (Appellant Testimony).
14. The Appellant and their Spouse did not submit any evidence or testimony to indicate that were more than 30 days behind in their rent, received utility shut off notices or experienced any other unexpected increase in expenses due to a family emergency or other human caused or natural disaster (Exhibits 3, 4, Appellant Testimony, Spouse Testimony).

ANALYSIS AND CONCLUSIONS OF LAW

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

The Appellant and their Spouse filed a joint income tax return in 2020. The Appellant’s Spouse had health insurance for all months of tax year 2020 and is therefore not subject to a tax penalty. The Appellant did not have health insurance for any months in tax year 2020 and consequently been assessed a twelve-month penalty. The Appellant submitted a statement of grounds for this appeal citing circumstances other than financial hardship as the basis for their appeal.

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

In accordance with Table 3 of Schedule HC for 2020, the Appellant filing the Federal tax return as a married couple with no dependents claimed, with an adjusted gross income of \$155,819 could afford to pay \$1,039 per month for health insurance. In accordance with Table 4, the Appellant, with one household member age 45, living in Norfolk County, could have purchased private insurance for \$722 per month for a married couple’s plan. The Appellant’s Spouse was paying \$255.25 per month for their employer sponsored coverage. Even if the Spouse kept this coverage and the Appellant purchased a plan for \$722, the total of \$977.25 is less than the \$1,039 deemed affordable for the Appellant under Table 3 of Schedule HC for 2020. Private insurance was affordable for the Appellant in 2020.

The Appellant did not have access to employer sponsored health insurance in tax year 2020 through their employment. The Appellant’s Spouse explained that they attempted to enroll the Appellant in their employer sponsored insurance but made a mistake completing the process in a timely manner. The Appellant acknowledged that they made no attempt to purchase health insurance after learning in February that they were not eligible for their Spouse’s plan. The Appellant was not eligible for ConnectorCare because their income of \$155,819 exceeded 300% of the federal poverty level for a household of two, which was \$50,730 in tax year 2020. See Table 2 of Schedule HC 2020 and 956 CMR 12.04 for eligibility criteria.

Since affordable insurance was available to the Appellant in 2020, it must be determined whether the Appellant experienced a financial hardship pursuant to 956 CMR 6.08 (1). The Appellant and their Spouse had monthly living expenses of \$4,979.25 including the Spouse’s health insurance premium. The Appellant did not offer any evidence or testimony that they were behind in the rent payments, received utility shut off notices, or incurred any unexpected increase in living expenses due to a family or other type of emergency. With income of \$155,819 and the fact that the Appellant could have enrolled in private insurance at a cost of \$722 for both household members, the Appellant has failed to demonstrate that the cost of purchasing health insurance for 2020 would

have caused the Appellant to experience a serious financial hardship. See 956 CMR 6.08. The Appellant's twelve-month penalty is upheld.

PENALTY ASSESSED

Number of Months Appealed: ____12____ Number of Months Assessed: __12____

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

NOTIFICATION OF YOUR RIGHT TO APPEAL TO COURT

If you disagree with this decision, you have the right to appeal to Court in accordance with Chapter 30A of the you reside, or Suffolk County Superior Court within thirty (30) days of your receipt of this decision.

Cc: Connector Appeals Unit

Massachusetts Health Connector Appeals Unit

FINAL APPEAL DECISION: PA20-876

Appeal Decision: Appeal Approved

Hearing Issue: Appeal of the 2020 Tax Year Penalty

Hearing Date: March 21, 2022

Decision Date: March 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 at the hearing, which was held by telephone, on March 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: Health Connector Appeals Unit Notice of Hearing dated February 25, 2022.
- Exhibit 2: Appeal Case Information from Schedule HC 2020.
- Exhibit 3: The Statement of Grounds for Appeal signed by the Appellant on May 31, 2021.
- Exhibit 4: Appellants' letter in support of this appeal.

FINDINGS OF FACT

The record shows, and I so find:

1. The Appellant, age 28 in March 2020, filed their Federal Income Tax return as a single person with no dependents claimed (Exhibit 2).
2. The Appellant was a part-year resident of Massachusetts, living in Suffolk County for the period of July 1, 2020 through December 31, 2020 (Exhibit 2)
3. The Appellant's Federal Adjusted Gross Income for 2020 was \$59,680 (Exhibit 2).
4. The Appellant did not have health insurance during the period of July 1 through December 31 in tax year 2020. The Appellant has been assessed a three-month tax penalty (Exhibits 2, 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. In accordance with Table 3 of Schedule HC for 2020, the Appellant filing the Federal tax return as a single person, with no dependents claimed, with an annual adjusted gross income of \$59,680 could afford to pay \$399 per month for health insurance. In accordance with Table 4, the Appellant age 28, living in Suffolk County, could have purchased private insurance for \$269 per month for a plan (Schedule HC for 2020). Private insurance was affordable for the Appellant in tax year 2020.
7. The Appellant testified that they moved to Massachusetts in July to begin a medical residency program at a Boston hospital. The Appellant said that they sent in the forms needed to enroll in the hospital's health insurance program and received a Harvard Pilgrim health insurance card. The Appellant said that in August they tried to use the card and was told it was not active. The Appellant said that they contacted the hospital and were told that due to a clerical error the Appellant's start date had not been reported. The Appellant was told that the problem would be fixed. The Appellant said that they did not learn until they filed their taxes that they did not have valid health insurance for 2020. I found the Appellant to be credible (Exhibits 3, 4 and Appellant Testimony).

ANALYSIS AND CONCLUSIONS OF LAW

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

The Appellant filed their income tax return as a part year resident of Massachusetts living in Suffolk County during the period of July 1, 2020 through December 31, 2020. The Appellant did not have health insurance during this six-month period and consequently has been assessed a three-month tax penalty.

In accordance with Table 3 of Schedule HC for 2020, the Appellant filing the Federal tax return as a single person with no dependents claimed with an adjusted gross income of \$59,860 could afford to pay \$399 per month for health insurance. According to Table 4, the Appellant age 28, living in Suffolk County, could have purchased a private insurance plan for \$269 per month. See Table 4 of Schedule HC for 2020. Private insurance was affordable for the Appellant while living in Massachusetts in tax year 2020.

The Appellant filed an appeal of the tax penalty citing circumstances other than financial hardship for failing to have health insurance. The Appellant testified that they moved to Massachusetts in July 2020 to begin a medical residency program at one of the Boston hospitals. Health insurance was offered by the hospital and the Appellant completed the paperwork to enroll. The Appellant was issued a Harvard Pilgrim insurance card. The Appellant said that they tried to use the card and was informed it was not active. The Appellant said that they contacted the hospital and was told that due to a clerical error the Appellant was not given a start date. The Appellant was told that this would be fixed. The Appellant testified that they did not learn until they filed their taxes that they did not have health insurance for the period of July 1 through December 31, 2020. I found the Appellant to be

credible. While the Appellant did not cite strict financial hardship as the reason for failing to have health insurance, given that the Appellant was employed as a medical resident, completed the paperwork to enroll in the hospital's health insurance program, was issued a Harvard Pilgrim insurance card and was assured by their employer that the clerical error regarding the Appellant's start date had been corrected, the Appellant should not be subject to a three-month tax penalty for failing to have valid insurance. 956 CMR 6.08(3).

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

PENALTY ASSESSED

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

If the number of months assessed is zero (0) because your penalty has been overturned, the Connector has notified the Department of Revenue that you should NOT be assessed a penalty for Tax Year 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 you reside, or Suffolk County Superior Court within thirty (30) days of your receipt of this decision.

Cc: Connector Appeals Unit

Massachusetts Health Connector Appeals Unit

FINAL APPEAL DECISION: PA20-953

Appeal Decision Appeal Allowed

Hearing Issue: Appeal of the 2020 Tax Year Penalty

Hearing Date: March 24, 2022

Decision Date: March 30, 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 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 February 25, 2021
- Exhibit 2: Appeal Case Information from form Schedule HC
- Exhibit 3: Statement of Grounds for Appeal, dated June 3, 2021
- Exhibit 4: Written Statement of Appeal

FINDINGS OF FACT

The record shows, and I so find:

1. The appellant is thirty-eight years old and is single. She lives in Bristol County, Massachusetts. Appellant works in the medical business.
2. Appellant was working for a temp agency in 2020 due to her inability to get a full-time job. The health insurance offered by the temp agency was too expensive for the appellant.
3. Appellant does have health insurance in 2022 and did have insurance in 2021.
4. The Appellant's monthly expenses totaled \$3,365.00, consisting of rent \$875.00, heat & light \$30.00, car payment \$541.00, car insurance \$262.00, car gas \$160.00, food \$800.00, clothing \$20.00, credit card \$100.00 toiletries \$150.00, supporting grandmother \$30.00.
5. The Appellant did submit a Statement of Grounds for Appeal-2020 "Other. "During 2020, the expense of purchasing health insurance would have caused a serious deprivation of food, shelter, clothing or other necessities" .
6. I take administrative notice of the information set forth in tables 1 through 6 in the Department of Revenue Schedule HC Health Care Instructions and Worksheets (Schedule HC Instructions). Tables 3 & 4 incorporate the affordability schedules adopted by the board of directors of the Commonwealth Health Insurance Connector Authority for 2020. Table 1 sets forth the income eligibility standards for various family sizes at 150% of the federal poverty level and Table 2 sets forth the income eligibility standards for various family sizes at 300 per cent of the federal poverty level, which is the income eligibility standard for the government-subsidized health insurance program. See Mass. G.L. c. 118H, s.3(a)(1). Tables 5 and 6 set forth the tax penalties for 2020.
7. Based on the appellant's federal adjusted gross income and the above referenced tables, I find the appellant would not have been eligible for subsidized health insurance, since Appellant's income of \$44,828.00 was more than \$37,470.00. The monthly premium for health insurance available on the private market in Bristol County for a 37 year old single person was \$298.00. The tables reflect that Appellant could afford \$283.91 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 working for a temp agency in 2020 due to her inability to get a full-time job. The health insurance offered by the temp agency was too expensive for the appellant.

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

Since Appellant’s 2020 income was more than 150 percent of the FPL, making 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 2020. In determining affordability, consideration is given first to the amount Appellant is deemed able to afford for health insurance premiums under the Affordability Schedule and second to the cost of health insurance that was available through employer-sponsored plans, government-subsidized programs or on the private insurance market. See 2020 Schedule HC Instructions and Worksheets, *supra*.

Appellant reported a federal AGI of \$44,828.00 in 2020, and Appellant’s filing status was single. EX 2. According to the Affordability Schedule established by the Connector’s board and included in the Instructions and Worksheets of the 2020 Massachusetts Schedule HC, Appellant could afford to pay \$283.91 monthly for health insurance. See 2020 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 \$298.00 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 \$283.91 for health insurance coverage because of her income. Private insurance in the market place was \$298.00 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 2020. 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 2020 penalty assessed is **OVERTURNED**.

PENALTY ASSESSED

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

The Connector has notified the Department of Revenue that, pursuant to its decision, you should 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: PA20955

Appeal Decision: The penalty is overturned in full.

Hearing Issue: Appeal of the 2020 Tax Year Penalty

Hearing Date: December 23, 2021

Decision Date: March 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

The appellants appeared at the hearing which was held by telephone on December 23, 2021. 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. At the end of the hearing, the record was left open until January 30, 2022 to give the appellants time to submit additional evidence. As of today, no additional evidence has been received from the appellants. The record is now closed.

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 9, 2021

Exhibit 2: Appeal Case Information from Schedule HC 2020

Exhibit 3: Notice of Hearing sent to Appellant dated November 16, 2021 for December 23, 2021 hearing

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 both 26 years old in 2020. The couple were married on May 11, 2020 (Exhibit 2, Testimony of Appellant).
2. Appellants resided in Bristol County in 2020 (Testimony of Appellant, Exhibit 2).
3. Appellants had a Federal Adjusted Income of \$67,201 in 2020 (Testimony of Appellant, Exhibit 2).
4. One appellant was employed at one job until mid-January, 2020. Appellant was then unemployed for several weeks and started a new job in February. This appellant had health insurance which met the Commonwealth's minimum creditable coverage through employment; this appellant has not been assessed a tax penalty (Testimony of Appellant, Exhibit 2).
5. The other appellant came to the United States in 2013. In June, 2020, the appellant had applied for a green card and for a social security number. He did not obtain a social security number until the summer of 2020. He obtained a green card on March 8, 2021. This appellant could have been added to his spouse's plan once they were married if he had had a social security number. Appellant did not realize he could get a tax identification number. This appellant was unemployed all year; he had no income. He had no health insurance all year and he has been assessed a twelve-month penalty which he has appealed (Testimony of Appellant, Exhibits 1, 2).

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

7. According to Table 3 of Schedule HC for 2020, the appellants with no dependents claimed with an adjusted gross income of \$67,201 could afford to pay \$425 per month for health insurance. According to Table 4, Appellants, 26 years old and living in Bristol County, could have purchased insurance for \$538 per month for a plan for a married couple. Insurance on the individual market was unaffordable for the appellants (Schedule HC for 2020 Tables 3 and 4, Exhibit 2).

9. According to Table 2 of Schedule HC for 2020, Appellants, who earned more than \$50,730 per year, would have been ineligible for the ConnectorCare program based upon income (Table 2 of Schedule HC-2020, and Exhibit 2).

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 natural or human-caused event which caused substantial personal damage in 2020 (Testimony of Appellant).

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

12. Appellants did not receive shut-off notices in 2020 (Testimony of Appellant).

13. The uninsured appellant obtained health insurance which met the Commonwealth's minimum creditable coverage standards as of January 1, 2021 through his spouse's plan (Testimony of the 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. 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. She has not been assessed a penalty. The other appellant had no health insurance in 2020. This appellant has been assessed a tax penalty for the year. 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.

According to Table 3 of Schedule HC for 2020, the appellants with no dependents claimed with an adjusted gross income of \$67,201 could afford to pay \$425 per month for health insurance. According to Table 4, Appellants, 26 years old and living in Bristol County, could have purchased insurance for \$538 per month for a plan for a couple. Insurance on the individual market was unaffordable for the appellants. See Schedule HC for 2020, Tables 3 and 4, Exhibit 2.

The uninsured appellant had no access to health insurance through employment in 2020. He was unemployed the entire year. Appellant's spouse was employed and had health insurance through employment all year. Before Appellants were married, the unemployed appellant could not get coverage through the other appellant's plan. Once the couple married, the uninsured appellant could not get the coverage because he had no Social Security number. See the testimony of the appellant which I find to be credible.

Appellants could not obtain affordable coverage through the ConnectorCare program in 2020. The appellants' annual Federal Adjusted Income was \$67,201, more than the income limit for a tax household of two (\$50,730). 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.

The uninsured appellant had no access to affordable health insurance which met the Commonwealth's standards in 2020. There was no affordable health insurance available to the appellant through the individual market, employment, or a government-sponsored program. Pursuant to Massachusetts General Laws Chapter 111M2, Section 2, Appellant's tax penalty is, therefore, waived.

I note that the uninsured appellant obtained health insurance which met the Commonwealth's minimum creditable coverage standards as of January 1, 2021 through his spouse's plan. See the testimony of the appellant which I find to be credible.

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 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: PA20957

Appeal Decision: The penalty is overturned in full.

Hearing Issue: Appeal of the 2020 Tax Year Penalty

Hearing Date: December 23, 2021

Decision Date: February 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 RECORD

The appellant's representative appeared at the hearing which was held by telephone on December 23, 2021. The procedures to be followed during the hearing were reviewed with the representative who was then sworn in. Exhibits were marked and admitted in evidence with no objection from the representative. The representative testified on behalf of the appellant. At the end of the hearing, the record was kept open until January 30, 2022 to give the appellant time to submit additional evidence. Documents were received from the appellant on December 31, 2021. These have been marked as exhibits and admitted in evidence. The record is now closed.

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

- Exhibit 1: Statement of Grounds for Appeal 2020 signed and dated by Appellant on June 8, 2021 with letter from MassHealth addressed to Appellant dated October 12, 2020 attached
- Exhibit 2: Appeal Case Information from Schedule HC 2020
- Exhibit 3: Notice of Hearing sent to Appellant dated November 16, 2021 for December 23, 2021 hearing
- Exhibit 4: Authorized representative form signed by Appellant on December 10, 2021
- Exhibit 5: Appellant's Form 2020 1095-B (two forms)
- Exhibit 6: Appellant's 2020 Form MA 1099-HC (two forms)

FINDINGS OF FACT

The record shows, and I so find:

1. Appellant, who filed a 2020 Massachusetts tax return as Head of Household with two dependents claimed, was 34 years old in 2020 (Exhibit 2, Testimony of Appellant's Representative).
2. Appellant resided in Middlesex County in 2020 (Testimony of Appellant's Representative, Exhibit 2).
3. Appellant had a Federal Adjusted Income of \$51,565 in 2020 (Testimony of Appellant's Representative, Exhibit 2).
4. Appellant was employed from January through July. At the end of July, he was laid off because of the pandemic. Some time in August, Appellant got a new job working on a construction site (Testimony of Appellant's Representative).

5. Appellant had health insurance through his job which met the Commonwealth's minimum creditable coverage standards from January through July. The appellant had no health insurance after he was laid off until he obtained coverage through his new job. Appellant had joined a union for construction workers. Once he started work at his new job, he became eligible for health insurance through the union. The coverage, which met the Commonwealth's standards, was effective December 1, 2020. The appellant's Massachusetts tax return for 2020 did not reflect the coverage the appellant actually had (Testimony of Appellant's Representative, Exhibits 2, 6).
6. The appellant has been assessed a tax penalty for all of 2020 because for some reason, the Schedule HC for 2020 was filled out incorrectly. The appellant has appealed this assessment (Testimony of Appellant's Representative, Exhibits 1 and 2).
7. I take administrative notice of the financial information set forth in Tables 1 through 6 in the DOR 2020 Massachusetts Schedule HC Health Care Instructions and Worksheets. Tables 3 and 4 incorporate affordability and premium schedules adopted by the Board of Directors for the Commonwealth Health Insurance Connector Authority for 2020. Table 2 sets forth income at 300% of the Federal poverty level and Tables 5 and 6 set forth tax penalties in effect for 2020.
8. According to Table 3 of Schedule HC for 2020, the appellant who filed his tax return as Head of Household with two dependents claimed with an adjusted gross income of \$51,565 could afford to pay \$210 per month for health insurance. According to Table 4, Appellant, 34 years old and living in Middlesex County, could have purchased insurance for \$736 per month for a plan for a family. Insurance on the individual market was unaffordable for the appellant (Schedule HC for 2020 Tables 3 and 4, Exhibit 2).
9. According to Table 2 of Schedule HC for 2020, Appellant, Head of Household with two dependents and who earned less than \$63,990 per year, would have been eligible for the ConnectorCare program based upon income (Table 2 of Schedule HC-2020, and Exhibit 2).
10. Appellant had health insurance as of the date of this hearing (Testimony of Appellant's Representative).

ANALYSIS AND CONCLUSIONS OF LAW

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

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

Appellant has been assessed a penalty for all of 2020, but that was in error. See Exhibit 6, Appellant's two 2020 MA Form 1099-HC provide proof that Appellant had coverage from January through July, and in December, 2020. The appellant has appealed the assessment. See Exhibits 1, 2. Appellant is entitled to a three-month grace period without penalty after losing coverage at the end of July. Appellant's penalty for August through October is waived. See Massachusetts General Laws, Chapter 111M, Section 2.

To determine if the one-month penalty (November , 2020) should be waived, 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 who filed his tax return as Head of Household with two dependents claimed with an adjusted gross income of \$51,565 could afford to pay \$210 per month for health insurance. According to Table 4, Appellant, 34 years old and living in Middlesex County, could have purchased insurance for \$736 per month for a plan for a family. Insurance on the individual market was unaffordable for the appellant. See Schedule HC for 2020 Tables 3 and 4, and Exhibit 2.

In November, 2020, Appellant had no access to health insurance through employment. Appellant had health insurance through his job which met the Commonwealth's minimum creditable coverage standards from January through July. The appellant had no health insurance after he was laid off until he obtained coverage through his new job. Appellant had joined a union for construction workers. Once he started work at his new job, he became eligible for health insurance through the union. The coverage, which met the Commonwealth's standards, was effective December 1, 2020 See the testimony of Appellant's Representative which I find to be credible, and Exhibits 2, 6.

Appellant was eligible for enrollment in the ConnectorCare program. The appellant's annual Federal Adjusted Income was \$51,565, less than the income limit for a tax household of three (\$63,990). See 956 CMR 12.00 et. seq., Exhibit 2, and Table 2 of Schedule HC 2020.

Since Appellant could have had access to ConnectorCare coverage, we need to determine if the appellant had a financial hardship pursuant to 956 CMR 6.08. Pursuant to 956 CMR 6.08(3), we can consider financial issues raised by the appellant during the hearing when determining if the appellant had a financial hardship such that health insurance coverage would have been unaffordable for the appellant. Appellant lost his job because of the pandemic, something completely out of his control. He was unemployed for about a month and then found a union job in construction. The union offered health insurance, but not until December 1, 2020, several months after he began working. As of the date of this hearing, Appellant had health insurance. See the testimony of the appellant's representative which I find to be credible.

Based on the facts noted above, I find that during the pandemic, health insurance was unaffordable for the appellant. See 956 CMR 6.08 (3). Appellant's penalty is waived.

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: PA20958

Appeal Decision: The penalty is overturned in full.

Hearing Issue: Appeal of the 2020 Tax Year Penalty

Hearing Date: December 23, 2021

Decision Date: March 2, 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 December 23, 2021. The procedures to be followed during the hearing were reviewed with Appellant who was then sworn in. Exhibits were marked and admitted in evidence with no objection from the appellant. Appellant testified.

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

- Exhibit 1: Statement of Grounds for Appeal 2020 signed and dated by Appellant on June 1, 2021 with letter in support attached
- Exhibit 2: Appeal Case Information from Schedule HC 2020
- Exhibit 3: Notice of Hearing sent to Appellant dated November 16, 2021 for December 23, 2021 hearing
- Exhibit 4: Out-of-state rental agreement, November 1, 2019 through October 31, 2020

FINDINGS OF FACT

The record shows, and I so find:

1. Appellant, who filed a 2020 Massachusetts tax return as a single person with no dependents claimed, was 27 years old in 2020 (Exhibit 2, Testimony of Appellant).
2. Appellant resided in Suffolk County from mid-May, 2020. Prior to mid-May, Appellant lived out of the Commonwealth until Appellant was transferred by his employer to Massachusetts. On his Massachusetts tax return, he indicated that he was a part-year resident (Testimony of Appellant, Exhibit 2).
3. Appellant had a Federal Adjusted Income of \$33,183 in 2020 (Testimony of Appellant, Exhibit 2).
4. Appellant had a full-time job from January through mid-March when he was furloughed. Even though he was furloughed, the company transferred him to Massachusetts where he remained out of work until the end of September, 2020. Appellant collected \$700 unemployment compensation weekly after taxes (Testimony of Appellant, Exhibit 2).

5. When Appellant was brought back to work at the end of September, he earned \$22 an hour and worked 30 hours a week or less. He also earned commissions (Testimony of the Appellant).
6. When Appellant moved to Massachusetts he did not look for health insurance coverage because he was unaware that he was required to have coverage. When he started working again, he learned that he had to have coverage. He signed up for coverage through his job as soon as the employer had an open enrollment period. He obtained coverage as of January 1, 2021. As of the date of this hearing, Appellant still had the coverage (Testimony of Appellant).
7. Appellant has been assessed a tax penalty for five months, August through December, 2020. The appellant has appealed this assessment (Testimony of Appellant's Repre, 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 \$33,183 could afford to pay \$138 per month for health insurance. According to Table 4, Appellant, 27 years old and living in Middlesex County, could have purchased insurance for \$269 per month for a plan for an individual. Insurance on the individual market was unaffordable for the appellant (Schedule HC for 2020 Tables 3 and 4, Exhibit 2).
10. According to Table 2 of Schedule HC for 2020, Appellant, who earned less than \$37,470 per year, would have been eligible for the ConnectorCare program based upon income and once he moved to Massachusetts (Table 2 of Schedule HC-2020, and Exhibit 2).
11. Appellant did not incur significant and unexpected increases in essential expenses as a result of domestic violence; the death of a spouse, family member, or partner who shared household expenses; the sudden responsibility for providing full care for an aging parent or other family member, or a natural or human-caused event which caused substantial personal damage in 2020 (Testimony of Appellant).
12. Appellant did not fall more than thirty days behind in rent payments in 2020 (Testimony of Appellant).
13. Appellant did not receive any shut-off notices for basic utilities in 2020 (Testimony of Appellant).
14. Appellant had the following monthly expenses for basic necessities after he moved to the Commonwealth: rent-\$925; electricity and heat- \$100; telephone and internet-\$100; food, household items, and personal care items-\$230; clothing-\$125; transportation-\$390. Appellant also had to put \$2,000 down for a security deposit and spent \$2,000 for moving expenses (Testimony of Appellant).

ANALYSIS AND CONCLUSIONS OF LAW

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

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

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

Appellant was a part-year resident. He moved to Massachusetts mid-May, 2020. Appellant was assessed a five-month penalty (August through December) because he had no coverage after became a Massachusetts resident. He was entitled to a three-month grace penalty after becoming a resident. Appellant has appealed the assessment. See Exhibits 1 and 2, Massachusetts General Laws, Chapter 111M, Section 2, and the testimony of Appellant which I find to be credible.

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 \$33,183 could afford to pay \$138 per month for health insurance. According to Table 4, Appellant, 27 years old and living in Suffolk County, could have purchased insurance for \$269 per month for a plan for an individual. Insurance on the individual market was unaffordable for the appellant. See Schedule HC for 2020 Tables 3 and 4, and Exhibit 2.

Appellant was furloughed from his job because of the pandemic while he lived out of the Commonwealth. He moved Massachusetts because of a job transfer, though he remained furloughed even after the move. He did not work again until the end of September. At that time, he asked to enroll in the coverage offered by his employer, but had to wait until the next open enrollment period. He obtained coverage as of January 1, 2021. Appellant had no access to health insurance through employment during 2020. See the testimony of the appellant which I find credible.

Appellant could have had affordable coverage through the ConnectorCare program. The appellant’s annual Federal Adjusted Income was \$33,183, less than the income limit for one person (\$37,470). Appellant was eligible for ConnectorCare based upon his income and also because he had no access to employer-sponsored insurance during the months in question. See 956 CMR 12.00 et. seq., Exhibit 2, and Table 2 of Schedule HC 2020.

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

Appellant had the following expenses for basic necessities in 2020 after moving to the Commonwealth: rent-\$925; electricity and heat- \$100; telephone and internet-\$100; food, household items, and personal care items-\$230; clothing-\$125; transportation-\$390. Appellant also had to put \$2,000 down for a security deposit and spent \$2,000 for moving expenses. These expenses amounted to about \$1,900 a month, not including moving expenses and security deposit totaling \$4,000. See the testimony of the appellant which I find credible.

While Appellant had the expenses listed above, he was furloughed from his job. He did not begin to earn income until the end of September when he starting earning a base salary of \$660 gross a week, though some weeks he earned less. At times, he earned commission. Once Appellant started working, he was earning slightly less than he earned while he was collecting unemployment compensation. See the testimony of the appellant which I find credible.

Based upon the facts summarized above, I determine that the appellant experienced a financial hardship in 2020. Because of the pandemic, he was furloughed from his job from mid-March to the end of September, and he had moving expenses as a result of being transferred to the Commonwealth. Pursuant to 956 CMR 6.08(1)(e) and 6.08(3), I find that the cost of purchasing health insurance was unaffordable for the appellant.

I also note that once Appellant started working again, he obtained health insurance through his job as soon as he was eligible for it.

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: 5 Number of Months Assessed: 0

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

NOTIFICATION OF YOUR RIGHT TO APPEAL TO COURT

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

Cc: Connector Appeals Unit

Hearing Officer

Massachusetts Health Connector Appeals Unit

FINAL APPEAL DECISION: PA20-959

Appeal Decision Appeal Denied

Hearing Issue: Appeal of the 2020 Tax Year Penalty

Hearing Date: March 24, 2022

Decision Date: March 30, 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 24, 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 February 25 2022
- Exhibit 2: Appeal Case Information from form Schedule HC
- Exhibit 3: Statement of Grounds for Appeal Dated June 10, 2021
- Exhibit 4: Written Statement of Appeal

FINDINGS OF FACT

The record shows, and I so find:

1. The appellant is forty-four years old and is single. He lives in Bristol County, Massachusetts.
2. Appellant worked in a auto business. Appellant worked and was laid off. He collected unemployment and then was off unemployment and received MassHealth for three months of the year. At the end of 2020 Appellant sold a house he owned and received \$200,000.00 in net proceeds.
3. Appellant does not have health insurance in 2022 but did have health insurance in 2021 with MassHealth.
4. The Appellant's monthly expenses totaled \$4,870.00, consisting of mortgage \$1,800.00, cell phone \$101.00, car insurance \$54.00, car gas \$40.00, clothing \$200.00, toiletries \$50.00, family in Ghana \$1,000.00.
5. The Appellant did submit a Statement of Grounds for Appeal-2020 under the grounds for Appeal "During 2020, the expense of purchasing health insurance would have caused a serious deprivation of food, shelter or other necessities".
6. I take administrative notice of the information set forth in tables 1 through 6 in the Department of Revenue Schedule HC Health Care Instructions and Worksheets (Schedule HC Instructions). Tables 3 & 4 incorporate the affordability schedules adopted by the board of directors of the Commonwealth Health Insurance Connector Authority for 2020. Table 1 sets forth the income eligibility standards for various family sizes at 150% of the federal poverty level and Table 2 sets forth the income eligibility standards for various family sizes at 300 per cent of the federal poverty level, which is the income eligibility standard for the government-subsidized health insurance program. See Mass. G.L. c. 118H, s.3(a)(1). Tables 5 and 6 set forth the tax penalties for 2020.
7. Based on the appellant's federal adjusted gross income and the above referenced tables, I find the appellant would not have been eligible for subsidized health insurance, because Appellant's income of \$294,824.00 was more than \$37,470.00. The monthly premium for health insurance available on the private market in Bristol County for a 43 year old single person was \$316.00. The tables reflect that Appellant could afford \$1,898.82. This is less than what the appellant is deemed to afford. (Tables 2, 3 & 4 of the Schedule HC Instructions)

ANALYSIS AND CONCLUSIONS OF LAW

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

The Appellant did submit a Statement of Grounds for Appeal-2020 under the grounds for Appeal “During 2020, 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 2020, 150 percent of the FPL was \$18,3735.00 for a single person with zero dependents. *Id.* In addition, a lapse in coverage of 63 days or less is not subject to the section 2(b) penalty. See Administrative Bulletin 03-10 (Dec. 7, 2010), available at <https://www.mahealthconnector.org/portal/binary/com.epicentric.contentmanagement.servlet.ContentDeliveryServlet/Health%2520Care%2520Reform/Regulations/documents/Administrative%20Information%20Bulletin%2003-10.pdf>; see also 830 Mass. Code Regs. 111M.2.1(5)(c) (2008). Thus, no penalty is imposed for lapses in coverage consisting of three or fewer consecutive calendar months. *Id.*

Since Appellant’s 2020 income was more than 150 percent of the FPL, making him potentially subject to an individual mandate penalty, the threshold issue to be addressed is whether creditable health insurance coverage was affordable to him in 2020. In determining affordability, consideration is given first to the amount Appellant is deemed able to afford for health insurance premiums under the Affordability Schedule and second to the cost of health insurance that was available through employer-sponsored plans, government-subsidized programs or on the private insurance market. See 2020 Schedule HC Instructions and Worksheets, *supra*.

Appellant reported a federal AGI of \$294,824.00 in 2020, and Appellant’s filing status was single. EX 2. According to the Affordability Schedule established by the Connector’s board and included in the Instructions and Worksheets of the 2020 Massachusetts Schedule HC, Appellant could afford to pay \$1,898.82 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 \$316.00 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 auto business. Appellant worked and was laid off. He collected unemployment and then was off unemployment and received MassHealth for three months of the year. At the end of 2020 Appellant sold a house he owned and received \$200,000.00 in net proceeds. Even giving Appellant a discount for the sale of a property and obtaining \$200,000.00 in income late in the year, Appellant still had income of \$84,824.00 and had enough income to purchase health insurance.

On these facts, I find that Appellant has shown that he was not precluded from purchasing affordable health insurance during 2020. 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 2020 penalty assessed is **UPHELD**.

PENALTY ASSESSED

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

The Connector has notified the Department of Revenue that, pursuant to its decision, you should be assessed a penalty for Tax Year 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: PA20960

Appeal Decision: The penalty is overturned in full.

Hearing Issue: Appeal of the 2020 Tax Year Penalty

Hearing Date: December 23, 2021

Decision Date: March 8, 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 December 23, 2021. The procedures to be followed during the hearing were reviewed with Appellant who was then sworn in. Exhibits were marked and admitted in evidence with no objection from the appellant. Appellant testified.

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

Exhibit 1: Statement of Grounds for Appeal 2020 signed and dated by Appellant on June 12, 2021 with note

Exhibit 2: Appeal Case Information from Schedule HC 2020

Exhibit 3: Notice of Hearing sent to Appellant dated November 16, 2021 for December 23, 2021 hearing

FINDINGS OF FACT

The record shows, and I so find:

1. Appellant, who filed a 2020 Massachusetts tax return as a single person with no dependents claimed, was 60 years old in 2020 (Exhibit 2, Testimony of Appellant).
2. Appellant resided in Norfolk County in 2020 (Testimony of Appellant, Exhibit 2).
3. Appellant had a Federal Adjusted Income of \$69,846 in 2020 (Testimony of Appellant, Exhibit 2).
4. Appellant was employed from January through mid-May, 2020. The appellant was laid off because of the pandemic. Her employer continued to pay her until the end of August. Appellant was unemployed the rest of the year; she did not collect unemployment compensation (Testimony of Appellant).
5. The appellant had health insurance which met the Commonwealth's minimum creditable coverage standards through employment from January through May. When Appellant was laid off, the appellant lost coverage. Appellant could have obtained COBRA coverage which would have cost \$700 a month. Appellant, being unemployed, did not opt for the coverage (Testimony of the Appellant, Exhibit 2).
6. Appellant had no health insurance from June through December, 2020. She has been assessed a four-month penalty, from September through December. Appellant has appealed the assessment (Exhibits 1 and 2).
7. As of the date of this hearing, Appellant had health insurance through the Connector (Testimony of Appellant).

8. I take administrative notice of the financial information set forth in Tables 1 through 6 in the DOR 2020 Massachusetts Schedule HC Health Care Instructions and Worksheets. Tables 3 and 4 incorporate affordability and premium schedules adopted by the Board of Directors for the Commonwealth Health Insurance Connector Authority for 2020. Table 2 sets forth income at 300% of the Federal poverty level and Tables 5 and 6 set forth tax penalties in effect for 2020.
9. According to Table 3 of Schedule HC for 2020, the appellant with no dependents claimed with an adjusted gross income of \$69,846 could afford to pay \$465 per month for health insurance. According to Table 4, Appellant, 60 years old and living in Norfolk County, could have purchased insurance for \$432 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; or a natural or human-caused event which caused substantial personal damage in 2020 (Testimony of Appellant).
12. Appellant did not fall more than thirty days behind in rent payments in 2020 (Testimony of Appellant).
13. Appellant did not receive any shut-off notices for basic utilities in 2020 (Testimony of Appellant).
14. Appellant became the sole caretaker for her elderly father during the pandemic. Appellant's father suffered from dementia. While Appellant did not have full financial responsibility for her father's care, she did provide financial support to him. She also did not seek employment after she lost her job because of the need to be his caretaker (Testimony of Appellant).
15. Appellant had the following monthly expenses for basic necessities in 2020: rent, heat,-\$1,440; electricity-\$50; telephone and internet-\$100; food, household items, and personal care items-\$860; clothing-\$50; car insurance-\$115; gas-\$110 (Testimony of Appellant).

ANALYSIS AND CONCLUSIONS OF LAW

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

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

Appellant was insured from January through May, 2020. Appellant is entitled to a three-month grace period without penalty after losing coverage. Appellant's penalty for June through August is waived under this provision of Massachusetts General Laws, Chapter 111M, Section 2. The appellant has appealed the four-month penalty for September through December. 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 \$69,846 could afford to pay \$465 per month for health insurance. According to Table 4, Appellant, 60 years old and living in Norfolk County, could have purchased insurance for \$432 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 \$69,846, 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 was unemployed from June through December, 2020. She had no access to health insurance through employment once she was laid off. 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 was laid off from her job mid-May, 2020. She continued to receive her salary through August. From September through December, the months for which she has been assessed a penalty, Appellant had no source of income. She was unemployed and she did not collect unemployment compensation benefits. During these months, she continued to have her usual expenses for basic necessities of \$2,725 a month and took on some financial responsibility for her elderly father who suffered from dementia. During the pandemic, she became the sole caretaker for her father; this stopped her from seeking employment. See the testimony of the appellant which I find to be credible.

Based on the facts noted above, I find that during the pandemic, health insurance was unaffordable for the appellant. Pursuant to 956 CMR 6.08 (1)(e), I determine that if the appellant purchased health insurance, the appellant would have experienced a serious deprivation of basic necessities. Affordable health insurance was not available to the appellant. See also 956 CMR 6,08(3) which allows the consideration of other financial issues raised by the appellant. Appellant became sole caretaker of her ill, elderly parent during the pandemic which stopped her from actively seeking employment. Appellant's penalty is, therefore, waived in its entirety. I also note that Appellant has since obtained health insurance through the Connector. See the testimony of the appellant which I find to be credible.

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

PENALTY ASSESSED

Number of Months Appealed: ___4___ Number of Months Assessed: ___0___

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

NOTIFICATION OF YOUR RIGHT TO APPEAL TO COURT

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

Cc: Connector Appeals Unit

Hearing Officer

Massachusetts Health Connector Appeals Unit

FINAL APPEAL DECISION: PA20961

Appeal Decision: The penalty is overturned in full.

Hearing Issue: Appeal of the 2020 Tax Year Penalty

Hearing Date: December 23, 2021

Decision Date: March 11, 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 December 23, 2021. The procedures to be followed during the hearing were reviewed with Appellant who was then sworn in. Exhibits were marked and admitted in evidence with no objection from the appellant. Appellant testified.

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

- Exhibit 1: Statement of Grounds for Appeal 2020 signed and dated by Appellant on June 14, 2021 with letter in support attached
- Exhibit 2: Appeal Case Information from Schedule HC 2020
- Exhibit 3: Notice of Hearing sent to Appellant dated November 16, 2021 for December 23, 2021 hearing
- Exhibit 4: Letter to Massachusetts Department of Revenue from Appellant's landlord dated June 10, 2020 regarding Appellant's rent arrearages in 2020

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 55 years old in 2020 (Exhibit 2, Testimony of Appellant).
2. Appellant resided in Suffolk County in 2020 (Testimony of Appellant, Exhibit 2).
3. Appellant had a Federal Adjusted Income of \$32,591 in 2020 (Testimony of Appellant, Exhibit 2).
4. Appellant was laid off from his job in December, 2019. The appellant was unemployed all of 2020 (Testimony of Appellant).
5. Appellant collected unemployment compensation benefits during all of 2020, but because of the pandemic, Appellant was unsure during the year whether the benefits would continue and, if they did, how much he would actually be receiving (Testimony of Appellant).
6. Appellant had no health insurance in 2020. He has been assessed a twelve-month tax penalty; he has appealed the assessment. As of May, 2021, Appellant had obtained coverage (Testimony of Appellant, Exhibits 1 and 2).

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

8. According to Table 3 of Schedule HC for 2020, the appellant with no dependents claimed with an adjusted gross income of \$32,591 could afford to pay \$135 per month for health insurance. According to Table 4, Appellant, 55 years old and living in Suffolk County, could have purchased insurance for \$432 per month for a plan for an individual. Insurance on the individual market was unaffordable for the appellant (Schedule HC for 2020 Tables 3 and 4, Exhibit 2).

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

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

11. Appellant fell more than thirty days behind in rent payments in 2020. As of January, 2020, Appellant owed rent for three months. By the end of 2020, Appellant had arrearages of over a month (Testimony of Appellant, Exhibit 4).

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

13. Appellant had the following monthly expenses for basic necessities in 2020: rent- \$1,525; heat, and electricity-\$150 on average; telephone and internet-\$180; food, household items, and personal items-\$490; car insurance-\$100; gas-\$40; clothing-\$20. Appellant had debt and had to pay \$100 a month on the balance. Appellant also spent \$1,300 for car repairs and \$1,450 for dental work (Testimony of Appellant).

ANALYSIS AND CONCLUSIONS OF LAW

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

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

Appellant had no health insurance in 2020. The appellant has been assessed a tax penalty for the year. The appellant appealed the assessment. Exhibits 1, 2.

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

According to Table 3 of Schedule HC for 2020, the appellant with no dependents claimed with an adjusted gross income of \$32,591 could afford to pay \$135 per month for health insurance. According to Table 4, Appellant, 55 years old and living in Suffolk County, could have purchased insurance for \$432 per month for a plan for an individual. Insurance on the individual market was unaffordable for the appellant. See Schedule HC for 2020, Tables 3 and 4, Exhibit 2.

Appellant had no access to health insurance through employment in 2020. He was unemployed the entire year. See the testimony of the appellant which I find to be credible.

Appellant could have had affordable coverage through the ConnectorCare program. The appellant's annual Federal Adjusted Income was \$32,591, less than the income limit for one person (\$37,470). He also had no access to employer-sponsored insurance. See 956 CMR 12.00 et. seq., Exhibit 2, and Table 2 of Schedule HC 2020.

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

In 2020, Appellant fell more than 30 days behind in his rent. As of January, 2020, Appellant was already three months behind in his rent. By the end of the year, he was still more than 30 days behind in his rent. See the testimony of the appellant which I find to be credible and Exhibit 4, a letter from Appellant's landlord. Pursuant to 956 CMR 6.08(1)(a), Appellant had financial hardships such that health insurance was unaffordable for the appellant.

In addition, Appellant was unemployed all year. He received unemployment compensation benefits of about \$2,700 a month. His expenses for basic necessities, debt repayment, car repairs, and dental care came to more than \$2,800 a month. Every month, Appellant ran a deficit. Pursuant to 956 CMR 6.08(1)(e), Appellant had a financial hardship such that health insurance was unaffordable for the appellant. The cost of purchasing health insurance would have caused the appellant to experience a serious deprivation of basic necessities.

Given the financial hardships that Appellant experienced in 2020, 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: PA15-1127

Appeal Decision: Penalty Overturned in Full

Hearing Issue: Appeal of the 2015 Tax Year Penalty

Hearing Date: February 8, 2022

Decision Date: March 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 February 8, 2022, and testified under oath. The hearing record consists of the appellant's testimony and the following documents which were admitted into evidence without his objection:

Ex. 1—Statement of Grounds for Appeal-2015

Ex. 2—Appeal Case Information from Schedule HC ¹

Ex. 3—Notice of Hearing ²

FINDINGS OF FACT

The record shows, and I so find:

1. The appellant is 53-years-old, is single, and does not have children. In 2015, he resided in Berkshire County. He did not have health insurance in 2015. (Testimony, Exs. 1,2)
2. Prior to 2015, the appellant last had health insurance in 2010 through his employer. He was not assessed a penalty for tax years 2011-2014 for failure to obtain health insurance. (Testimony)
3. The appellant was employed in 2015 and had access to employer health insurance. The monthly premium for an individual plan was approximately \$400.00/month which he determined was unaffordable. (Testimony, Ex. 1)

¹ Ex. 2 is a computer printout that extracts information submitted by the appellant on Schedule HC as part of his 2015 Massachusetts income tax return. It also contains information about prior appeals, if any.

² The appellant filed an appeal of the penalty assessed for the 2016 tax year (PA16-806) and it was scheduled to be heard before the instant appeal. Since both appeals share a common set of facts, the appellant agreed to consolidate them and hear them together.

4. Prior to his employment, the appellant owned a business and filed incomplete income tax returns for the 2004-2010 tax years. As a result, in 2010, the Internal Revenue Service (IRS) issued a tax lien in the amount of \$99,189.89 for unpaid taxes and other associated statutory penalties. Beginning in 2011, the IRS required the appellant's employer to garnish his wages in the amount of \$396.32/week. This obligation continued until August 19, 2020 when the lien was released. (Testimony, Ex. 1)
5. In addition to the IRS, the state Department of Revenue also issued a lien for unpaid taxes for the aforementioned time frame, beginning in 2011 and continuing until 2015. The appellant's wages were garnished and his driver's license was revoked until April, 2017. (Testimony, Ex.1)
6. The appellant's take home pay after IRS payments and other deductions was \$198.11/week in 2015. (Testimony)
7. The appellant has been enrolled in employer health insurance since 2021, the first opportunity to afford a monthly premium subsequent to the release of the IRS lien. (Testimony)
8. The appellant reported an adjusted gross income of \$52,112.00 on his 2015 federal tax return, and reported that he was single with no dependents. (Ex. 2)
9. In 2015, the appellant had regular monthly expenses of approximately \$1095.00 for rent (\$375.00), electricity (\$100.00), heat (\$175.00), cell phone (\$45.00), and food (\$400.00). He owned two cars which were repossessed and was on a payment plan with the oil company. (Testimony)

In addition to the foregoing, I take administrative notice of the 2015 Schedule HC Instructions and Worksheets, available at <http://www.mass.gov.dor/docs/dor/health-care/2015>, and in particular, Tables 1-6 which, as discussed below, include the Affordability Schedule and other financial information used in making 2015 individual mandate tax penalty determinations.

ANALYSIS AND CONCLUSIONS OF LAW

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

The appellant submitted a statement of grounds for appeal (Ex. 1) in which he claimed that the individual mandate did not apply to him in 2015 because the cost of purchasing insurance would have caused a serious deprivation of food, shelter, clothing and other necessities. He also submitted a letter with his statement in which he stated in part that the IRS levy was a huge financial burden and he could barely take care of his regular monthly expenses due to the garnishment of his wages, making the purchase of health insurance, even if subsidized, impossible.

The appellant did not have insurance from January through December. According to M.G.L. c. 111M, s. 2, residents are permitted a 63-day gap between periods of coverage without facing a tax penalty; for Tax Year 2015, Administrative Bulletin 03-10: Guidance Regarding M.G.L. c. 111M and M.G.L. c. 176Q, as implemented by 956 CMR 6.00, interprets the 63-day gap in coverage to be three months. As a result, gaps of three months are not subject to penalty. Since the appellant was uninsured for the entire year, he was assessed and is appealing a penalty of twelve months.

The appellant testified credibly that he owned a business and filed incomplete tax returns for the 2004-2010 tax years. He testified that the IRS issued a tax lien of close to \$100,000.00 for unpaid taxes, and beginning in 2011, ordered garnishment of his wages in the amount of \$396.32/week. He testified that the lien was released in August, 2020. He testified that the state DOR also issued a tax lien for the same time period beginning in 2011 and continuing until 2015. He testified that his driver's license was revoked until 2017 and his two cars were repossessed. He testified that he was employed in 2015 and had access to employer health insurance which would have cost approximately \$400.00/month. Finally, he testified that he could barely pay his monthly living expenses during this financial turmoil, and was not able to enroll in health insurance until 2021, after the lien had been lifted.

The first issue to consider is whether the appellant had access to affordable employer health insurance. The appellant testified credibly that the cost of an individual plan through his employer was approximately \$400.00 per month. (No Open Record Request was made to obtain information from the employer about the terms and cost of insurance given the amount of time that has elapsed since 2015.) Pursuant to 26 IRC section 36B and 45 CFR section 155.305(f), applicants are eligible for an Advanced Premium Tax Credit (APTC) if they meet qualifying income levels and other eligibility requirements. Massachusetts residents may also be eligible for additional state premium assistance through the Health Connector's ConnectorCare program if: a) their household income does not exceed 300 percent of the Federal Poverty Level (FPL) and b) they are eligible for an APTC. 956 CMR 12.09(1) An applicant who has access to other qualifying health insurance, including insurance through an employer, will be blocked from eligibility for an APTC if the coverage is affordable and meets minimum value standards, as those terms are defined by the law. See 26 CFR section 1.36B-2(c)(3). Coverage for plan year 2015 is considered to be affordable if the employee's contribution for an individual plan is 9.56 percent or less of the employee's projected household modified adjusted income (MAGI). The coverage is considered to meet minimum value standards if it has an actuarial value of at least 60 percent. (It is not known whether the employer's insurance met minimum value standards.)

In this case, the monthly cost for an individual plan through the appellant's employer was approximately \$400.00. That cost is less than 9.56 percent of the appellant's projected household MAGI for 2015 (i.e., 9.56 percent of \$52,112.00 is \$4982.00 or \$415.16/month).³ Hence, since the employer coverage is less than \$415.15/month, he is considered to have had access to qualifying health insurance, and would have been blocked from eligibility for an APTC or ConnectorCare. See 956 CMR 12.05 and 45 CFR section 155.305 (f)(1)(ii)(B).

The next issue to consider is whether the appellant had access to affordable private insurance. The evidence provided by the appellant established that his income for 2015, \$52,112.00, was greater than 300% of the federal poverty level (FPL), which for 2015 was \$35,010.00 for a single person. Table 3 of the Affordability Schedule indicates that an individual filing separately with no dependents with a federal adjusted gross income greater than between \$46,681.00 is deemed to be able to afford a monthly premium of \$349.58 (8.05% of \$52,112.00/12). Table 4 of the Premium Schedule indicates that a 45-year-old individual (the appellant's age in 2015) in Berkshire County (where the appellant resided in 2015) could have purchased private health insurance for \$252.00 per month, less than the monthly amount deemed affordable from Table 3. Thus, according to the foregoing analysis, the appellant could have purchased affordable private health insurance in 2015.

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

Even though private health insurance and employer health insurance may have been affordable to the appellant under the law, he may nevertheless not be subject to a penalty for failing to get health insurance for the months in question if he can show that he experienced a hardship during 2015. Examples of hardships include being homeless or overdue in rent or mortgage payments, receiving a shut-off notice for utilities, or incurring unexpected increases in basic living expenses due to domestic violence, death of a family member, sudden responsibility for providing care for a family member or fire, flood or natural disaster. In addition, the appellant's tax penalty for 2015 could be waived if he experienced financial circumstances such that the expense of purchasing health insurance would have caused him to experience a serious deprivation of food, shelter, clothing or other necessities. See 956 CMR 6.08.

The evidence presented by the appellant in this case is sufficient to establish that he experienced a financial hardship as defined by law so as to waive his penalty for the months in question. The appellant testified that in 2015, he incurred basic monthly expenses of approximately \$2680.00, including the monthly payment of \$1585.00 which was garnished by the IRS. Although those expenses were less than his regular monthly pre-tax income of approximately \$4343.00, the difference between income and expenses of \$1663.00 was an inadequate cushion to cover a monthly premium of \$252.00 for private health insurance or \$400.00 for employer health insurance, particularly in light of unforeseen expenses which inevitably arise. Moreover, the appellant's expenses do not include his payments to the DOR, which means that he even had less of a safety net between income and expenses. Thus, it is concluded that the totality of the evidence presented by the appellant established that he experienced financial circumstances such that the expense of purchasing health insurance that met minimum creditable coverage standards would have caused him to experience a serious deprivation of food, shelter, clothing or other necessities. See 956 CMR 6.08 (1)(e).

Based on the foregoing, it is concluded that the appellant's request for a waiver from the penalty is **granted** for the months in question. The determination that the appellant is eligible for a hardship waiver is with respect to 2015, only and is based upon the extent of information submitted by him in this appeal.

PENALTY ASSESSED

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

The Connector has notified the Department of Revenue that, pursuant to its decision, you should be assessed a penalty for Tax Year 2015 for the amount equal to one half of the lowest cost health insurance plan available to you for each month you have been assessed the penalty, as listed above, plus applicable interest back to the due date of the return without regard to extension.

If the number of months assessed is zero (0) because your penalty has been overturned, the Connector has notified the Department of Revenue that you should NOT be assessed a penalty for Tax Year 2015.

NOTIFICATION OF YOUR RIGHT TO APPEAL TO COURT

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

Hearing Officer

Cc: Connector Appeals Unit

Massachusetts Health Connector Appeals Unit

FINAL APPEAL DECISION: PA18-1160

Appeal Decision: Penalty Overturned in Full

Hearing Issue: Appeal of the 2018 Tax Year Penalty

Hearing Date: February 8, 2022

Decision Date: March 12, 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 February 8, 2022, and testified under oath. The hearing record consists of the appellant's testimony and the following documents which were admitted into evidence without her objection:

- Ex. 1—Statement of Grounds for Appeal—2018
- Ex. 2—Letter from the appellant dated February 5, 2022
- Ex. 3—Appeal Case Information from Schedule HC ¹
- Ex. 4—Notice of Hearing dated January 13, 2021
- Ex. 5—Hearing Record Sheet dated February 11, 2021
- Ex. 6—Health Connector record of dismissal of appeal dated February 12, 2021
- Ex. 7—Request to vacate dismissal dated June 22, 2021
- Ex. 8—Notice of Hearing dated October 26, 2021
- Ex. 9—Notice of Hearing dated January 18, 2022

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

- Ex. 10—Letter from the appellant dated February 15, 2022

FINDINGS OF FACT

The record shows, and I so find:

¹ Ex. 2 is a computer printout that extracts information submitted by the appellant on Schedule HC as part of her 2018 Massachusetts income tax return. It also contains information about prior appeals, if any.

1. The appellant is 61-years-old, is single, and does not have children. In 2018, she resided in Norfolk County. She had minimum creditable coverage (MCC) health insurance in January, 2018. (Testimony, Exs. 2,3)
2. The appellant had health insurance with MassHealth in January, 2018. From February through October, 2018, she was employed as a home health aide on a per diem basis and did not have access to employer health insurance. She did not investigate insurance options through the Health Connector because she did not believe that she would have been eligible for subsidies. The appellant stopped working as an aide at the end of October and enrolled in insurance with MassHealth for the months of November and December, 2018. Her enrollment with MassHealth has continued to date. (Testimony, Ex. 10)
3. The appellant received a 2018 Form 1095-A which indicated that she only had MCC health insurance for the month of January. Prior to the hearing, she spoke with a customer service representative at MassHealth and was told that she had coverage for the months of November and December. The hearing was left open for submission of a 1095-A showing coverage for those months. The appellant submitted a letter in which she stated in part that she again spoke with a MassHealth representative and was advised that she was covered for the months in question. She was further advised that a data entry error caused the mistake in her coverage and that MassHealth could not provide an amended form. (Testimony, Exs. 2, 10)
4. The appellant lived with her parents in 2018 and paid them approximately \$230.00/month for living expenses. She replaced her car transmission twice which cost \$700.00 and had to buy a new set of tires for \$700.00. (Testimony)
5. The appellant reported an adjusted gross income of \$25,214.00 on her 2018 federal tax return, and reported that she was single with no dependents. (Ex. 3)
6. In 2018, the appellant had regular monthly expenses of approximately \$1136 .00 for rent which included rooming, heat and electricity (\$230.00), cell phone (\$26.00), automobile insurance (\$500.00), food (\$220.00), and gasoline (\$160.00). In addition, she paid approximately \$1300.00/month towards her credit card debt. (Testimony)

In addition to the foregoing, I take administrative notice of the 2018 Schedule HC Instructions and Worksheets, available at <http://www.mass.gov.dor/docs/dor/health-care/2018>, and in particular, Tables 1-6 which, as discussed below, include the Affordability Schedule and other financial information used in making 2018 individual mandate tax penalty determinations.

ANALYSIS AND CONCLUSIONS OF LAW

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

The appellant submitted a statement of grounds for appeal (Ex. 1), claiming that the individual mandate did not apply to her during 2018 because the cost of purchasing health insurance would have caused a serious deprivation of food, shelter, clothing or other necessities. She also submitted a letter with her statement in which she stated in part that her net pay was \$455.00/week and she could not have afforded a monthly premium of approximately \$560.00/month for health insurance.

The appellant did not have insurance from February through October. According to M.G.L. c. 111M, s. 2, residents are permitted a 63-day gap between periods of coverage without facing a tax penalty; for Tax Year 2018, Administrative Bulletin 03-10: Guidance Regarding M.G.L. c. 111M and M.G.L. c. 176Q, as implemented by 956 CMR 6.00, interprets the 63-day gap in coverage to be three months. As a result, gaps of three months are not subject to penalty. Since the appellant was uninsured nine months, she is appealing a penalty of six months (i.e., the months of uninsurance less the gap period of three months).²

The appellant testified credibly that she was enrolled in MassHealth in January, November and December. She testified that she worked on a per diem basis from February through October and did not have access to employer health insurance. She testified that she did not investigate her eligibility for health insurance during those months because she did not believe that she would have been eligible for subsidies. Finally, she testified that she has been enrolled with MassHealth from 2019 to the present.

The evidence provided by the appellant established that her income for 2018, \$25,214.00, was less than 300% of the federal poverty level (FPL), which for 2018 was \$36,180.00 for a single person. Table 3 of the Affordability Schedule indicates that an individual filing separately with no dependents with a federal adjusted gross income between \$24,121.00 and \$30,150.00 is deemed to be able to afford a monthly premium of \$88.25 (4.20% of \$25,214.00/12). Table 4 of the Premium Schedule indicates that a 57-year-old individual (the appellant's age in 2018) in Norfolk County (where the appellant resided in 2018) could have purchased private health insurance for \$423.00 per month, more than the monthly amount deemed affordable from Table 3. Thus, according to the foregoing analysis, the appellant could not have purchased affordable private health insurance in 2018.

Since the appellant's income was within 300% of the FPL, the appellant should have qualified for subsidized health insurance through the Health Connector, assuming she met all other eligibility criteria, and for which she would have been subject to a subsidized premium of approximately \$88.25 per month, pursuant to the aforementioned Affordability Schedule in Table 3.

Even though subsidized health insurance may have been affordable to the appellant under the law, she may nevertheless not be subject to a penalty for failing to get health insurance for the months in question if she can show that she experienced a hardship during 2018. Examples of hardships include being homeless or overdue in rent or mortgage payments, receiving a shut-off notice for utilities, or incurring unexpected increases in basic living expenses due to domestic violence, death of a family member, sudden responsibility for providing care for a family member or fire, flood or natural disaster. In addition, the appellant's tax penalty for 2018 could be waived if she experienced financial circumstances such that the expense of purchasing health insurance would have caused her to experience a serious deprivation of food, shelter, clothing or other necessities. See 956 CMR 6.08.

The evidence presented by the appellant in this case is sufficient to establish that she experienced a financial hardship as defined by law so as to waive her penalty for the months in question. The appellant testified that in 2018, she incurred basic monthly expenses of approximately \$2436.00, including credit card debt. Those expenses were more than her regular monthly pre-tax income of approximately \$2101.00, thereby making a subsidized insurance premium of \$88.25 beyond reach. Thus, it is concluded that the totality of the evidence presented by the appellant established that she experienced financial circumstances such that the expense of

² Since the appellant's testimony regarding coverage with MassHealth for the months of November and December is deemed to be credible, it is concluded that she was insured for three months and therefore should only be assessed a penalty for six months instead of eight.

purchasing health insurance that met minimum creditable coverage standards would have caused her to experience a serious deprivation of food, shelter, clothing or other necessities. See 956 CMR 6.08 (1)(e).

Based on the foregoing, it is concluded that the appellant did not have access to employer health insurance and could not have afforded subsidized or private insurance during 2018. As such, her request for a waiver from the penalty is **granted** for the months in question. The determination that the appellant is eligible for a hardship waiver is with respect to 2018, only and is based upon the extent of information submitted by her in this appeal.

PENALTY ASSESSED

Number of Months Appealed: 6

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 2018 for the amount equal to one half of the lowest cost health insurance plan available to you for each month you have been assessed the penalty, as listed above, plus applicable interest back to the due date of the return without regard to extension.

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

NOTIFICATION OF YOUR RIGHT TO APPEAL TO COURT

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

Hearing Officer

Cc: Connector Appeals Unit

Massachusetts Health Connector Appeals Unit

FINAL APPEAL DECISION: PA18-1183

Appeal Decision: Penalty Overturned in Full
Hearing Issue: Appeal of the 2018 Tax Year Penalty
Hearing Date: February 4, 2022
Decision Date: March 8, 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 February 4, 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 August 6, 2021
- Exhibit 3: Correspondence from Health Connector dated January 11, 2022

FINDINGS OF FACT

The record shows, and I so find:

1. Appellant was 34 years old in 2018. Appellant filed a Massachusetts 2018 tax return as single with no dependents claimed (Exhibit 1).
2. Appellant resided in Suffolk County, MA in 2018 (Exhibit 1 and Testimony of Appellant).
3. Appellant had an Adjusted gross income of \$18,213 for 2018 (Exhibit 1 and Testimony of Appellant).
4. Appellant was covered by employer sponsored health insurance from January through June 2018 (Exhibit 1 and Testimony of Appellant).
5. Appellant was uninsured from July through December in 2018 (Exhibit 2).
6. Appellant's job was for ten months per year (Testimony of Appellant).
7. Appellant was unaware that it was necessary to make specific plans for continuing coverage for the two months that Appellant was not working (Testimony of Appellant).
8. Appellant was not aware that the health insurance coverage had lapsed until Appellant had a doctor's appointment and was informed that there was no coverage (Testimony of Appellant).
9. Appellant was unable to re-enroll in insurance until 2019 (Testimony of Appellant).
10. Appellant was struggling with medical issues at the time that it was necessary to make specific plans for continuing coverage for 2018 (Exhibit 2 and Testimony of Appellant).

11. Appellant has been in the same job since 2018 and has been covered by employer sponsored health insurance for 2019 through to the present (Testimony of Appellant).
12. Appellant did not have health insurance for six months of 2018 (Testimony of Appellant and Exhibit 1).
13. Appellant has been assessed a penalty for three months for 2018 (Exhibit 2).
14. Appellant filed an appeal on August 6, 2021 (Exhibit 2).

ANALYSIS AND CONCLUSIONS OF LAW

G.L.c. 111M, § 2, also called the “individual mandate,” requires every adult resident of Massachusetts to obtain health insurance that meets minimum creditable coverage standards “[s]o long as it is deemed affordable” under the schedule set by the board of directors for the Commonwealth Health Insurance Connector Authority. Residents who do not obtain insurance or who do not obtain insurance that meets the minimum creditable coverage standard are subject to a tax penalty for “each of the months” that the individual did not have health insurance as required by the individual mandate. There is a three-month grace period to allow the taxpayer to obtain health insurance coverage or to make the transition between health insurance policies. See G. L. c. 111M, sec. 2(b) and for Tax Year 2018, Administrative Bulletin 03-10: Guidance Regarding M.G.L. c. 111M and M.G.L. c. 176Q, as implemented by 956 CMR 6.00, which interprets the 63-day gap in coverage to be three months. The Connector’s regulations provide for a waiver of the tax penalty in the case of a financial hardship. See 956 CMR 6.08.

Appellant has been assessed a tax penalty for three months. Appellant was properly insured for January through June of 2018. Appellant’s failure to have health insurance for July through December 2018 was due to not being aware of the procedure to ensure that Appellant would be insured during the two months of the year that Appellant did not work. Appellant was struggling with medical issues at the time that it was necessary to make plans for coverage. Appellant did not know that the insurance had lapsed until Appellant had a doctor’s appointment and it was then too late to re-enroll.

I find the penalty assessed against Appellant for 2018 should be waived in its entirety.

PENALTY ASSESSED

Number of Months Appealed: 3

Number of Months Assessed: 0

The Connector has notified the Department of Revenue that, pursuant to its decision, you should be assessed a penalty for Tax Year 2018 for the amount equal to one half of the lowest cost health insurance plan available to you for each month you have been assessed the penalty, as listed above, plus applicable interest back to the due date of the return without regard to extension.

OR

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

NOTIFICATION OF YOUR RIGHT TO APPEAL TO COURT

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

Massachusetts Health Connector Appeals Unit

FINAL APPEAL DECISION: PA20-1086

Appeal Decision: Penalty Overturned in Full
Hearing Issue: Appeal of the 2018 Tax Year Penalty
Hearing Date: February 4, 2022
Decision Date: March 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

Appellant appeared at the hearing, which was held by telephone, on February 4, 2022. Appellant also appeared for Appellant Spouse. The procedures to be followed during the hearing were reviewed with Appellant. Appellant was sworn in. Exhibits were marked and admitted in evidence with no objection from Appellant. Appellant testified.

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

- Exhibit 1: Schedule HC for Healthcare from DOR
- Exhibit 2: Notice of Appeal, dated November 8, 2021
- Exhibit 3: Correspondence from Health Connector, dated January 11, 2022

FINDINGS OF FACT

The record shows, and I so find:

1. Appellants were 52 and 49 years old in 2018 and resided in Suffolk County (Exhibit 1).
2. Appellants filed a Massachusetts 2018 tax return as married filing jointly, with one dependent claimed (Exhibit 1).
3. Appellants had an Adjusted Gross Income for 2018 of \$47,089 (Exhibit 1).
4. In 2016, there was a major fire at the multi-family home owned by the Appellants (Exhibit 2 and Testimony of Appellant).
5. It took several years to rebuild the building (Exhibit 2 and Testimony of Appellant).
6. Appellant is self-employed and had limited income during 2018 (Testimony of Appellant).
7. Appellants had to rent an apartment and had many expenses as a result of the fire (Testimony of Appellant).
8. Appellants struggled financially during 2018 (Testimony of Appellant).
9. 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.

10. According to Table 3 of Schedule HC for 2018 a couple filing as married filing jointly with one dependent claimed with an adjusted gross income of \$47,089 could afford to pay \$194 per month for private insurance. According to Table 4, Appellants, who were 49 and 52 years old with one dependent and lived in Suffolk county could have purchased private insurance for a cost of \$865 per month.
11. Private insurance was not considered affordable for Appellants in 2018 (Schedule HC for 2018).
12. Appellants, earning less than \$61,260 would have been income eligible for government subsidized health insurance (Schedule HC for 2018).
13. Appellants did not have health insurance for twelve months of 2018 (Exhibit 1 and Testimony of Appellant).
14. Appellants have each been assessed a penalty for twelve months for 2018 (Exhibit 1).
15. Appellant filed a hardship Appeal on November 8, 2021 (Exhibit 2).

ANALYSIS AND CONCLUSIONS OF LAW

G.L c. 111M, § 2, also called the “individual mandate,” requires every adult resident of Massachusetts to obtain health insurance that meets minimum creditable coverage standards “[s]o long as it is deemed affordable” under the schedule set by the board of directors for the Commonwealth Health Insurance Connector Authority. Residents who do not obtain insurance or who do not obtain insurance that meets the minimum creditable coverage standard are subject to a tax penalty for “each of the months” that the individual did not have health insurance as required by the individual mandate. There is a three-month grace period to allow the taxpayer to obtain health insurance coverage or to make the transition between health insurance policies. See G. L. c. 111M, sec. 2(b) and for Tax Year 2018, Administrative Bulletin 03-10: Guidance Regarding M.G.L. c. 111M and M.G.L. c. 176Q, as implemented by 956 CMR 6.00, which interprets the 63-day gap in coverage to be three months. The Connector’s regulations provide for a waiver of the tax penalty in the case of a financial hardship. See 956 CMR 6.08.

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

Appellants were income eligible for subsidized health insurance, so we must consider whether the purchase of insurance would have caused Appellants to experience deprivation of basic necessities. Appellants had a fire in their home and they were unable to move back into the home for several years. Appellant was self-employed and unable to work full time in 2018. Appellants incurred a significant increase in essential expenses resulting directly from the consequences of the fire, so that health insurance was not affordable to Appellants. See Schedule HC for 2018, 956 CMR 6.08 (1)(d)(4), Exhibits 1, 2 and Testimony of Appellant, which I find to be credible.

I find that the penalty assessed against Appellants for 2018 should be waived in its entirety.

PENALTY ASSESSED

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

The Connector has notified the Department of Revenue that, pursuant to its decision, you should be assessed a penalty for Tax Year 2018 for the amount equal to one half of the lowest cost health insurance plan available to you for each month you have been assessed the penalty, as listed above, plus applicable interest back to the due date of the return without regard to extension.

OR

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

NOTIFICATION OF YOUR RIGHT TO APPEAL TO COURT

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

Massachusetts Health Connector Appeals Unit

FINAL APPEAL DECISION: PA19-1159

Appeal Decision Appeal Approved.

Hearing Issue: Appeal of the 2019 Tax Year Penalty

Hearing Date: January 25, 2022

Decision Date: March 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 RECORD

Appellant appeared at the hearing, which was held by telephone, on January 25, 2022. The record was left open for the Appellant to submit additional documents which were submitted. 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 (1-4-22) (2 pages);
- Exhibit 2: Information from Schedule HC TY 2019 (1 page);
- Exhibit 3: Statement of Grounds for Appeal (3-4-21) (with letter and documents) (8 pages); and
- Exhibit 4: Additional documents submitted by Appellant pursuant to open record.

FINDINGS OF FACT

The record shows, and I so find:

1. Appellants, ages 58 and 57 during 2019, from Barnstable County, filed married filing jointly on the tax return with a family size of 3. (Exhibit 2).
2. Appellants had health insurance for all of 2019, but the insurance for January through June of 2019 did not meet minimum creditable coverage. The insurance was through the employer and Appellants were not aware it did not meet minimum creditable coverage. (Appellant's testimony, Exhibits 2, 3).
3. Appellants' Federal Adjusted Gross Income for 2019 was \$234,740.00 (Exhibit 2).

4. Appellants submitted the plan documents from the employer and it appeared to cover a substantial amount of the required coverage. (Exhibit 4).
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. Appellants could afford health insurance based on the tables in Schedule HC. According to Table 4, the health insurance would cost \$992.00 for coverage. According to Table 3, Appellants were deemed to afford \$1,565.00.
7. Private insurance was affordable for the Appellants in 2019. (Schedule HC for 2019).
8. Appellant's AGI was over 300% of the Federal Poverty Level, and Appellants therefore would not have qualified for subsidized health insurance through the Health Connector. (Schedule HC for 2019).
9. Appellants claimed that they should be granted a waiver based on the grounds that the insurance was what was available through the employer and it substantially met minimum creditable coverage. (Testimony of Appellant, Exhibit 3).
10. Appellants did not incur significant and unexpected increases in essential expenses as a result of domestic violence; due to the death of a spouse, family member, or partner who shared household expenses; the sudden responsibility for providing full care for an aging parent or other family member. Appellants did not incur additional expenses as a result of a fire, flood, or other natural or man-made disaster in 2019 (Exhibit 3).
11. Appellants were not homeless, were not thirty days or more behind in rent in 2019, and Appellants did not receive a shut-off notice for basic utilities. (Appellant's Testimony, Exhibit 3).

ANALYSIS AND CONCLUSIONS OF LAW

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

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

Appellants did have health insurance for all of 2019, but the insurance for January through June did not meet minimum creditable coverage. They have been assessed a tax penalty for three months. Appellants appealed the assessment. See Exhibits 2, and 3. To determine if the penalty should be

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

Private insurance was affordable for the Appellants during 2019. According to Tables 3 and 4 of the HC Schedule for 2019, Appellants, with an adjusted gross income of \$234,740.00 were deemed to have been able to afford health insurance on the private market. According to Table 3, Appellants could have afforded to pay \$1,565.00 per month; according to Table 4, Appellants, who were 58 and 57 years old in 2019, from Barnstable County, and filed the 2019 Massachusetts taxes as married filing jointly with a family size of 3, would have had to pay \$992.00 for coverage per month for family insurance on the private market. See CMR 6.05 (1)(2), Schedule HC Tables 3 and 4, and Exhibit 2.

With regard to the hardship waiver of the penalty, Appellants claimed that the health insurance that was available to them through the employer substantially met minimum creditable coverage, and that they were not aware it did not fully meet minimum creditable coverage. For these reasons, the waiver of the penalty is approved.

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

PENALTY ASSESSED

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

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

NOTIFICATION OF YOUR RIGHT TO APPEAL TO COURT

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

Hearing Officer

Cc: Connector Appeals Unit

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

Massachusetts Health Connector Appeals Unit

FINAL APPEAL DECISION: PA19-1160

Appeal Decision Appeal Approved.

Hearing Issue: Appeal of the 2019 Tax Year Penalty

Hearing Date: January 25, 2022

Decision Date: March 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 RECORD

Appellant appeared at the hearing, which was held by telephone, on January 25, 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 (1-4-22) (2 pages);
- Exhibit 2: Information from Schedule HC TY 2019 (1 page); and
- Exhibit 3: Statement of Grounds for Appeal (3-8-21) (with letter and documents) (26 pages).

FINDINGS OF FACT

The record shows, and I so find:

1. Appellant, age 25 during 2019, from Middlesex County, filed single on the tax return with a family size of 1. (Exhibit 2).
2. Appellant did not have health insurance for 2019. (Appellant's testimony, Exhibits 2, 3).
3. Appellant's Federal Adjusted Gross Income for 2019 was \$25,519.00 (Exhibit 2).
4. Appellant had health insurance through the college where Appellant did graduate studies, and did realize that when they graduated in January 2019 that the health insurance ended. (Appellant's testimony, Exhibit 2).
5. Appellant's expenses for food, shelter, clothing, and other necessities used all of the income. Appellant's expenses totaled approximately \$3,285.00 per month or \$39,420.00 per year.
6. Appellant did obtain health insurance as of January 2020. (Appellant's Testimony, Exhibit 3).

7. I take administrative notice of the financial information set forth in Tables 1 through 6 in the DOR 2019 Massachusetts Schedule HC Health Care Instructions and Worksheets. Tables 3 and 4 incorporate affordability and premium schedules adopted by the Board of Directors for the Commonwealth Health Insurance Connector Authority for 2019. Table 2 sets forth income at 300% of the Federal poverty level and Tables 5 and 6 set forth tax penalties in effect for 2019.
8. Appellant could not afford health insurance based on the tables in Schedule HC. According to Table 4, the health insurance would cost \$257.00 for coverage. According to Table 3, Appellant was deemed to afford \$89.00.
9. Private insurance was not affordable for the Appellant in 2019. (Schedule HC for 2019).
10. Appellant's AGI was under 300% of the Federal Poverty Level, and Appellant therefore may have qualified for subsidized health insurance through the Health Connector. (Schedule HC for 2019).
11. Appellant claimed that they should be granted a waiver based on the grounds that they were behind in rent, and that paying for health insurance would have caused a serious deprivation of food, shelter, clothing and other necessities. (Testimony of Appellant, Exhibit 3).
12. Appellant did not incur significant and unexpected increases in essential expenses as a result of domestic violence; due to the death of a spouse, family member, or partner who shared household expenses; the sudden responsibility for providing full care for an aging parent or other family member. Appellant did not incur additional expenses as a result of a fire, flood, or other natural or man-made disaster in 2019 (Exhibit 3).
13. Appellant was not homeless, but was thirty days or more behind in rent in 2019, and Appellant did not receive a shut-off notice for basic utilities. (Appellant's Testimony, Exhibit 3).

ANALYSIS AND CONCLUSIONS OF LAW

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

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

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

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

Private insurance was not affordable for the Appellant during 2019. According to Tables 3 and 4 of the HC Schedule for 2019, Appellant, with an adjusted gross income of \$25,519.00 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 \$89.00 per month; according to Table 4, Appellant, who was 25 years old in 2019, from Middlesex County, and filed the 2019 Massachusetts taxes as single with a family size of 1, would have had to pay \$257.00 for coverage per month for family insurance on the private market. See CMR 6.05 (1)(2), Schedule HC Tables 3 and 4, and Exhibit 2.

With regard to the hardship waiver of the penalty, Appellant claimed that they were behind in rent, and that paying for health insurance would have caused a serious deprivation of food, shelter, clothing and other necessities. Appellant's expenses for necessities used all of the income. Appellant did obtain health insurance for 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 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: PA19-1164

Appeal Decision Appeal Approved.

Hearing Issue: Appeal of the 2019 Tax Year Penalty

Hearing Date: January 25, 2022

Decision Date: March 31, 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 January 25, 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 (1-4-22) (2 pages);
- Exhibit 2: Information from Schedule HC TY 2019 (1 page);
- Exhibit 3: Statement of Grounds for Appeal (4-7-21) (with letter and documents) (44 pages); and
- Exhibit 4: Final Appeal Decision TY 2018 (11-12-19) (4 pages).

FINDINGS OF FACT

The record shows, and I so find:

1. Appellant, age 37 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 January through October of 2019, but did have health insurance for November and December 2019. (Appellant's testimony, Exhibits 2, 3).
3. Appellant's Federal Adjusted Gross Income for 2019 was \$45,353.00. (Exhibit 2).
4. Appellant's employer did not offer health insurance until one year after employment, and Appellant did not believe it was affordable once Appellant was eligible. (Appellant's testimony, Exhibit 2).

5. Appellant's expenses for food, shelter, clothing, and other necessities used most of the income. Appellant's expenses totaled approximately \$3,284.00 per month or \$39,408.00 per year.
6. Appellant did obtain health insurance as of November 2019. (Appellant's Testimony, Exhibit 3).
7. I take administrative notice of the financial information set forth in Tables 1 through 6 in the DOR 2019 Massachusetts Schedule HC Health Care Instructions and Worksheets. Tables 3 and 4 incorporate affordability and premium schedules adopted by the Board of Directors for the Commonwealth Health Insurance Connector Authority for 2019. Table 2 sets forth income at 300% of the Federal poverty level and Tables 5 and 6 set forth tax penalties in effect for 2019.
8. Appellant could afford health insurance based on the tables in Schedule HC, but only barely. According to Table 4, the health insurance would cost \$286.00 for coverage. According to Table 3, Appellant was deemed to afford \$287.00.
9. Private insurance was affordable for the Appellant in 2019. (Schedule HC for 2019).
10. Appellant's AGI was over 300% of the Federal Poverty Level, and Appellant therefore would not have qualified for subsidized health insurance through the Health Connector. (Schedule HC for 2019).
11. Appellant claimed that they should be granted a waiver based on the grounds that paying for health insurance would have caused a serious deprivation of food, shelter, clothing and other necessities. (Testimony of Appellant, Exhibit 3).
12. Appellant did not incur significant and unexpected increases in essential expenses as a result of domestic violence; due to the death of a spouse, family member, or partner who shared household expenses; the sudden responsibility for providing full care for an aging parent or other family member. Appellant did not incur additional expenses as a result of a fire, flood, or other natural or man-made disaster in 2019 (Exhibit 3).
13. Appellant was not homeless, was not thirty days or more behind in rent in 2019, and Appellant did not receive a shut-off notice for basic utilities. (Appellant's Testimony, Exhibit 3).

ANALYSIS AND CONCLUSIONS OF LAW

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

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

Appellant did have health insurance for November and December of 2019, but did not have health insurance for the remaining months of 2019. They have been assessed a tax penalty for seven months.

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

Private insurance was just barely 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 \$45,353.00 was deemed to have been able to afford health insurance on the private market. According to Table 3, Appellant could have afforded to pay \$287.00 per month; according to Table 4, Appellant, who was 37 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 \$286.00 for coverage per month for family insurance on the private market. See CMR 6.05 (1)(2), Schedule HC Tables 3 and 4, and Exhibit 2.

With regard to the hardship waiver of the penalty, Appellant claimed that paying for health insurance would have caused a serious deprivation of food, shelter, clothing and other necessities. Appellant's expenses for necessities used most of the income. Appellant did obtain health insurance for November and December 2019 and still has that insurance. For these reasons, the waiver of the penalty is approved.

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

PENALTY ASSESSED

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

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

NOTIFICATION OF YOUR RIGHT TO APPEAL TO COURT

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

Hearing Officer

Cc: Connector Appeals Unit

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

Massachusetts Health Connector Appeals Unit

FINAL APPEAL DECISION: PA19-1165

Appeal Decision Appeal Approved.

Hearing Issue: Appeal of the 2019 Tax Year Penalty

Hearing Date: January 25, 2022

Decision Date: March 31, 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 January 25, 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 (1-4-22) (2 pages);
- Exhibit 2: Information from Schedule HC TY 2019 (1 page); and
- Exhibit 3: Statement of Grounds for Appeal (3-29-21) (with letter and documents) (5 pages).

FINDINGS OF FACT

The record shows, and I so find:

1. Appellant, age 57 during 2019, from Bristol County, filed head of household on the tax return with a family size of 2. (Exhibit 2).
2. Appellant did not have health insurance for January through September of 2019, but did have health insurance for October through December 2019. (Appellant's testimony, Exhibits 2, 3).
3. Appellant's Federal Adjusted Gross Income for 2019 was \$27,710.00. (Exhibit 2).
4. Appellant's employer did offer health insurance, but Appellant did not believe it was affordable. (Appellant's testimony, Exhibit 2).
5. Appellant's expenses for food, shelter, clothing, and other necessities used all of the income. Appellant's expenses totaled approximately \$2,475.00 per month or \$29,700.00 per year.
6. Appellant did obtain health insurance as of October of 2019. (Appellant's Testimony, Exhibit 3).

7. I take administrative notice of the financial information set forth in Tables 1 through 6 in the DOR 2019 Massachusetts Schedule HC Health Care Instructions and Worksheets. Tables 3 and 4 incorporate affordability and premium schedules adopted by the Board of Directors for the Commonwealth Health Insurance Connector Authority for 2019. Table 2 sets forth income at 300% of the Federal poverty level and Tables 5 and 6 set forth tax penalties in effect for 2019.
8. Appellant could not afford health insurance based on the tables in Schedule HC. According to Table 4, the health insurance would cost \$968.00 for coverage. According to Table 3, Appellant was deemed to afford \$0.00.
9. Private insurance was not affordable for the Appellant in 2019. (Schedule HC for 2019).
10. Appellant's AGI was under 300% of the Federal Poverty Level, and Appellant therefore may have qualified for subsidized health insurance through the Health Connector. (Schedule HC for 2019).
11. Appellant claimed that they should be granted a waiver based on the grounds that paying for health insurance would have caused a serious deprivation of food, shelter, clothing and other necessities. (Testimony of Appellant, Exhibit 3).
12. Appellant did not incur significant and unexpected increases in essential expenses as a result of domestic violence; due to the death of a spouse, family member, or partner who shared household expenses; the sudden responsibility for providing full care for an aging parent or other family member. Appellant did not incur additional expenses as a result of a fire, flood, or other natural or man-made disaster in 2019 (Exhibit 3).
13. Appellant was not homeless, was not thirty days or more behind in rent in 2019, and Appellant did not receive a shut-off notice for basic utilities. (Appellant's Testimony, Exhibit 3).

ANALYSIS AND CONCLUSIONS OF LAW

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

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

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

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

Private insurance was not affordable for the Appellant during 2019. According to Tables 3 and 4 of the HC Schedule for 2019, Appellant, with an adjusted gross income of \$27,710.00 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 \$0.00 per month; according to Table 4, Appellant, who was 57 years old in 2019, from Bristol County, and filed the 2019 Massachusetts taxes as head of household with a family size of 2, would have had to pay \$968.00 for coverage per month for family insurance on the private market. See CMR 6.05 (1)(2), Schedule HC Tables 3 and 4, and Exhibit 2.

With regard to the hardship waiver of the penalty, Appellant claimed that paying for health insurance would have caused a serious deprivation of food, shelter, clothing and other necessities. Appellant's expenses for necessities used all of the income. Appellant did obtain health insurance for October through December 2019 and still has that insurance. For these reasons, the waiver of the penalty is approved.

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

PENALTY ASSESSED

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

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

NOTIFICATION OF YOUR RIGHT TO APPEAL TO COURT

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

Hearing Officer

Cc: Connector Appeals Unit

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

Massachusetts Health Connector Appeals Unit

FINAL APPEAL DECISION: PA201002

Appeal Decision: The penalty is overturned in full.

Hearing Issue: Appeal of the 2020 Tax Year Penalty

Hearing Date: December 20, 2021

Decision Date: February 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

The appellant appeared at the hearing which was held by telephone on December 20, 2021. The procedures to be followed during the hearing were reviewed with Appellant who was then sworn in. Exhibits were marked and admitted in evidence with no objection from the appellant. Appellant testified.

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

- Exhibit 1: Statement of Grounds for Appeal 2020 signed and dated by Appellant on June 15, 2021 with letter in support attached
- Exhibit 2: Appeal Case Information from Schedule HC 2020
- Exhibit 3: Notice of Hearing sent to Appellant dated November 23, 2021 for December 20, 2021 hearing
- Exhibit 4: Eversource Final Termination Notice dated January 7, 2020 sent to Appellant

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 56 years old in 2020 (Exhibit 2, Testimony of Appellant).
2. Appellant resided in Middlesex County in 2020 (Testimony of Appellant, Exhibit 2).
3. Appellant had a Federal Adjusted Income of \$24,283 in 2020 (Testimony of Appellant, Exhibit 2).
4. Appellant was employed until August, 2018 when she had to leave her job because of medical issues within her family. Appellant has been unemployed since she left her job. Appellant did not receive any unemployment compensation after she stopped working. All of her income for 2020 came from a withdrawal from her 401k (Testimony of Appellant).
5. In 2019 and through February, 2020, Appellant had health insurance through COBRA. Her COBRA coverage ended at the end of February. Appellant was uninsured the rest of 2020. Appellant was assessed a tax penalty of seven months for 2020. Appellant appealed this assessment. As of the date of this hearing, Appellant had coverage

through the Connector. This coverage cost the appellant approximately \$700 a month (Testimony of Appellant, Exhibits 1, 2).

6. Appellant did not apply for health insurance coverage through the Connector because she assumed that she would not be eligible for any financial assistance paying for the premium (Testimony of Appellant).

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

8. According to Table 3 of Schedule HC for 2020, the appellant with no dependents claimed with an adjusted gross income of \$24,283 could afford to pay \$58 per month for health insurance. According to Table 4, Appellant, 56 years old and living in Middlesex County, could have purchased insurance for \$432 per month for a plan for an individual. Insurance on the individual market was unaffordable for the appellant (Schedule HC for 2020 Tables 3 and 4, Exhibit 2).

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

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

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

12. Appellant received a final termination notice for electricity in 2020 (Testimony of Appellant, Exhibit 4).

13. Appellant had the following monthly expenses for basic necessities in 2020: mortgage, property taxes, and home owners insurance- \$2,667; heat, and electricity-\$450; telephone and internet-\$100; food, household items, and personal items-\$500; car insurance-\$85; gas-\$170; clothing-\$90. The appellant also paid \$2,250 during the year for car and home repairs (Testimony of Appellant).

ANALYSIS AND CONCLUSIONS OF LAW

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

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

of the tax penalty in the case of a financial hardship. See 956 CMR 6.08. Pursuant to 45 CFR 155.305(f), an individual is not eligible for an advance premium tax credit if the individual has access to affordable health insurance which meets minimum essential coverage as defined in the Patient Protection and Affordable Care Act.

Appellant had health insurance in January and February, 2020. The appellant has been assessed a tax penalty for seven months, June through December. Appellant was not assessed a penalty for March through May because the appellant was entitled to a three-month grace period after losing coverage. See Massachusetts General Laws, Chapter 111M, Section 2. The appellant appealed the assessment. Exhibits 1, 2.

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

According to Table 3 of Schedule HC for 2020, the appellant with no dependents claimed with an adjusted gross income of \$24,283 could afford to pay \$58 per month for health insurance. According to Table 4, Appellant, 56 years old and living in Middlesex County, could have purchased insurance for \$432 per month for a plan for an individual. Insurance on the individual market was unaffordable for the appellant. See Schedule HC for 2020, Tables 3 and 4, Exhibit 2.

Appellant had no access to health insurance through employment all year. She was unemployed the entire year. See the testimony of the appellant which I find to be credible and Exhibit 1 attachment.

Appellant could have had affordable coverage through the ConnectorCare program. The appellant's annual Federal Adjusted Income was \$24,283, less than the income limit for one person (\$37,470). She also had no access to employer-sponsored insurance. See 956 CMR 12.00 et. seq., Exhibit 2, and Table 2 of Schedule HC 2020.

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

Appellant had the following expenses for basic necessities in 2020: mortgage, property taxes, and home owners insurance- \$2,667; heat, and electricity-\$450; telephone and internet-\$100; food, household items, and personal items-\$500; insurance-\$85; gas-\$170; clothing-\$90. The appellant paid \$2,250 during the year for car and home repairs. She also spent about \$1,400 during January and February for COBRA coverage. See the testimony of Appellant which I find to be credible.

Appellant's expenses for basic necessities came to about \$4,000 a month, not including her expenses for car and home repairs. Her income, all from a withdrawal from her 401K, was about \$2,000 a month. Every month Appellant ran a significant deficit. Based upon this, I determine that the cost of purchasing health insurance would have caused the appellant to experience a serious deprivation of basic necessities. Pursuant to 956 CMR 6.08(1)(e), health insurance was unaffordable for the appellant.

In addition, in 2020, Appellant received a final termination notice for electricity. See the testimony of the appellant which I find to be credible and Exhibit 4. Pursuant to 956 CMR 6.08(1)(b), health insurance was unaffordable for the appellant.

Given the financial hardships that Appellant experienced in 2020, 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: 7 Number of Months Assessed: 0

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

NOTIFICATION OF YOUR RIGHT TO APPEAL TO COURT

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

Cc: Connector Appeals Unit

Hearing Officer

Massachusetts Health Connector Appeals Unit

FINAL APPEAL DECISION: PA20-1048

Appeal Decision Appeal Partially Denied

Hearing Issue: Appeal of the 2020 Tax Year Penalty

Hearing Date: March 24, 2022

Decision Date: March 30, 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 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 February 25, 2022
- Exhibit 2: Appeal Case Information from form Schedule HC
- Exhibit 3: Statement of Grounds for Appeal Dated June 18, 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 Suffolk County, Massachusetts.
2. Appellant was furloughed from his job in May of 2020 and laid off from his job in September of 2020. He has worked temporary jobs in 2021 & 2022.
3. Appellant does not have health insurance in 2022 and did not have health insurance in 2021.
4. The Appellant's monthly expenses totaled \$1,610.00, , consisting of rent \$1,100.00, heat and light \$100.00, cell phone \$30.00, food \$250.00, transportation \$90.00
5. The Appellant did submit a Statement of Grounds for Appeal-2020 under the grounds for Appeal "During 2020, you purchased health insurance that didn't meet minimum creditable coverage standards because this is what your employer offered but should also have appealed under "During 2020, the expense of purchasing health insurance would have caused a serious deprivation of food, shelter or other necessities". I will hear his appeal under both grounds.
6. I take administrative notice of the information set forth in tables 1 through 6 in the Department of Revenue Schedule HC Health Care Instructions and Worksheets (Schedule HC Instructions). Tables 3 & 4 incorporate the affordability schedules adopted by the board of directors of the Commonwealth Health Insurance Connector Authority for 2020. Table 1 sets forth the income eligibility standards for various family sizes at 150% of the federal poverty level and Table 2 sets forth the income eligibility standards for various family sizes at 300 per cent of the federal poverty level, which is the income eligibility standard for the government-subsidized health insurance program. See Mass. G.L. c. 118H, s.3(a)(1). Tables 5 and 6 set forth the tax penalties for 2020.
7. Based on the appellant's federal adjusted gross income and the above referenced tables, I find the appellant may have been eligible for subsidized health insurance, because Appellant's income of \$26,220.00 was less than \$37,470.00. The monthly premium for health insurance available on the private market in Suffolk County for a 46 year old single person was \$261.00. The tables reflect that Appellant could afford \$91.77. 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-2020 under the grounds for Appeal “During 2020, you purchased health insurance that didn’t meet minimum creditable coverage standards because this is what your employer offered but should also have appealed under “During 2020, the expense of purchasing health insurance would have caused a serious deprivation of food, shelter or other necessities”. I will hear his appeal under both grounds.

The Health Care Reform Act of 2006 requires every adult resident of Massachusetts to obtain and maintain creditable insurance coverage “so long as it is deemed affordable” under the schedule established by the board of the Connector. Mass. Gen. Laws ch. 111M, § 2(a). Massachusetts residents who fail to indicate on their state tax returns that they obtained the mandated creditable coverage are subject to a tax penalty for each month in which that the individual did not have creditable health insurance. *Id.* at § 2(b). However, individuals with incomes up to 150 percent of the Federal Poverty Level (“FPL”) are not subject to any penalty for non-compliance with the individual mandate. See Massachusetts Department of Revenue Technical Information Release (“TIR”) 13-1, available at <http://www.mass.gov/dor/businesses/help-and-resources/legal-library/tirs/tirs-by-years/2013-releases/tir-13-1.html>. For 2020, 150 percent of the FPL was \$18,3735.00 for a single person with zero dependents. *Id.* In addition, a lapse in coverage of 63 days or less is not subject to the section 2(b) penalty. See Administrative Bulletin 03-10 (Dec. 7, 2010), available at <https://www.mahealthconnector.org/portal/binary/com.epicentric.contentmanagement.servlet.ContentDeliveryServlet/Health%2520Care%2520Reform/Regulations/documents/Administrative%20Information%20Bulletin%2003-10.pdf>; see also 830 Mass. Code Regs. 111M.2.1(5)(c) (2008). Thus, no penalty is imposed for lapses in coverage consisting of three or fewer consecutive calendar months. *Id.*

Since Appellant’s 2020 income was more than 150 percent of the FPL, making him potentially subject to an individual mandate penalty, the threshold issue to be addressed is whether creditable health insurance coverage was affordable to him in 2020. In determining affordability, consideration is given first to the amount Appellant is deemed able to afford for health insurance premiums under the Affordability Schedule and second to the cost of health insurance that was available through employer-sponsored plans, government-subsidized programs or on the private insurance market. See 2020 Schedule HC Instructions and Worksheets, *supra*.

Appellant reported a federal AGI of \$26,220.00 in 2020, and Appellant’s filing status was single. EX 2. According to the Affordability Schedule established by the Connector’s board and included in the Instructions and Worksheets of the 2020 Massachusetts Schedule HC, Appellant could afford to pay \$91.77 monthly for health insurance. See 2020 Schedule HC Instructions and Worksheets, *supra* at Table

3. Private insurance would have been available to him from the Premium Tables, at a cost of \$269.00 monthly for coverage with zero dependents *Id.* at Table 4.

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

Appellant was furloughed from his job in May of 2020 and laid off from his job in September of 2020. He has worked temporary jobs in 2021 & 2022.

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

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

PENALTY ASSESSED

Number of Months Appealed: 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.

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: PA20-1087

Appeal Decision: Penalty Overturned in Full
Hearing Issue: Appeal of the 2020 Tax Year Penalty
Hearing Date: January 21, 2022
Decision Date: March 7, 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 January 21, 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 June 20, 2021
- Exhibit 3: Correspondence from Health Connector, dated December 13, 2021

FINDINGS OF FACT

The record shows, and I so find:

1. Appellant was 46 years old in 2020 and resided in Bristol County (Exhibit 1).
2. Appellant filed a Massachusetts 2020 tax return as single with no dependents claimed (Exhibit 1).
3. Appellant had an Adjusted Gross Income for 2020 of \$25,624 (Exhibit 1).
4. Appellant worked sporadically and was only given a part time schedule due to the Covid 19 pandemic (Testimony of Appellant).
5. Appellant struggled to pay for basic necessities, due to the part time schedule (Testimony of Appellant).
6. It was necessary for Appellant to purchase a vehicle. Appellant bought a used vehicle for \$7,360 (Exhibit 2 and Testimony of Appellant).
7. Appellant was unsure if Appellant's employment would become full-time due to the pandemic (Testimony of Appellant).
8. I take administrative notice of the financial information set forth in Tables 1 through 6 in the DOR 2020 Massachusetts Schedule HC Health Care Instructions and Worksheets. Tables 3 and 4 incorporate affordability and premium schedules adopted by the Board of Directors for the Commonwealth Health Insurance Connector Authority for 2020. Table 2 sets forth income at 300% of the Federal poverty level and Tables 5 and 6 set forth tax penalties in effect for 2020.

9. According to Table 3 of Schedule HC for 2020 a person filing as single with no dependents claimed with an adjusted gross income of \$25,624 could afford to pay \$90 per month for private insurance. According to Table 4, Appellant, who was 46 years old and lived in Bristol county could have purchased private insurance for a cost of \$361 per month.
10. Private insurance was not considered affordable for Appellant in 2020 (Schedule HC for 2020).
11. Appellant, earning less than \$37,470 would have been income eligible for government subsidized health insurance (Schedule HC for 2020).
12. Appellant did not have health insurance for twelve months of 2020 (Exhibit 1 and Testimony of Appellant).
13. Appellant has been assessed a penalty for twelve months for 2020 (Exhibit 1).
14. Appellant filed a hardship Appeal on June 20, 2021 (Exhibit 2).
15. At the time of the hearing, Appellant was working full time and in a waiting period for employer sponsored health insurance (Testimony of Appellant).

ANALYSIS AND CONCLUSIONS OF LAW

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

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

Appellant was income eligible for government subsidized health insurance, so we must consider whether the purchase of insurance would have caused Appellant to experience deprivation of basic necessities. Appellant struggled to pay for necessities due to pandemic reduction in hours and lay-offs. Appellant was unsure of when Appellant would have full time employment again. Appellant also had to purchase a vehicle during 2020. I find that purchasing health insurance would have caused Appellant to experience a serious deprivation of food, shelter, clothing and other necessities. See Schedule HC for 2020, 956 CMR 6.08 (1)(e), Exhibits 1, 2 and Testimony of Appellant, which I find to be credible.

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

PENALTY ASSESSED

Number of Months Appealed: 12

Number of Months Assessed: 0

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

OR

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

NOTIFICATION OF YOUR RIGHT TO APPEAL TO COURT

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

ADDENDUM

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

If Appellant does not have health insurance, Appellant should immediately contact the Health Connector at 1 877 623-6765 to find out about affordable options.

Massachusetts Health Connector Appeals Unit

FINAL APPEAL DECISION: PA20-1112

Appeal Decision: Penalty Overturned in Part

Hearing Issue: Appeal of the 2020 Tax Year Penalty

Hearing Date: January 31, 2022

Decision Date: March 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 RECORD

The appellant appeared at the hearing which was held by telephone on January 31, 2022, and testified under oath. The hearing record consists of the appellant's testimony and the following documents which were admitted into evidence without his objection:

- Ex. 1—Statement of Grounds for Appeal—2020
- Ex. 2—Appeal Case Information from Schedule HC ¹
- Ex. 3—Notice of Hearing

The record was held open at the conclusion of the hearing for documentation requested by the hearing officer. The appellant requested an extension of the deadline which was granted. Nothing was submitted in response to the extension and the record was closed.

FINDINGS OF FACT

The record shows, and I so find:

1. The appellant is 32-years-old, is single, and has an eight-month-old child. In 2020, he resided in Bristol County, MA. He did not have health insurance in 2020. (Testimony, Ex. 2)
2. Prior to 2020, the appellant last had health insurance for part of 2018 through his ex-wife's employer insurance. He paid a penalty for the portion of 2018 when he was not insured. (Testimony)
3. The appellant was employed in 2020 and was eligible for employer health insurance. He believes that the cost of an individual plan was approximately \$20,000.00/year which he determined was unaffordable. He investigated his eligibility for insurance through the Connector and concluded that

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

the deductibles were too high. He felt that it was not worth it for him to purchase insurance even if he suffered a catastrophic injury, and that he would rather pay for all costs himself. (Testimony)

4. The appellant's girlfriend got pregnant in 2020 and gave birth in or around June, 2021. The appellant determined that his girlfriend would not be employed following the birth, and that he would be responsible for all of the household and miscellaneous expenses. (Testimony)
5. The appellant did not have health insurance in 2021, and was not enrolled in insurance at the time of the instant hearing. (Testimony)
6. The appellant owns a rental property on which he carries a mortgage that costs approximately \$1000.00/month including real estate taxes and homeowner's insurance. (Testimony)
7. The appellant reported an adjusted gross income of \$178,515.00 on his 2020 federal tax return, and reported that he was single with no dependents. (Ex. 2)
8. In 2020, the appellant had regular monthly expenses of approximately \$4242.00 for his mortgage including real estate taxes and homeowner's insurance (\$1550.00), water and sewer service (\$42.00), heat (\$500.00), electricity (\$100.00), cable and internet package (\$250.00), automobile loan for two vehicles (\$700.00), gasoline (\$400.00), and food (\$700.00). In addition, the appellant paid approximately \$2025.00/month for credit card debt. (Testimony, Ex. 1)

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

ANALYSIS AND CONCLUSIONS OF LAW

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

The appellant submitted a statement of grounds for appeal (Ex. 1), claiming that the individual mandate did not apply to him during 2020 because he incurred a significant, unexpected increase in essential expenses resulting directly from the consequences of: domestic violence; the death of a spouse, family member or partner with primary responsibility for child care where household expenses were shared; the sudden responsibility for providing full care for an aging parent or other family member, including a major, extended illness of a child that required him to hire a full-time caretaker for the child.

The appellant did not have insurance from January through December. According to M.G.L. c. 111M, s. 2, residents are permitted a 63-day gap between periods of coverage without facing a tax penalty; for Tax Year 2020, Administrative Bulletin 03-10: Guidance Regarding M.G.L. c. 111M and M.G.L. c. 176Q, as implemented by 956 CMR 6.00, interprets the 63-day gap in coverage to be three months. As a result, gaps of three months are not subject to penalty. Since the appellant was uninsured for the entire year, he was assessed and is appealing a penalty of twelve months.

The appellant testified that he last had health insurance in 2018 through his ex-wife's employer health insurance. He testified that he was employed in 2020 and eligible for employer health insurance which cost approximately \$20,000.00/year or \$1667.00/month. He testified that he could not afford that amount and investigated insurance options through the Health Connector where he determined that the deductibles were too high. He testified that it was not worth it for him to pay for insurance, even if he suffered a catastrophic injury, and that he would rather pay for the costs himself. He testified that his girlfriend got pregnant in 2020, and gave birth in 2021. He testified that she stopped working after the birth and he became responsible for all household expenses. Finally, he testified that he was not insured in 2021 and was not enrolled in insurance at the time of the instant hearing.

With respect to the ground on which the appellant filed his appeal, he failed to establish that his circumstances fall within either the letter or spirit of that particular ground. The fact that he became responsible for all household costs after the birth of his child does not meet the standard of "sudden, unexpected increase in essential expenses" envisioned by the foregoing language. Moreover, the financial burden he described occurred when the baby was born in 2021, not the year for which the appeal was filed. Accordingly, the appellant does not qualify for relief on that ground.

With respect to the appellant's allegation that employer health insurance was unaffordable, he did not respond to the Open Record Request with information about the terms and cost of the insurance. As such, no analysis can be done to determine the validity of that claim.

At the hearing, the appellant claimed that the cost of purchasing health insurance would have caused a serious deprivation of food, shelter, clothing and other necessities. The following is an examination of his circumstances on that particular ground.

The evidence provided by the appellant established that his income for 2020, \$178,515.00, was greater than 300% of the federal poverty level (FPL), which for 2020 was \$37,470.00 for an individual. Table 3 of the Affordability Schedule indicates that an individual filing separately with no dependents with a federal adjusted gross income greater than \$49,961.00 is deemed to be able to afford a monthly premium of \$1190.00 (8.00% of \$178,515.00/12). Table 4 of the Premium Schedule indicates that a 30-year-old individual (the age of the appellant in 2020) in Bristol County (where the appellant resided in 2020) could have purchased private health insurance for \$269.00 per month, less than the monthly amount deemed affordable from Table 3. Thus, according to the foregoing analysis, the appellant could have purchased affordable private health insurance in 2020.

Even though private health insurance may have been affordable to the appellant under the law, he may nevertheless not be subject to a penalty for failing to get health insurance for the months in question if he can show that he experienced a hardship during 2020. Examples of hardships include being homeless or overdue in rent or mortgage payments, receiving a shut-off notice for utilities, or incurring unexpected increases in basic living expenses due to domestic violence, death of a family member, sudden responsibility for providing care for a family member or fire, flood or natural disaster. In addition, the appellant's tax penalty for 2020 could be waived if he experienced financial circumstances such that the expense of purchasing health insurance would have caused him to experience a serious deprivation of food, shelter, clothing or other necessities. See 956 CMR 6.08.

The evidence presented by the appellant in this case is insufficient to establish that he experienced a financial hardship as defined by law so as to waive his penalty for the months in question. The appellant testified that in 2020, he incurred basic monthly expenses of approximately \$6267.00, including his credit card debt. Those expenses were significantly less than his regular monthly pre-tax income of approximately \$14,876.00, thereby making the payment of \$269.00/month for private health insurance seemingly manageable. Even if the mortgage

payment of \$1000.00/month for his rental property is added in, it does not appear on its face that the payment of \$269.00/month would have caused an undue burden.

Based on the foregoing, it is concluded that the appellant could have afforded private health insurance and failed to establish that he experienced a financial hardship that would entitle him to a complete waiver of the penalty. It is noted that the appellant argued that he would rather forego insurance and pay for medical expenses himself, rather than pay high deductibles and other plan costs. This reason is actually a more powerful argument in support of coverage. Had the appellant become sick and required hospitalization, the absence of insurance would have put him in a far worse financial situation than paying approximately \$269.00/month for coverage of hospital and other related costs. It is also noted that the appellant has not had insurance since 2019 and appears to have made a conscious decision to go without it. In order to mitigate the harshness of a full penalty and perhaps incentivize the appellant to rethink his decision, it will be reduced to eight months. A reduced penalty makes the point that the appellant is expected to comply with the Legislature's requirement that Massachusetts residents must have compliant health insurance.

Accordingly, based on the totality of the evidence, the appellant's request for a waiver from the penalty is **granted** for four of the twelve months in question. The determination that the appellant is eligible for a waiver is with respect to 2020, only and is based upon the extent of information submitted by him in this appeal.

PENALTY ASSESSED

Number of Months Appealed: 12

Number of Months Assessed: 8

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

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

NOTIFICATION OF YOUR RIGHT TO APPEAL TO COURT

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

Hearing Officer

Cc: Connector Appeals Unit

Massachusetts Health Connector Appeals Unit

FINAL APPEAL DECISION: PA201131

Appeal Decision: The penalty is overturned in full.

Hearing Issue: Appeal of the 2020 Tax Year Penalty

Hearing Date: January 14, 2022

Decision Date: March 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 January 14, 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 2020 signed and dated by Appellant on August 12, 2021 with biweekly paystub attached

Exhibit 2: Appeal Case Information from Schedule HC 2020

Exhibit 3: Notice of Hearing sent to Appellant dated December 20, 2021 for January 14, 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 54 years old in 2020 (Exhibit 2, Testimony of Appellant).
2. Appellant resided in Middlesex County in 2020 (Testimony of Appellant, Exhibit 2).
3. Appellant had a Federal Adjusted Income of \$21,212 in 2020 (Testimony of Appellant, Exhibit 2).
4. Appellant had a part-time, seasonal job in 2020. Appellant worked from April through September. Appellant's gross pay was about \$1,000 every two week. Take-home pay was about \$800. Appellant's income varied from week to week. From October through March, Appellant collected unemployment compensation of about \$300 a week (Testimony of Appellant, Exhibit 1 attachment).
5. Appellant was not offered health insurance through employment. The appellant looked for coverage, but felt he could not afford the cost (Testimony of Appellant).
6. Appellant had no health insurance in 2020. He has been assessed a twelve-month tax penalty; the appellant has appealed the assessment (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. According to Table 3 of Schedule HC for 2020, the appellant with no dependents claimed with an adjusted gross income of \$21,212 could afford to pay \$51 per month for health insurance. According to Table 4, Appellant, 54 years old and living in Middlesex County, could have purchased insurance for \$420 per month for a plan for an individual. Insurance on the individual market was unaffordable for the appellant (Schedule HC for 2020 Tables 3 and 4, Exhibit 2).

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

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

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

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

13. Appellant had the following monthly expenses for basic necessities in 2020: rent-\$625; heat and electricity-\$100; telephone-\$80; food and household items-\$860; clothing and laundry-\$100; car insurance-\$55; gas-\$90. Appellant had \$30,000 credit card and loan debt in 2020. Appellant started going through the bankruptcy process. As of the date of this hearing Appellant was still going through the process (Testimony of Appellant).

ANALYSIS AND CONCLUSIONS OF LAW

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

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

Appellant had no health insurance 2020. The appellant has been assessed a tax penalty for twelve months. The appellant appealed the assessment. Exhibits 1, 2.

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

According to Table 3 of Schedule HC for 2020, the appellant with no dependents claimed with an adjusted gross income of \$21,212 could afford to pay \$51 per month for health insurance. According to Table 4, Appellant, 54 years old and living in Middlesex County, could have purchased insurance for \$420 per month for a plan for an individual. Insurance on the individual market was unaffordable for the appellant. See Schedule HC for 2020, Tables 3 and 4, Exhibit 2.

Appellant had no access to health insurance through employment all year. Appellant had a part-time seasonal job. The appellant had no work from October through March. Appellant was not offered insurance through employment. See the testimony of the appellant which I find to be credible.

Appellant could have had affordable coverage through the ConnectorCare program. The appellant's annual Federal Adjusted Income was \$21,212, less than the income limit for one person (\$37,470). Appellant also had no access to employer-sponsored insurance. See 956 CMR 12.00 et. seq., Exhibit 2, and Table 2 of Schedule HC 2020.

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

Appellant had the following expenses for basic necessities in 2020: rent-\$625; heat and electricity-\$100; telephone-\$80; food and household items-\$860; clothing and laundry-\$100; car insurance-\$55; gas-\$90. Appellant had \$30,000 credit card and loan debt in 2020. Appellant started going through the bankruptcy process. As of the date of this hearing Appellant was still going through the process. See the testimony of Appellant which I find to be credible.

Appellant's expenses for basic necessities came to about \$1,900 a month. Appellant's income before taxes amounted to about \$1,800 a month. Every month Appellant ran a significant deficit. Based upon this, I determine that the cost of purchasing health insurance would have caused the appellant to experience a serious deprivation of basic necessities. Pursuant to 956 CMR 6.08(1)(e), health insurance was unaffordable for the appellant.

I note that Appellant also had \$30,000 of debt and initiated bankruptcy proceedings in 2020. Pursuant to 956 CMR 6.08(3), I am taking Appellant's debt into account when determining that Appellant could not afford health insurance because of financial hardship.

Given the financial hardships that Appellant experienced in 2020, 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