

Massachusetts Health Connector Appeals Unit

FINAL APPEAL DECISION: PA 20-1256

Appeal Decision The appeal is allowed; the tax penalty is waived.

Hearing Issue: Appeal of the 2020 Tax Year Penalty

Hearing Date: February 28, 20, 2023

Decision Date: March 8, 2023

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 28, 2023. The hearing record consists of the testimony of Appellant, and the following documents, which were admitted into evidence:

Exhibit 1: Health Connector Hearing Notice (2 pages)

Exhibit 2: Appeal Case Information sheet¹ (1 page)

Exhibit 3: Letter to Health Connector requesting to vacate dismissal (5/24/22) (1 page)

FINDINGS OF FACT

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

1. Appellant was 35 at the end of 2020. Exhibit 2.
2. Appellant filed his 2020 Massachusetts taxes from an address in California. Exhibit 2.
3. Appellant filed his 2020 Massachusetts taxes as a part-year resident, with a residency that ran from January through May of that year. Exhibit 2.

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

4. Appellant filed his 2020 taxes as single with no dependents. Exhibit 2.
5. Appellant reported on the Schedule HC that he filed with his state income taxes, and confirmed at the hearing, that his annual income for 2020 was \$44,532. Exhibit 2.
6. Appellant reported in the Schedule HC that he filed with his 2020 state income taxes, and confirmed at the hearing, that he did not have health insurance meeting minimum creditable coverage (MCC) standards at any point in 2020. Exhibit 2.
7. At the start of 2020, Appellant had accepted a job in California. As a result, by the end of 2019, he had given up his rental apartment and quit his job in Massachusetts.
8. The offer in California was rescinded at the start of the Covid-19 pandemic. As a result, Appellant was left without a job or an apartment.
9. Appellant lived with a friend in Norfolk County for a few months while deciding what to do. He also spent time in California trying to find work there.
10. Eventually Appellant was able to obtain another position in California. He moved to that state permanently in June 2020.

In addition to the foregoing, I take administrative notice of the 2020 Schedule HC Instructions and Worksheets, available at <https://www.mass.gov/doc/2020-schedule-hc-instructions-1/download>, 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

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

The individual mandate penalty applies only to Massachusetts residents. In this case, Appellant was a Massachusetts resident for only five months in 2020, i.e., the period from January through May, after which he moved to California. Thus, Appellant is only subject to the mandate penalty for a five-month period. In conducting this analysis, I will consider only the five-month period at the start of 2020 when Appellant resided in Massachusetts.

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

In order to determine whether Appellant should be penalized for not having coverage, I must first consider whether he could have obtained affordable insurance from any of the following three sources: (1) employment-based insurance; (2) government-subsidized insurance; or (3) unsubsidized insurance purchased on the non-group market. See 2020 Schedule HC instructions at pages HC 7-9

During the period that he was uninsured and a resident of Massachusetts, Appellant was unemployed. Thus, he was not eligible for employment-based insurance.

Further, Appellant was not eligible to receive Connector Care, which is government-subsidized health insurance in Massachusetts. To be eligible for Connector Care, an individual must have household income below 300 percent of the federal poverty limit. See 956 C.M.R. § 12.04 (Connector Care eligibility requirements.) In 2020, 300 percent of the federal poverty limit for a household of one person like Appellant's was \$37,470. (I obtain the figure of \$37,470 from Table 2 to the instructions for the 2020 Schedule HC.) Appellant's annual income during 2020 was \$44,532 and so was too high for him to receive Connector Care.

Finally, Appellant would not have been able to afford to purchase unsubsidized health insurance in the non-group market under state affordability standards established by the Health Connector Board under M.G.L. c. 111M. Under those standards, an individual like Appellant who was in a household of one person and had annual income of \$44,532 was deemed able to afford 7.6 percent of income for insurance. (I obtain that figure from Table 3 of the 2020 instructions for the Schedule HC.) In this case, that amounts to \$3,384 annually or \$282 a month. During 2020, a person like Appellant who lived in Norfolk County and was 35 years of age would have had to pay at least \$298 a month for insurance. (I obtain the premium figure from Table 4 to the instructions for the 2020 Schedule HC). Thus, under state standards, this amount would not have been affordable.

Because Appellant could not have obtained affordable health insurance during the time that he was uninsured in 2020, he is not subject to the individual mandate penalty. Therefore, I am not required to consider whether he has stated grounds sufficient to avoid the penalty under Health Connector regulations. 956 C.M.R. § 6.08. Rather, I will allow the waive the penalty against him in its entirety.

PENALTY ASSESSED

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

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

NOTIFICATION OF YOUR RIGHT TO APPEAL TO COURT

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

Hearing Officer

Cc: Connector Appeals Unit

Massachusetts Health Connector Appeals Unit

FINAL APPEAL DECISION: PA 21-2173

Appeal Decision The appeal is allowed; the tax penalty is waived.

Hearing Issue: Appeal of the 2021 Tax Year Penalty

Hearing Date: February 27, 2023

Decision Date: March 6, 2023

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 27, 2023. The hearing record consists of the testimony of Appellant, and the following documents, which were admitted into evidence:

- Exhibit 1: Health Connector Hearing Notice (2 pages)
- Exhibit 2: Appeal Case Information sheet¹ (1 page)
- Exhibit 3: Statement of Grounds (9 pages)

FINDINGS OF FACT

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

1. Appellant was 26 at the end of 2021. Exhibit 2.
2. Appellant lived in Suffolk County in 2021. Exhibit 2.
3. Appellant filed her taxes as single with no dependents. Exhibit 2.

¹ Exhibit 2 is a computer printout containing information extracted from the Schedule HC that Appellant submitted as part of her 2021 Massachusetts tax return. The Schedule HC is the form on which Massachusetts taxpayers report information relevant to the individual mandate penalty, which is the subject of this appeal.

4. Appellant reported on the Schedule HC that she filed with her state income taxes, and confirmed at the hearing, that her annual income for 2021 was \$63,069. Exhibit 2.
5. Appellant reported in the Schedule HC that she filed with her 2021 state income taxes, and confirmed at the hearing, that she did not have health insurance meeting minimum creditable coverage standards from January through May 2021 but did have such insurance for the remaining seven months of the year. Exhibit 2.
6. At the start of 2021, Appellant was living in New York State. She had a job with a New York employer who provided her with health insurance.
7. She decided to move to Massachusetts in February 2021. When she first moved to Massachusetts, she lived with a friend and retained her apartment in New York. See Exhibit 3 (rent receipts).
8. She continued to work remotely for the New York employer and remained insured through her job during that time.
9. In May 2021, Appellant obtained a permanent full-time job with a Massachusetts employer. That employer offered her health insurance, which she accepted. She was enrolled in that insurance as of the date of the hearing.

In addition to the foregoing, I take administrative notice of the 2021 Schedule HC Instructions and Worksheets, available at <https://www.mass.gov/doc/2021-schedule-hc-instructions/download>, which, as discussed below, include the Affordability Schedule and other financial information used in making 2021 individual mandate tax penalty determinations.

ANALYSIS AND CONCLUSIONS OF LAW

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

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

First, I must determine whether Appellant was actually uninsured while she was a resident of Massachusetts. Based on her testimony, which is corroborated by the rent receipts that she attached to her Statement of Grounds form (Exhibit 3), Appellant maintained a residence out of state from January through May 2021. She also continued to work for an out-of-state employer during that time period.

Thus, I conclude that she was not in fact a resident of Massachusetts until June of 2021, at which point she obtained health insurance in the Commonwealth.

Further, I find that Appellant was not uninsured during the first five months of 2021. She testified credibly that she had insurance through her out-of-state employer during that period of time, and did not end that insurance until she took a new position in Massachusetts.

Thus, I conclude that Appellant should not be subject to the individual mandate tax penalty for either of two alternate grounds, i.e. lack of residence in Massachusetts or the fact that she had insurance through an out of state employer. Because I have reached this conclusion, I am not required to continue the analysis to determine whether she could have obtained affordable insurance or whether she has stated other grounds to waive the penalty. Rather, I will waive the penalty assessed against her in its entirety.

PENALTY ASSESSED

Number of Months Appealed: 2

Number of Months Assessed: 0

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

NOTIFICATION OF YOUR RIGHT TO APPEAL TO COURT

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

Hearing Officer

Cc: Connector Appeals Unit

Massachusetts Health Connector Appeals Unit

FINAL APPEAL DECISION: PA 21-2175

Appeal Decision The appeal is allowed; the tax penalty is waived.

Hearing Issue: Appeal of the 2021 Tax Year Penalty

Hearing Date: February 27, 2023

Decision Date: March 6, 2023

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 27, 2023. The hearing record consists of the testimony of Appellant, and the following documents, which were admitted into evidence:

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

FINDINGS OF FACT

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

1. Appellant was 26 at the end of 2021. Exhibit 2.
2. Appellant lived in Norfolk County in 2021. Exhibit 2.
3. Appellant filed her taxes as single with no dependents. Exhibit 2.

¹ Exhibit 2 is a computer printout containing information extracted from the Schedule HC that Appellant submitted as part of her 2021 Massachusetts tax return. The Schedule HC is the form on which Massachusetts taxpayers report information relevant to the individual mandate penalty, which is the subject of this appeal.

4. Appellant reported on the Schedule HC that she filed with her state income taxes, and confirmed at the hearing, that her annual income for 2021 was \$37,339. Exhibit 2.
5. Appellant reported in the Schedule HC that she filed with her 2021 state income taxes that she did not have health insurance meeting minimum creditable coverage standards at any point in 2021. Exhibit 2.
6. Appellant was covered as a dependent on a health insurance plan maintained by her father throughout 2021. This fact is established both by her credible testimony and by the 1095-C sent to her father by his employer, which Appellant offered as evidence. See Exhibit 3 (1095-C attachment).
7. Appellant made an error when she reported on her 2021 state tax returns that she was uninsured in that year.
8. When Appellant turned 26 at the end of 2021, she switched to an insurance plan offered by her employer. She was covered in that plan as of the date of the hearing.

In addition to the foregoing, I take administrative notice of the 2021 Schedule HC Instructions and Worksheets, available at <https://www.mass.gov/doc/2021-schedule-hc-instructions/download>, which, as discussed below, include the Affordability Schedule and other financial information used in making 2021 individual mandate tax penalty determinations.

ANALYSIS AND CONCLUSIONS OF LAW

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

First, I must determine whether Appellant was actually uninsured in 2021. Based on her testimony, which is corroborated by the 1095-C that she attached to her Statement of Grounds form (Exhibit 3), she was actually insured through her father’s employment-based insurance plan. Under the Affordable Care Act, insurance companies are required to provide dependent coverage to the children of the primary insured until those children reach the age of 26. See 42 U.S.C. § 300gg-14. Appellant benefited from that requirement by receiving coverage under her parent’s plan until she turned 26 at the end of 2021.

Because I have found that Appellant was actually insured during 2021, I conclude that she should not be subject to the individual mandate tax penalty. Because I have reached this conclusion, I am not required to continue the analysis to determine whether she could have obtained affordable insurance or whether she has stated other grounds to waive the penalty. Rather, I will waive the penalty assessed against her in its entirety.

PENALTY ASSESSED

Number of Months Appealed: 12

Number of Months Assessed: 0

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

NOTIFICATION OF YOUR RIGHT TO APPEAL TO COURT

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

Hearing Officer

Cc: Connector Appeals Unit

Massachusetts Health Connector Appeals Unit

FINAL APPEAL DECISION: PA 20-950

Appeal Decision The appeal is allowed; the tax penalty is waived.

Hearing Issue: Appeal of the 2020 Tax Year Penalty

Hearing Date: February 28, 20, 2023

Decision Date: March 8, 2023

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 28, 2023. The hearing record consists of the testimony of Appellant, and the following documents, which were admitted into evidence:

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

FINDINGS OF FACT

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

1. Appellant was 36 at the end of 2020. Exhibit 2.
2. Appellant lived in Middlesex County in 2020. Exhibit 2.
3. Appellant filed his 2020 taxes as single with no dependents. Exhibit 2.
4. Appellant reported on the Schedule HC that he filed with his state income taxes, and confirmed at the hearing, that his annual income for 2020 was \$34,832. Exhibit 2.
5. Appellant reported in the Schedule HC that he filed with his 2020 state income taxes, and confirmed at the hearing, that he had health insurance meeting minimum creditable coverage

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

standards in January 2020, but did not have such insurance for the remaining eleven months of the year. Exhibit 2.

6. In 2019, Appellant was insured through Connector Care, which is a program of government-subsidized health insurance offered by the Health Connector.
7. In early 2019, Appellant had been a student and working part-time. Starting in September 2019, he began working full-time.
8. The position in which he worked did not offer him health insurance.
9. In early 2020, Appellant updated his eligibility information for Connector Care. After that update, he was determined to no longer be eligible for Connector Care. He believed that this determination was made because he reported that he had a full-time job.
10. In March 2020, Appellant was laid off from his position as a result of business closure due to the Covid-19 pandemic.
11. After he lost his position, Appellant lived on unemployment compensation for the remainder of the year.
12. In mid-2022, Appellant moved to a different state where he obtained a job that offered him health insurance. He was enrolled in that insurance as of the date of the hearing.

In addition to the foregoing, I take administrative notice of the 2020 Schedule HC Instructions and Worksheets, available at <https://www.mass.gov/doc/2020-schedule-hc-instructions-1/download>, 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

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

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

In order to determine whether Appellant should be penalized for not having coverage, I must first consider whether he could have obtained affordable insurance from any of the following three sources: (1) employment-based insurance; (2) government-subsidized insurance; or (3) unsubsidized insurance purchased on the non-group market. See 2020 Schedule HC instructions at pages HC 7-9

During 2020, Appellant either worked at a job that did not offer him health insurance benefits or he was unemployed. Thus, he was unable to obtain employment-based insurance.

Further, Appellant was not able to receive Connector Care, which is government-subsidized health insurance in Massachusetts. To be eligible for Connector Care, an individual must have household income below 300 percent of the federal poverty limit and must meet the eligibility requirements to receive advance premium tax credits, which are federal insurance subsidies offered under the Affordable Care Act (ACA). See 956 C.M.R. § 12.04 (Connector Care eligibility requirements.) Those tax credits are available under the ACA only to persons who are *not* eligible to purchase affordable insurance through their employer. 26 U.S.C. § 36B(c)(2). In 2020, 300 percent of the federal poverty limit for a household of one person like Appellant's was \$37,470. (I obtain the figure of \$37,470 from Table 2 to the instructions for the 2020 Schedule HC.) Appellant's annual income during 2020 was less than that amount and therefore he was income-eligible for Connector Care. However, he was determined not to be eligible for Connector Care at the start of 2020. This appears to have occurred because he reported obtaining a full-time job in such a way that indicated that he was eligible to obtain health insurance through that employment. If he had reported that he was eligible to obtain insurance through his employment, he would have been determined ineligible to continue receiving Connector Care because he would not satisfy the eligibility requires to receive federal tax credits. In any event, Appellant lost eligibility for Connector Care in early 2020 and thus he was unable to obtain government-subsidized insurance during that year.

Finally, Appellant would not have been able to afford to purchase unsubsidized health insurance in the non-group market under state affordability standards established by the Health Connector Board under M.G.L. c. 111M. Under those standards, an individual like Appellant who was in a household of one person and had annual income of \$34,832 was deemed able to afford 6.2 percent of income on insurance. (I obtain that figure from Table 3 of the 2020 instructions for the Schedule HC.) In this case, that amounts to \$2,159 annually or \$179 a month. During 2020, a person like Appellant who lived in Middlesex County and was 36 years of age would have had to pay a premium of at least \$298 a month in order to obtain health insurance that met minimum creditable coverage standards. (I obtain the premium figure from Table 4 to the instructions for the 2020 Schedule HC). Thus, under state standards, this amount would not have been affordable.

In short, Appellant was unable to obtain affordable health insurance either through employment, through government programs, or through purchase on the non-group market in 2020. Because Appellant could not have obtained affordable insurance, I am not required to consider whether he has stated grounds sufficient to waive the penalty under Health Connector regulations. 956 C.M.R. § 6.08. Rather, I conclude that he should not have been assessed a penalty for not having insurance in that year. Therefore, I am allowing the appeal and waiving the penalty assessed against him in its entirety.

PENALTY ASSESSED

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

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

NOTIFICATION OF YOUR RIGHT TO APPEAL TO COURT

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

Hearing Officer

Cc: Connector Appeals Unit

Massachusetts Health Connector Appeals Unit

FINAL APPEAL DECISION: PA 20-1179

Appeal Decision The appeal is allowed; the tax penalty is waived.

Hearing Issue: Appeal of the 2020 Tax Year Penalty

Hearing Date: February 28, 2023

Decision Date: March 8, 2023

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 28, 2023. The hearing record consists of the testimony of Appellant, and the following documents, which were admitted into evidence:

- Exhibit 1: Health Connector Hearing Notice (2 pages)
- Exhibit 2: Appeal Case Information sheet¹ (1 page)
- Exhibit 3: Letter to Superior Court (8/19/22) (1 page)
- Exhibit 4: Letter from Ma Attorney General's Office to Appellant (1/14/2023) (1 page)
- Exhibit 5: Letter from Appellant to the Health Connector (1/23/23) (1 page)
- Exhibit 6: Letter from the Appellant to the Health Connector (11/5/2021) (1 page)
- Exhibit 7: Decision, Appeal No. 19-883 (4 pages)

FINDINGS OF FACT

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

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

1. Appellant was 61 at the end of 2020. Exhibit 2.
2. Appellant lived in Middlesex County in 2020. Exhibit 2.
3. Appellant filed his 2020 taxes as single with no dependents. Exhibit 2.
4. Appellant reported on the Schedule HC that he filed with his state income taxes, and confirmed at the hearing, that his annual income for 2020 was \$109,380. Exhibit 2.
5. Appellant reported in the Schedule HC that he filed with his 2020 state income taxes, and confirmed at the hearing, that he did not have health insurance meeting minimum creditable coverage (MCC) standards at any point in 2020. Exhibit 2.
6. In 2020, Appellant had health insurance offered to him by his employer, which was an out-of-state company.
7. That health insurance provided comprehensive coverage. However, it did not cover maternity benefits for the insured's dependents.
8. When Appellant filed his 2019 taxes in early 2020, he learned that the insurance plan did not meet MCC standards. He complained to his employer. As a result of this complaint, the insurance plan benefits were modified so that the plan would meet MCC standards. However, this change was not effective until 2021 because a change could not be made during the plan year.
9. Appellant was assessed an individual mandate tax penalty for 2019 because he did not have MCC-compliant insurance that year. He appealed the penalty, and it was waived after a hearing. Exhibit 7.
10. Appellant was assessed a penalty for 2020. He appealed that penalty. The Health Connector scheduled a hearing on that appeal, but Appellant failed to appear at the hearing. As a result, the appeal was dismissed. Exhibit 5.
11. Appellant was then billed by the Department of Revenue for the individual mandate tax penalty. He pursued several avenues seeking relief. He filed an abatement with the Department of Revenue, which was denied because under state law he was required to appeal the penalty to the Health Connector. He also initiated a lawsuit in the Superior Court. Exhibit 3. That lawsuit is still pending.
12. The Health Connector reinstated his appeal and scheduled a hearing. Exhibit 4. The hearing on the reinstated appeal was held on February 28, 2023, and is the subject of this decision.

In addition to the foregoing, I take administrative notice of the 2020 Schedule HC Instructions and Worksheets, available at <https://www.mass.gov/doc/2020-schedule-hc-instructions-1/download>, 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

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

Insurance coverage satisfies the individual mandate requirement only if it constitutes “creditable coverage” as defined by the statute. M.G.L. c. 111M, § 2(a). “Creditable coverage” is defined as a plan that meets the standards for “minimum creditable coverage” (MCC) under regulations promulgated by the Health Connector’s board. *Id.* § 1. These regulations contain requirements that an insurance plan must meet. Among these are a requirement that the plan covers a broad range of medical services, specifically including maternity care. *See* 956 C.M.R. § 5.03(1)(a)(5). The plan that Appellant received through his employer did not completely meet that standard because it excluded maternity coverage for an insured’s dependents. Accordingly, Appellant did not have MCC-compliant insurance while he was insured in his employer’s plan.

Because Appellant did not have MCC-compliant insurance in 2020, I must determine whether he is subject to the individual mandate penalty. In order to do that, I must first consider whether he could have obtained affordable insurance from any of the following three sources: (1) employment-based insurance; (2) government-subsidized insurance; or (3) unsubsidized insurance purchased on the non-group market. *See* 2020 Schedule HC instructions at pages HC 7-9

During 2020, Appellant worked at a job that did not offer him MCC-compliant insurance. Thus, he was unable to obtain MCC-compliant insurance through employment.

Further, Appellant was not eligible to receive Connector Care, which is government-subsidized health insurance in Massachusetts. To be eligible for Connector Care, an individual must have household income below 300 percent of the federal poverty limit. *See* 956 C.M.R. § 12.04 (Connector Care eligibility requirements.) In 2020, 300 percent of the federal poverty limit for a household of one person like Appellant’s was \$37,470. (I obtain the figure of \$37,470 from Table 2 to the instructions for the 2020 Schedule HC.) Appellant’s annual income during 2020 was \$109,380 and so was too high for him to receive Connector Care.

However, Appellant would have been able to afford to purchase unsubsidized health insurance in the non-group market under state affordability standards established by the Health Connector Board under M.G.L. c. 111M. Under those standards, an individual like Appellant who was in a household of one person and had annual income of \$109,380 was deemed able to afford 8 percent of income on insurance. (I obtain that figure from Table 3 of the 2020 instructions for the Schedule HC.) In this case, that amounts to \$8,750 annually or \$729 a month. During 2020, a person like Appellant who lived in Middlesex County and was 61 years of age could have obtained insurance that met MCC standards for a premium of \$432 a month. (I obtain the premium figure from Table 4 to the instructions for the 2020 Schedule HC). Thus, under state standards, this amount would have been affordable.

Because Appellant could have obtained affordable MCC-compliant insurance in 2021, but did not, I am required to consider whether he has stated grounds sufficient to waive the penalty under Health Connector regulations. 956 C.M.R. § 6.08. I conclude that he has. In reaching that determination, I may consider a range of financial factors, including the insurance that Appellant actually purchased. *See* 956 CMR § 6.08(2)(b). In this case, Appellant unknowingly was enrolled in a product that did not meet MCC standards under state law. When he learned in 2019 that his employer’s plan did not satisfy MCC standards, he took steps to have the plan modified, a change that took effect in 2021. Thus, I conclude

that Appellant did not fail to get creditable coverage because he was trying to avoid costs. Rather, he took the insurance offered by his employer without realizing that it did not meet MCC standards. I also take into consideration that, based on the same set of facts, his penalty was waived in 2019 by the Health Connector. Exhibit 7.

In light of the foregoing, I am exercising my discretion to allow the appeal and waive the penalty assessed against Appellant in its entirety.

PENALTY ASSESSED

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

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

NOTIFICATION OF YOUR RIGHT TO APPEAL TO COURT

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

Hearing Officer

Cc: Connector Appeals Unit

Massachusetts Health Connector Appeals Unit

FINAL APPEAL DECISION: PA 20-1246

Appeal Decision The appeal is allowed; the tax penalty is waived.

Hearing Issue: Appeal of the 2020 Tax Year Penalty

Hearing Date: February 28, 20, 2023

Decision Date: March 8, 2023

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 28, 2023. The hearing record consists of the testimony of Appellant, and the following documents, which were admitted into evidence:

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

FINDINGS OF FACT

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

1. Appellant was 64 at the end of 2020. Exhibit 2.
2. Appellant filed his 2020 state taxes using a post office box in Essex County. Exhibit 2.
3. During 2020, Appellant did not have a fixed address. At various times during the year, he lived with friends or in motels because he could not afford to obtain a rental of his own.

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

4. Appellant filed his 2020 taxes as single with no dependents. Exhibit 2.
5. Appellant reported on the Schedule HC that he filed with his state income taxes, and confirmed at the hearing, that his annual income for 2020 was \$23,194. Exhibit 2.
6. Appellant reported in the Schedule HC that he filed with his 2020 state income taxes, and confirmed at the hearing, that he did not have health insurance meeting minimum creditable coverage (MCC) standards at any point in 2020. Exhibit 2.
7. In 2020, Appellant was living on income from a pension and from Social Security.
8. In 2019, Appellant had been insured through Connector Care, which is a program of subsidized health insurance provided by the Health Connector.
9. However, at the start of 2020, the premium charged for his Connector Care plan increased from \$40 to \$120 a month. Appellant did not believe that he could afford this amount and so he dropped coverage.
10. Appellant remained uninsured until he turned 65 in 2021, at which point he enrolled in Medicare. He was covered through Medicare as of the date of the hearing.

In addition to the foregoing, I take administrative notice of the 2020 Schedule HC Instructions and Worksheets, available at <https://www.mass.gov/doc/2020-schedule-hc-instructions-1/download>, 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

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

In order to determine whether Appellant should be penalized for not having coverage, I must first consider whether he could have obtained affordable insurance from any of the following three sources: (1) employment-based insurance; (2) government-subsidized insurance; or (3) unsubsidized insurance purchased on the non-group market. See 2020 Schedule HC instructions at pages HC 7-9

During 2020, Appellant did not work. Thus, he was unable to obtain employer-sponsored insurance.

Further, Appellant would have been unable to afford to purchase unsubsidized health insurance in the non-group market under state affordability standards established by the Health Connector Board under M.G.L. c. 111M. Under those standards, an individual like Appellant who was in a household of one person and had annual income of \$23,194 was deemed able to afford only 2.6 percent of income on insurance. (I obtain that figure from Table 3 of the 2020 instructions for the Schedule HC.) In this case, that amounts to \$672 annually or \$56 a month. During 2020, a person like Appellant who lived in Essex County and was 64 years of age would have had to pay at least \$432 a month for insurance. (I obtain the premium figure from Table 4 to the instructions for the 2020 Schedule HC). Thus, under state standards, this amount would not have been affordable.

However, Appellant was eligible to receive Connector Care, which is government-subsidized health insurance in Massachusetts. To be eligible for Connector Care, an individual must have household income below 300 percent of the federal poverty limit and must meet other eligibility requirements, such as U.S. citizenship or legal permanent residence. See 956 C.M.R. § 12.04 (Connector Care eligibility requirements.) In 2020, 300 percent of the federal poverty limit for a household of one person like Appellant's was \$37,470. (I obtain the figure of \$37,470 from Table 2 to the instructions for the 2020 Schedule HC.) Appellant's annual income during 2020 was \$23,194 and thus was below the threshold for receiving Connector Care. Further, I conclude that Appellant met the other eligibility requirements because he had been receiving Connector Care in 2019.

Appellant stated that his Connector Care premium increased to \$120 a month at the start of 2020. That amount would have been too high for him afford. Connector Care premiums are based on income and are determined so that they will be affordable under state standards. Given the income that Appellant reported for 2020, a premium of \$120 was too high. Thus, the increase in premium must have been due to a misreporting or a miscalculation of his expected annual income at the start of 2020. Thus, I conclude that Appellant could not have obtained government-subsidized insurance that was affordable to him in 2020.

Because Appellant could not have obtained affordable insurance through any of the three possible avenues in 2020, I conclude that he should not have been subject to the individual mandate penalty for that year. Even if I held otherwise, I would conclude that he has stated grounds sufficient to waive the penalty under Health Connector regulations. Appellant testified credibly that he was homeless in 2020 because he could not afford to rent an apartment. During that time, he lived in temporary residences, either in motels or with friends. This testimony is corroborated by the fact that he filed his taxes using a post office box instead of a street address. See Exhibit 2. Under Health Connector regulations, homelessness is a ground for waiving the penalty. See 956 C.M.R. § 6.08(1)(a). Thus, Appellant's homelessness is an alternate ground for my decision to waive the penalty for 2020.

In light of the foregoing, I am allowing the appeal and waiving the penalty assessed against Appellant in its entirety.

PENALTY ASSESSED

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

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

NOTIFICATION OF YOUR RIGHT TO APPEAL TO COURT

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

Hearing Officer

Cc: Connector Appeals Unit

Massachusetts Health Connector Appeals Unit

FINAL APPEAL DECISION: PA 21-2117

Appeal Decision The appeal is allowed; the tax penalty is waived.

Hearing Issue: Appeal of the 2021 Tax Year Penalty

Hearing Date: February 27, 2023

Decision Date: March 6, 2023

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 27, 2023. The hearing record consists of the testimony of Appellant, and the following documents, which were admitted into evidence:

- Exhibit 1: Health Connector Hearing Notice (2 pages)
- Exhibit 2: Appeal Case Information sheet¹ (1 page)
- Exhibit 3: Statement of Grounds (with attachments) (12 pages)

FINDINGS OF FACT

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

1. Appellant was 38 at the end of 2021. Exhibit 2.
2. Appellant lived in Norfolk County in 2021. Exhibit 2.
3. Appellant filed his taxes as married, filing separately, with no dependents. Exhibit 2.
4. Appellant's household income in 2021, as reported on the tax returns filed separately by him and by his wife, equaled \$553,187. Exhibit 2. Appellant stated that this amount included between

¹ Exhibit 2 is a computer printout containing information extracted from the Schedule HC that Appellant submitted as part of his 2021 Massachusetts tax return. The Schedule HC is the form on which Massachusetts taxpayers report information relevant to the individual mandate penalty, which is the subject of this appeal.

\$90,000 to \$100,000 that he earned through his employment. The balance was reported by his wife and included a large amount in an equity payout.

5. Appellant reported in the Schedule HC that he filed with his 2021 state income taxes, and confirmed at the hearing, that he did not have health insurance meeting minimum creditable coverage standards at any point in 2021. Exhibit 2.
6. During 2021, Appellant was employed by a legal staffing agency, which placed him with a Massachusetts company. He received his benefits through the staffing agency.
7. Appellant enrolled in the health insurance plan offered by that staffing agency. He was enrolled in that plan throughout the year. The coverage cost him \$236.50 a month, as reported on the 1095-C provided to him by his employer. See Exhibit 3 (attachment).
8. The plan in which he was enrolled provided coverage through Cigna, a national insurance company. The coverage was comprehensive. However, as stated in plan documents, the plan had an annual deductible of \$7,900 for an individual. See Exhibit 3 (attachment).
9. When Appellant received a 1099-HC for 2021 in early 2022, he learned that the plan in which he was enrolled did not meet Massachusetts MCC standards.
10. At the start of 2022, Appellant obtained employment with a Massachusetts employer. At that point, he changed health insurance plans to one offered by his new employer. That plan met MCC standards. Appellant was enrolled in that plan as of the date of the hearing.

In addition to the foregoing, I take administrative notice of the 2021 Schedule HC Instructions and Worksheets, available at <https://www.mass.gov/doc/2021-schedule-hc-instructions/download>, which, as discussed below, include the Affordability Schedule and other financial information used in making 2021 individual mandate tax penalty determinations.

ANALYSIS AND CONCLUSIONS OF LAW

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

Insurance coverage satisfies the individual mandate requirement only if it constitutes “creditable coverage” as defined by the statute. M.G.L. c. 111M, § 2(a). “Creditable coverage” is defined as a plan that meets the standards for “minimum creditable coverage” (MCC) under regulations promulgated by the Health Connector’s board. *Id.* § 1. These regulations contain requirements that an insurance plan must meet. Among these are a requirement that the plan not have a deductible that exceeds \$2,000 annually for an individual. 956 C.M.R. § 5.03(2)(b)(2.) (A deductible is the amount that a covered person must pay out-of-pocket for medical services before the insurance plan begins to cover expenses.) Further, the regulations provide that this amount will be adjusted upward annually by a percentage amount determined by the U.S. Department of Health and Human Services (HHS) and used by HHS to regulate cost-sharing increases for plans that meet federal coverage standards. *Id.* § 5.03(2)(b)(3). For 2021, the adjusted limit for deductibles under the MCC regulations was \$2,700. *See* Health Connector Administrative Bulletin 05-20, “Guidance Regarding Minimum Creditable Coverage Regulations for

Calendar Year 2021,” (issued May 21, 2020) (available at <https://betterhealthconnector.com/wp-content/uploads/rules-and-regulations/AdminBulletin05-20.pdf>). The Cigna plan, in which Appellant was enrolled, had a deductible that significantly exceeded this amount. Thus, it was not MCC-compliant insurance.

Because Appellant did not have MCC-compliant health insurance in 2021, he is subject to a penalty under M.G.L. c. 111M if he could have afforded to purchase such health insurance. In order to determine whether he had access to affordable health insurance, I must consider whether he could have obtained affordable insurance from any of the following three sources: (1) employment-based insurance; (2) government-subsidized insurance; or (3) unsubsidized insurance purchased on the non-group market. See 2021 Schedule HC instructions at pages HC 7-9

During 2021, Appellant worked for a staffing agency that offered only insurance that did not meet MCC standards. Thus, he could not obtain MCC-compliant insurance through employment.

Further, Appellant would not have been eligible to receive Connector Care, which is government-subsidized health insurance in Massachusetts. To be eligible for Connector Care, an individual must have household income below 300 percent of the federal poverty limit. See 956 C.M.R. § 12.04 (Connector Care eligibility requirements.) In 2021, 300 percent of the federal poverty limit for a household of two person like Appellant’s was \$51,720. (I obtain the figure of \$38,280 from Table 2 to the instructions for the 2021 Schedule HC.) In this case, Appellant’s household income during 2021 was \$553,187 and therefore he was not income-eligible for Connector Care.

However, Appellant would have been able to afford to purchase unsubsidized health insurance on the non-group market under state affordability standards established by the Health Connector Board under M.G.L. c. 111M. Under those standards, an individual like Appellant who was married filing separately and had annual income of over \$51,041 was deemed able to afford 8 percent of income on insurance. (I obtain that figure from Table 3 of the 2021 instructions for the Schedule HC.) In this case, that amounts to \$44,254 annually or \$3,687 a month. During 2021, a person like Appellant who lived in Norfolk County and was 38 years of age could have obtained health insurance meeting minimum creditable coverage standards for a monthly premium of \$275. (I obtain the premium figure from Table 4 to the instructions for the 2021 Schedule HC). Thus, under state standards, this amount would have been affordable.

Because Appellant could have obtained affordable insurance in 2021, but did not, I am required to consider whether he has stated grounds sufficient to waive the penalty under Health Connector regulations. 956 C.M.R. § 6.08. I conclude that he has. In reaching that determination, I may consider a range of financial factors, including the cost of insurance that Appellant did actually purchase. See 956 CMR § 6.08(2)(b). In this case, Appellant unknowingly was enrolled in a product that did not meet MCC standards under state law. The cost of that product was not insignificant and was close to the amount Appellant would have had to pay to purchase MCC-compliant insurance in the non-group market. Thus, I conclude that Appellant did not fail to get creditable coverage because he was trying to avoid costs. Rather, he took the insurance offered by his employer without realizing that it did not meet MCC standards.

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

PENALTY ASSESSED

Number of Months Appealed: 12

Number of Months Assessed: 0

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

NOTIFICATION OF YOUR RIGHT TO APPEAL TO COURT

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

Hearing Officer

Cc: Connector Appeals Unit

Massachusetts Health Connector Appeals Unit

FINAL APPEAL DECISION: PA 21-2156

Appeal Decision The appeal is allowed; the tax penalty is waived.

Hearing Issue: Appeal of the 2021 Tax Year Penalty

Hearing Date: February 27, 2023

Decision Date: March 6, 2023

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 27, 2023. The hearing record consists of the testimony of Appellant, and the following documents, which were admitted into evidence:

- Exhibit 1: Health Connector Hearing Notice (2 pages)
- Exhibit 2: Appeal Case Information sheet¹ (1 page)
- Exhibit 3: Statement of Grounds (w/ attachments) (5 pages)
- Exhibit 4: Request to Re-schedule hearing (4 pages)
- Exhibit 5: Appeals Decision, 20-1015 (4 pages)

FINDINGS OF FACT

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

1. Appellant was 39 at the end of 2021. Exhibit 2.
2. Appellant lived in Plymouth County in 2021. Exhibit 2.
3. Appellant filed his taxes as single with no dependents. Exhibit 2.
4. Appellant reported on the Schedule HC that he filed with his state income taxes, and confirmed at the hearing, that his annual income for 2021 was \$86,412. Exhibit 2.

¹ Exhibit 2 is a computer printout containing information extracted from the Schedule HC that Appellant submitted as part of his 2021 Massachusetts tax return. The Schedule HC is the form on which Massachusetts taxpayers report information relevant to the individual mandate penalty, which is the subject of this appeal.

5. Appellant reported in the Schedule HC that he filed with his 2021 state income taxes, and confirmed at the hearing, that he did not have health insurance meeting minimum creditable coverage standards from January through June of 2021, but did have such insurance from July through December 2021. Exhibit 2.
6. Appellant lost his employment in July 2020 and did not obtain a new position until February 2022. Thus, he was unemployed for the entire 12 months of 2021.
7. During the first nine months of 2021, he collected unemployment compensation until that benefit ran out. He stated that his unemployment compensation amounted to \$40,428 during the year.
8. He also had investment income, consisting of dividends and interest, in an amount of \$10,958 during the year.
9. The balance of the income amount reported on his 2021 tax returns, consisting of \$36,115, was of a rollover from a conventional IRA to a Roth IRA. Such a rollover is treated as taxable income, even though it does not result in the receipt of any disposable income.
10. When Appellant became unemployed in 2020, he attempted to apply for subsidized insurance through the Health Connector. At the time, he was unable to be enrolled in a subsidized health plan, apparently because his annual income for 2020, which included the amount he earned while still working in a high-paying position, was above the income threshold to receive such assistance.
11. As a result, Appellant did not apply for Health Connector coverage in 2021, until he learned that, under the American Rescue Plan, which was federal legislation enacted in March 2021 to provide temporary relief during the Covid pandemic, free coverage was available to individuals who were receiving unemployment compensation regardless of annual income.
12. Appellant applied for a Health Connector plan and was enrolled starting in July 2021. He remained in that plan through December 2021.
13. Throughout 2021, while he was uninsured, Appellant had monthly expenses that included \$2,773 for his mortgage and \$1,290 for property taxes. He testified credibly that his monthly expenses, included mortgage and property taxes, amounted to approximately \$5,163 a month.
14. When Appellant obtained a new position in February 2022, he was able to receive health insurance through that employment. He was enrolled in that insurance as of the date of the hearing.
15. Appellant was assessed a penalty for not having insurance for part of 2020. He appealed that penalty. After a hearing, the penalty was waived. See Exhibit 5.

In addition to the foregoing, I take administrative notice of the 2021 Schedule HC Instructions and Worksheets, available at <https://www.mass.gov/doc/2021-schedule-hc-instructions/download>, which, as discussed below, include the Affordability Schedule and other financial information used in making 2021 individual mandate tax penalty determinations.

ANALYSIS AND CONCLUSIONS OF LAW

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

Under M.G.L. c. 111M, § 2, residents are permitted a 63-day gap between periods of insurance without incurring a penalty. The Health Connector's "Administrative Bulletin 03-10: Guidance Regarding M.G.L. c. 111M and M.G.L. c. 176Q, as implemented by 956 CMR 6.00", which can be found at <https://betterhealthconnector.com/wp-content/uploads/rules-and-regulations/AdminBulletin03-10.pdf>, interprets the 63-day gap in coverage to be three months. As a result, gaps of three months are not subject to penalty. In this case, Appellant lacked insurance for six months out of the year. Therefore, he was entitled to a three-month gap without penalty, and so he has been assessed a penalty for only three months.

In order to determine whether Appellant should be penalized for not having coverage during the time that he was uninsured, I must first consider whether he could have obtained affordable insurance from any of the following three sources: (1) employment-based insurance; (2) government-subsidized insurance; or (3) unsubsidized insurance purchased on the non-group market. See 2021 Schedule HC instructions at pages HC 7-9

During 2021, Appellant was unemployed. Therefore, he could not obtain health insurance through employment.

Further, prior to the enactment of the American Rescue Plan in March 2021, Appellant would not have been eligible to obtain Connector Care, which is government subsidized health insurance. To be eligible for Connector Care, an individual must have household income below 300 percent of the federal poverty limit and meet other eligibility requirements, such as legal permanent residence in the United States. See 956 C.M.R. § 12.04 (Connector Care eligibility requirements.) In 2021, 300 percent of the federal poverty limit for a household of one person like Appellant's was \$38,280. (I obtain the figure of \$38,280 from Table 2 to the instructions for the 2021 Schedule HC.) Thus, Appellant would not have been eligible because his annual taxable income of \$86,412 was above the income threshold to receive Connector Care.

The American Rescue Plan passed by Congress in March 2021 changed that limitation by making anyone who had receive unemployment compensation eligible for free health insurance. See American Rescue Plan, § 9663 (codified at 26 U.S.C. § 36B(g).) Because of that legislation, Appellant was able to enroll in Connector Care because he had been receiving unemployment compensation. He did do this not long after this benefit became available to him. Based on the foregoing, I conclude that Appellant could not have obtained government-subsidized insurance during the months that he was uninsured.

However, under a strict application of the state affordability standards adopted by the Health Connector Board pursuant to M.G.L. c. 111M, Appellant would be deemed able to afford to purchase unsubsidized health insurance on the non-group market. Under those standards, an individual like Appellant who was in a household of one person and had annual income of \$86,412 was deemed able to afford eight percent of income on insurance. (I obtain that figure from Table 3 of the 2021 instructions for the Schedule HC.) In this case, that amounts to \$6,912 annually or \$576 a month. During 2021, a person like Appellant who lived in Plymouth County and was 39 years of age could have obtained insurance meeting minimum creditable coverage standards for a monthly premium of \$275 a month. (I obtain the

premium figure from Table 4 to the instructions for the 2021 Schedule HC). Thus, under state standards, this amount would have been affordable.

Because Appellant could have obtained affordable insurance in 2021, but did not, I am required to consider whether he has stated grounds sufficient to waive the penalty under Health Connector regulations. 956 C.M.R. § 6.08. I conclude that he has. First, I conclude that it would be inequitable to apply the affordability standards strictly to Appellant in this case. Appellant's annual income, as reported on his income tax return, includes \$36,115, which represents the amount that he rolled over from a conventional to a Roth IRA. In fact, this amount of money would not have been available to him to spend in 2021, even though it is considered taxable income. Without this amount, Appellant's available income for the year was \$51,386, which included the amount he received for unemployment compensation and his investment income. With this amount, he had only \$4,110 a month to spend. He testified credibly that his monthly expenses were \$5,163, which included mortgage and taxes, and modest amounts for utilities, automobile expenses, food, and other necessities. He testified that he made up that gap by dipping into savings. Thus, I conclude that, given his actual financial situation, the purchase of health insurance in the non-group market would have caused him to experience a serious deprivation of the necessities of life. This constitutes grounds for waiving the penalty under Health Connector regulations. See 956 C.M.R. § 6.08(1)(e). Further, I take into consideration the fact that Appellant did apply for and obtain health insurance through the Connector Care program when he realized that such insurance would be available to him because he was receiving unemployment compensation. In light of all these factors, I will exercise my discretion to waive the penalty in its entirety.

PENALTY ASSESSED

Number of Months Appealed: 3

Number of Months Assessed: 0

If the number of months assessed is zero (0) because your penalty has been overturned, the Connector has notified the Department of Revenue that you should NOT be assessed a penalty for Tax Year 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. PA21-2298 [CC]

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

Hearing Issue: Appeal of the 2021 Tax Year Penalty

Hearing Date: March 1, 2023

Decision Date: March 6, 2023

AUTHORITY

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

JURISDICTION

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

HEARING RECORD

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

1. DOR Appeal Case Information from Schedule HC (1 page);
2. Appellant’s Statement of Grounds for Appeal – 2021;
3. Appellant’s Letter in Support of Appeal (1 page);
4. Appellant’s Service Industry Trade Alliance Enrollment (1 page, eff. 10/2/2020);

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 2021. The basis for the penalty was that the Appellant was not covered by health insurance that satisfied the Massachusetts minimum credible coverage ("MCC") standards at any time in 2021. Exhibits 1 and 2.
2. The Appellant filed a Massachusetts personal income tax return for 2021 as a single person with no dependents. The Appellant's federal adjusted gross income (AGI) for 2021 was \$35,545. Exhibit 1.
3. The Appellant was 26 years old at the beginning of 2021 and resided in [name of city or town omitted] in Middlesex County, Massachusetts. Exhibit 1.
4. The Appellant's 2021 AGI (\$35,545) was less than 300% of the federal poverty level (\$38,280 for a one-person household). DOR Table 2. On this basis I infer that it is likely that the Appellant would satisfy the financial eligibility requirements for government-subsidized health insurance.
5. Based on DOR Table 3 the Appellant could afford to pay 5.00% of his income – or \$148 per month -- for health insurance coverage in 2021. (The calculation is 5.00% multiplied by \$35,545 AGI = \$1,777.25 per year divided by 12 months = \$148.10 per month.)
6. Based on DOR Table 4 (Region 2) the Appellant could obtain individual health insurance coverage at his age and location for \$263 per month in 2021.
7. In 2020 the Appellant was employed and was enrolled in the health plan offered by his employer. The Appellant lost his job and his employer-sponsored health insurance in September 2020 due to the coronavirus pandemic (COVID-19). His employer referred the Appellant to the unemployment office (for income) and to COBRA (for replacement health insurance). Exhibit 3 and Testimony.

8. The Appellant acted on the referral made by COBRA and enrolled in coverage effective October 2, 2020, paying a \$269.95 per month premium (plus an additional \$100 for the first month). Exhibits 3 and 4 and Testimony.
9. Before he enrolled in the Evolve Health Insurance that he was offered through the Service Industry Trade Alliance (SITA) the Appellant's mother and father joined him on the telephone call with David Jastremski (the agent of record) who assured them that the coverage was appropriate for use in Massachusetts. Testimony and Exhibit 3. See also Exhibit 4.
10. The Appellant paid \$3,239 in monthly premiums for health insurance coverage in 2021 – the year at issue in this appeal. In addition, the Appellant paid \$909.80 for October, November, and December 2020 plus \$269.95 per month for the period in 2022 before he was able to cancel the Evolve/SITUS insurance coverage. Exhibit 4. See also Testimony and Exhibit 3.
11. The monthly premium payments to Evolve/SITUS (\$269.95 per month) were greater than the monthly premium under DOR Table 4 (2) (\$263 per month), even before any government-subsidy for which the Appellant might have qualified if he had purchased the insurance through the Health Connector. See Findings of Fact, Nos. 4, 6 and 8, above.
12. The Appellant did not learn that his health insurance did not satisfy the MCC standards until early 2022 when he sought to prepare his 2021 state income tax return. After an extended and difficult search to locate the insurance provider the Appellant was informed that he would not receive the 2021 MA FORM 1099-HC that he needed for his tax return because his insurance did not satisfy the state MCC requirements. Exhibit 3 and Testimony. See also Exhibit 1. The Appellant located the insurer though a Better Business Bureau (BBB) website, which gave the insurance an F- rating. Testimony and Exhibit 3.
13. The Appellant was also told that only the agent of record could refund the money that the Appellant had paid for more than one year but that the agent was no longer on the payroll. Testimony and Exhibit 3.

14. The Appellant found a new job teaching at a charter school in Massachusetts. He enrolled in the employer's health plan as soon as possible under the open enrollment policies. Testimony.
15. Except as set forth in the foregoing findings of fact, I adopt the facts set forth in Exhibit 1 as my own findings of fact. Exhibit 1 is a computer printout prepared by the Massachusetts Department of Revenue (DOR) that extracts information submitted by the Appellant on Schedule HC as part of the Appellant's 2021 Massachusetts income tax return.
16. I take administrative notice of the financial information set forth in Tables 1 through 6 of the DOR 2021 Massachusetts Schedule HC Health Care Instructions and Worksheet. Tables 3 and 4 incorporate the affordability schedules adopted by the board of directors for the Commonwealth Health Insurance Connector Authority (Health Connector or Connector) for 2021. See 956 Code Mass. Regs. 6.05. Table 1 sets forth income levels less than 150% of the federal poverty level that are exempt from the assessment of a state tax penalty. Table 2 sets forth income eligibility standards for various family sizes at 300% of the federal poverty level, which is the income eligibility standard for the ConnectorCare government subsidized health insurance program. Tables 5 and 6 set forth the tax penalties in effect for 2020. (The DOR instructions are published online at <http://www.mass.gov/dor/2018ScheduleHCInstructions> and are also available in the state income tax forms supplied to taxpayers. See also DOR Technical Information Release (TIR) 12-7: Individual Mandate Penalties for Tax Year 2021.)

ANALYSIS AND CONCLUSIONS OF LAW

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

I begin by summarizing the legal rules that underlie this appeal. The tax penalty was enacted by the Massachusetts Legislature to encourage compliance with what is known as the "individual mandate" under the Massachusetts Health Care Reform Act of 2006. The individual mandate requires that all Massachusetts residents, age 18 and

older, “shall obtain and maintain” health insurance coverage, as long as it is “deemed affordable” under the schedule set by the Health Connector’s board of directors that is incorporated in the DOR tables referred to earlier. Massachusetts General Laws c. 111M, sec. 2(a). Any health insurance policy must also satisfy the Massachusetts minimum creditable coverage standards (“MCC”) in order to avoid the penalty. Mass. Gen. Laws c. 111M, sec. 2(b). See also 956 Code Mass Regs. 501 and 5.03.

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

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

In this case, the Appellant sought to comply with the independent mandate. He was enrolled in employer-subsidized health insurance until he lost his job in September 2020 due to the coronavirus pandemic (COVID-19). He then followed his employer’s instructions and sought new health insurance coverage through COBRA. He enrolled in a new health plan effective October 2, 2020, based on the provider’s representation to the Appellant and his parents that the Evolve/SITUS plan that he was offered was appropriate for use in Massachusetts.

The Appellant did not learn that his new insurance plan did not, in fact, satisfy the Massachusetts minimum credible coverage standards (“MCC”) until 2022 when he sought to prepare his 2021 state income tax return. At that point, the insurance provider informed the Appellant that he could not obtain the required state tax form (2021 MA Form 1099-HC) because he had, inappropriately, been sold a “supplementary” policy that did not satisfy the MCC standards.

After-the-fact the Appellant learned that the DOR would assess a tax penalty for 2021 even though the Appellant had enrolled in coverage through Evolve/SITUS promptly

after he lost his job and his employer-sponsored health insurance due to COVID-19. The premium that the Appellant paid for the Evolve/SITUS coverage was actually more than what he would have paid for insurance under DOR Table 4 (2), so the Appellant did not derive any financial benefit from enrolling in the Evolve/SITUS health plan..

The Appellant remedied the MCC issue promptly after he learned of the problem. In 2022 he enrolled in the health plan offered by his new employer (a charter school).

After considering all the circumstances, I conclude that it is appropriate to waive the entire penalty assessed against the Appellant for 2021. (I presume that the 3-month administrative grace policy shielded the Appellant from any tax penalty assessment for 2020. I cannot forecast if DOR might assess another penalty for 2022 before the charter school's insurance took effect, but the Appellant could file another appeal for 2022 and bring this decision to the hearing officer's attention.)

PENALTY ASSESSED

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

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

OR

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

NOTIFICATION OF YOUR RIGHT TO APPEAL TO COURT

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

Hearing Officer

Cc: Massachusetts Health Connector Appeals Unit

Massachusetts Health Connector Appeals Unit

Tax Penalty Appeal Decision—Docket No. PA21-2301 [NS + HA] - 2

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

Hearing Issue: Appeal of the 2021 Tax Year Penalty

Hearing Date: March 1, 2023

Decision Date: March 10, 2023

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 (Wife NS) appeared for the hearing, which I conducted by telephone, on behalf of herself and her Husband HA, the Co-Appellant. 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 Wife’s testimony under oath and the following documents that were admitted into evidence as exhibits.

1. DOR Appeal Case Information from Schedule HC (1 page);
2. Appellant’s Statement of Grounds for Appeal – 2021; 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 Appellants (Wife NS and Husband HA) appealed from the Department of Revenue's assessment of a 12 month penalty for 2021. The basis for the penalty was that the Appellants were not insured at any time in 2021. Exhibits 1 and 2. Based on Exhibit 1 and the Wife's hearing testimony, I find that the penalty assessment is accurate.
2. The Appellants filed a Massachusetts personal income tax return for 2021 as a married couple filing jointly with no dependents. The Appellant's federal adjusted gross income (AGI) for 2021 was \$46,053. Exhibit 1.
3. The Wife was 63 years old at the beginning of 2021 and resided in [name of city or town omitted] in Middlesex County, Massachusetts. Exhibit 1.
4. The Appellants' 2021 AGI (\$46,053) was less than 300% of the federal poverty level (\$51,720 for a two person household). DOR Table 2. On this basis I infer that it is likely that the Appellants would satisfy the financial eligibility requirements for government-subsidized health insurance.
5. Based on DOR Table 3 the Appellant could afford to pay 7.40% of their income -- or \$284 per month -- for health insurance coverage in 2021. (The calculation is 7.40% multiplied by \$46,053 AGI = \$3,407.92 per year divided by 12 months = \$283.99 per month.)
6. Based on DOR Table 4 (Region 2) the Appellant could obtain health insurance coverage for a married couple with no dependents at their age and location for \$802 per month in 2021.
7. Prior to 2021 – the year at issue in this appeal – both the Wife and Husband had been employed. The Wife lost her job for 2021, reducing their income to what the Husband alone earned. Since living costs were increasing in this period, the Appellants found this situation difficult. Testimony.
8. The Appellants had health insurance both before and after 2021, apparently through the Health Connector. For 2021 the Appellants dropped their health insurance coverage (despite their age) in an effort to reduce their expenses. The Wife did not realize that there is a tax penalty for Massachusetts residents who are not insured. Testimony.

9. In 2021 the Wife enrolled in a computer course at a local university in an effort to enhance her opportunity to obtain a new job, but she was not successful in regaining employment. The Wife believes that her lack of success is attributable to her age. Testimony.
10. The Wife borrowed \$18,000 from her brother for 2021 to cover the cost of her computer course and equipment. The brother also helped the Wife and Husband pay for medications (the out-of-pocket expenditures decreased when the Appellants were insured again). Testimony.
11. The Appellants rent their residence. They do not have a car because they cannot afford it. Testimony.
12. The Appellants have struggled to pay the increased cost of heat and electricity, but they have not received utility shut-off notices. Testimony.
13. The Appellants both have outstanding credit card balances: approximately \$4,000 for Wife and \$3,000 for Wife. 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 2021 Massachusetts income tax return.
15. I take administrative notice of the financial information set forth in Tables 1 through 6 of the DOR 2021 Massachusetts Schedule HC Health Care Instructions and Worksheet. Tables 3 and 4 incorporate the affordability schedules adopted by the board of directors for the Commonwealth Health Insurance Connector Authority (Health Connector or Connector) for 2021. See 956 Code Mass. Regs. 6.05. Table 1 sets forth income levels less than 150% of the federal poverty level that are exempt from the assessment of a state tax penalty. Table 2 sets forth income eligibility standards for various family sizes at 300% of the federal poverty level, which is the income eligibility standard for the ConnectorCare government subsidized health insurance program. Tables 5 and 6 set forth the tax penalties in effect for 2020. (The DOR instructions are published online at

<http://www.mass.gov/dor/2018ScheduleHCInstructions> and are also available in the state income tax forms supplied to taxpayers. See also DOR Technical Information Release (TIR) 12-7: Individual Mandate Penalties for Tax Year 2021.)

ANALYSIS AND CONCLUSIONS OF LAW

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

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

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

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

The evidence presented in this appeal depicts an elderly couple who are struggling to cover increased living costs. Their situation is more difficult because the Wife is no

longer employed so they exist on only the Husband's income. They have borrowed money from the Wife's brother, who has also helped them pay for prescription medications.

The objective standards set forth in DOR Tables 3 and 4 capture their situation. On their 2021 income the Appellants can afford to pay \$284 per month for health insurance, but at their age that insurance would cost them \$802 per month. See Findings of Fact, Nos. 5 and 6, above. Their 2021 income is less than 300% of the federal poverty level making it likely that they would qualify for a government-subsidy to help pay for health insurance (as they may have realized in subsequent years). See Findings of Fact, Nos. 4 and 8, above.

After considering all the circumstances, I conclude that it is appropriate to waive the entire penalty assessed against the Appellants for 2021. See, e.g., 956 Code Mass. Regs. 6.08 (1) (e) ([The Appellants] experienced financial circumstances such that the expense of purchasing health insurance that met minimum creditable coverage standards would have caused [them] to experience a serious deprivation of food, shelter, clothing or other necessities.”).

SEE MY RECOMMENDATION CONCERNING MEDICARE BELOW

PENALTY ASSESSED

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

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

OR

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

NOTIFICATION OF YOUR RIGHT TO APPEAL TO COURT

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

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

Hearing Officer

Cc: Massachusetts Health Connector Appeals Unit

RECOMMENDATION. During the appeal hearing we recognized that you (Wife) would be 65 years old next month (April). This is important because at age 65 people can enroll in the federal Medicare program and have their medical needs covered by Medicare.

You can start the Medicare enrollment process now since the enrollment period starts 3 months before your 65th birthday and ends 3 months after your birthday. There is a substantial financial penalty if you do not enroll during the initial enrollment period. See Medicare and You – 2023, pages 15 - 17. (You can get a free copy of this booklet by calling 1-800-MEDICARE (1-800-633-4227). You can also use Google to find a copy online.

An organization known as SHINE also offers free Medicare/health insurance counseling in communities across Massachusetts. Telephone 1-800-243-4636 to learn how to schedule an appointment near where you live.

Massachusetts Health Connector Appeals Unit

Tax Penalty Appeal Decision—Docket No. PA21-2311 [SR]

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

Hearing Issue: Appeal of the 2021 Tax Year Penalty

Hearing Date: March 1, 2023

Decision Date: March 8, 2023

AUTHORITY

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

JURISDICTION

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

HEARING RECORD

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

1. DOR Appeal Case Information from Schedule HC (1 page);
2. Appellant's Statement of Grounds for Appeal – 2021;
3. Appellant's Letter in Support of Appeal (2 pages);
4. Condominium Fee Increase Notice (1 page, dated 1/25/21);
5. ADP Benefit Confirmation Statement (4 pages); and
6. Health Connector's Notice of Hearing (2 pages).

FINDINGS OF FACT

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

1. The Appellant appealed from the Department of Revenue's assessment of a 12 month penalty for 2021. The basis for the penalty was that the Appellant was not insured at any time in 2021. Exhibits 1 and 2. Based on Exhibit 1 and the Appellant's hearing testimony, I find that the penalty assessment is accurate.
2. The Appellant filed a Massachusetts personal income tax return for 2021 as a single person with no dependents. The Appellant's federal adjusted gross income (AGI) for 2021 was \$71,545. Exhibit 1.
3. The Appellant was 41 years old at the beginning of 2021 and resided in [name of city or town omitted] in Suffolk County, Massachusetts. Exhibit 1.
4. The Appellant's 2021 AGI (\$71,545) was more than 300% of the federal poverty level (\$38,280 for a one-person household). DOR Table 2. On this basis I infer that it is likely that the Appellant would not satisfy the financial eligibility requirements for government-subsidized health insurance.
5. Based on DOR Table 3 the Appellant could afford to pay 8.00% of her income -- or \$477 per month -- for health insurance coverage in 2021. (The calculation is 8.00 % multiplied by \$71,545 AGI = \$5,723.60 per year divided by 12 months = \$ 476.96 per month.)
6. Based on DOR Table 4 (Region 2) the Appellant could obtain individual health insurance coverage at her age and location for \$294 per month in 2021.
7. In 2020 the Appellant was employed and enrolled in her employer's health plan until November 2020 when she was laid off due to the coronavirus pandemic (COVID-19). Testimony and Exhibit 3.
8. The Appellant received unemployment insurance benefits while she was out of work. She estimates that her annual income was reduced by approximately 60% while she was out of work. Testimony and Exhibit 3.
9. The Appellant made efforts to obtain a new job and health insurance coverage. She applied to the Health Connector for insurance but the premium costs were all in excess of \$200, which the Appellant felt she could not afford while she was

receiving unemployment benefits. Testimony and Exhibit 3. The Appellant's testimony is consistent with DOR Table 2, at Findings of Fact, No. 6, above.

10. In mid-2021 the Appellant was notified that she was eligible for government-subsidized health insurance. By this time, however, the Appellant was under active consideration for a new job, and she did not enroll in the health insurance coverage. Testimony and Exhibit 3.
11. The Appellant received a job offer in June 2021, where she would start to work in July 2021. The Appellant's new job would provide health insurance as a job benefit after a several month waiting period. Testimony and Exhibit 3.
12. The Appellant encountered problems with ADP, which managed the work benefits for her new employer. Initially, ADP confirmed that the Appellant was enrolled in benefit plans in a letter date 8/9/21, but a separate coverage letter dated 8/1/21 was limited to life insurance effective 8/1/21. Exhibit 5, pages 1 and 2. See Exhibit 3 and Testimony.
13. The Appellant did not learn that she lacked health insurance until she did not receive the MA Form 1099-HC tax letter after the end of the year. At that point ADP informed the Appellant that nothing could be done until the next open enrollment period began in April 2022. Testimony and Exhibit 3. See also Exhibit 5.
14. The Appellant resolved her benefit coverage by enrolling in the Tufts health plan at the April 2022 open enrollment period, with coverage beginning June 1, 2022. She paid \$234.65 per month for medical, dental, vision and life insurance. Exhibit 5, page 4. See also Exhibit 3 and Testimony.
15. The Appellant's living expenses were increasing while she was out-of-work due to COVID-19. Her monthly condo fee increased by 8.9% per month, beginning on March 1, 2021. Exhibit 4. I accept the 2021 living expenses totaling \$3,916 per month that the Appellant itemized in her supporting letter. Exhibit 3, page 2. I also recognize that the Appellant's income varied substantially during 2020 and 2021. The Appellant's annual salary at her new job was \$85,000 per year, which had the effect of increasing the Appellant's AGI for all of 2021, including the months when she was not employed. Testimony and Exhibit 3.

16. Except as set forth in the foregoing findings of fact, I adopt the facts set forth in Exhibit 1 as my own findings of fact. Exhibit 1 is a computer printout prepared by the Massachusetts Department of Revenue (DOR) that extracts information submitted by the Appellant on Schedule HC as part of the Appellant's 2021 Massachusetts income tax return.
17. I take administrative notice of the financial information set forth in Tables 1 through 6 of the DOR 2021 Massachusetts Schedule HC Health Care Instructions and Worksheet. Tables 3 and 4 incorporate the affordability schedules adopted by the board of directors for the Commonwealth Health Insurance Connector Authority (Health Connector or Connector) for 2021. See 956 Code Mass. Regs. 6.05. Table 1 sets forth income levels less than 150% of the federal poverty level that are exempt from the assessment of a state tax penalty. Table 2 sets forth income eligibility standards for various family sizes at 300% of the federal poverty level, which is the income eligibility standard for the ConnectorCare government subsidized health insurance program. Tables 5 and 6 set forth the tax penalties in effect for 2020. (The DOR instructions are published online at <http://www.mass.gov/dor/2018ScheduleHCInstructions> and are also available in the state income tax forms supplied to taxpayers. See also DOR Technical Information Release (TIR) 12-7: Individual Mandate Penalties for Tax Year 2021.)

ANALYSIS AND CONCLUSIONS OF LAW

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

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

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

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

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

The evidence presented by the appeal in this case divides into two parts.

The first part starts when the Appellant lost her job and her employer-subsidized health insurance due to COVID-19 in November 2020. Until the Appellant started a new job in July 2021 unemployment insurance benefits were the source of her income. She did not have health insurance while she was unemployed. She did file an application for health insurance with the Health Connector during this period, but she felt that she could not afford the monthly insurance premiums that she was quoted.

The second part starts in June 2021, when the Appellant was offered a new job that would begin in July 2021. She was told that her new job would provide health insurance as a job benefit. Consequently, she did not pursue the government-subsidized health insurance that had been offered due to her unemployment.

The Appellant believed that her health insurance would begin after a several month waiting period. Only much later did she learn that the benefits manager had not enrolled the Appellant in health insurance. When the Appellant inquired about the lack of a MA Form 1099-HC for 2021, she learned that she was not insured, but that nothing could be done until the next open enrollment period began in April 2022. The Appellant then enrolled in the Tufts health plan that she was offered for coverage starting June 2022.

After considering all the circumstances I conclude that it is appropriate to waive the entire penalty that the DOR assessed for 2021 because the Appellant was not enrolled in health insurance. The evidence depicts a person who sought both employment and health insurance throughout the period in question, starting with the loss of her job and insurance benefits due to COVID-19. 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 2021 for the amount equal to one half of the lowest cost health insurance plan available to you for each month you have been assessed the penalty, as listed above, plus applicable interest back to the due date of the return without regard to extension.

OR

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

NOTIFICATION OF YOUR RIGHT TO APPEAL TO COURT

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

Hearing Officer

Cc: Massachusetts Health Connector Appeals Unit

Massachusetts Health Connector Appeals Unit

Tax Penalty Appeal Decision—Docket No. PA21-2312 [GB + TB]

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

Hearing Issue: Appeal of the 2021 Tax Year Penalty

Hearing Date: March 1, 2023

Decision Date: March 15, 2023

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 GB] appeared for the hearing, which I conducted by telephone. The Wife [TB] was not penalized, and she did not appeal or participate in the appeal hearing. 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 Husband’s testimony under oath and the following documents that were admitted into evidence as exhibits.

1. DOR Appeal Case Information from Schedule HC (1 page);
2. Appellant’s Statement of Grounds for Appeal – 2021;
3. Appellant’s Letter in Support of Appeal (1 page);
4. MA Office of Patient Protection Waiver Decision (1 page, dated 10/22/21);
5. NJ Certificate of Group Health Plan Coverage (1 page, dated, 10/5/21);
6. NJ Health Benefits Enrollment and/or Change Form (1 page, dated 10/14/20);
7. MA Certificate of Marriage (1 page, dated **/**/2020); 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 Husband [the Appellant GB] appealed from the Department of Revenue's assessment of a 7 month penalty because he did not have health insurance for the months of January – October 2021 but was insured for the months of November and December 2021. Exhibits 1 and 2. Based on Exhibit 1 and the Appellant's hearing testimony, I find that the penalty assessment is accurate. (The calculation is 12 months minus 2 months insured = 10 months uninsured minus 3-month administrative grace period = 7 penalty months.)
2. The DOR did not assess a penalty against the Wife [TB], and she did not appeal. Exhibit 1 and Exhibit 2. I credit the Husband's testimony that his Wife was insured for all of 2021. See also Exhibit 1 (parties filed 2021 Massachusetts income tax return as married couple filing jointly) and Exhibit 7 (2020 marriage certificate for GB and TB).
3. The Husband was 25 years old. Exhibit 1, Exhibit 3, and Testimony.
4. In 2020 the Husband GB was insured on his Mother's health insurance policy. For 2021 the Husband GB thought he was still insured on his Mother's policy. In October 2020 the Husband learned that his Mother had mistakenly removed GB from her policy, when she actually intended to remove only her Husband following their divorce. Testimony and Exhibits 3 and 6. See also Exhibit 5, the NJ Certificate of Group Health Plan Coverage showing that GB was insured from 7/1/19 through 1/1/21 and that his coverage was reinstated effective 10/5/21.
5. On October 5, 2021, the Husband GB learned for the first time that, by his Mother's mistake, he was no longer covered on his Mother's policy. Since the open enrollment period had long since expired the Husband GB promptly filed a waiver petition with the Massachusetts Office of Patient Protection. Testimony and Exhibits 3 and 4.

6. By a letter dated October 22, 2021, the Massachusetts Office of Patient Protection approved the waiver request, which recognized that the Husband GB “did not intentionally forgo enrollment” and allowed GB to reapply for coverage within 30 days. Exhibit 4.
7. The Husband promptly obtained health insurance pursuant to the waiver, and he was not penalized by the DOR for the months of November and December 2021. See Exhibit 1.
8. Except as set forth in the foregoing findings of fact, I adopt the facts set forth in Exhibit 1 as my own findings of fact. Exhibit 1 is a computer printout prepared by the Massachusetts Department of Revenue (DOR) that extracts information submitted by the Appellant on Schedule HC as part of the Appellant’s 2021 Massachusetts income tax return.
9. I take administrative notice of the financial information set forth in Tables 1 through 6 of the DOR 2021 Massachusetts Schedule HC Health Care Instructions and Worksheet. Tables 3 and 4 incorporate the affordability schedules adopted by the board of directors for the Commonwealth Health Insurance Connector Authority (Health Connector or Connector) for 2021. See 956 Code Mass. Regs. 6.05. Table 1 sets forth income levels less than 150% of the federal poverty level that are exempt from the assessment of a state tax penalty. Table 2 sets forth income eligibility standards for various family sizes at 300% of the federal poverty level, which is the income eligibility standard for the ConnectorCare government subsidized health insurance program. Tables 5 and 6 set forth the tax penalties in effect for 2020. (The DOR instructions are published online at <http://www.mass.gov/dor/2018ScheduleHCInstructions> and are also available in the state income tax forms supplied to taxpayers. See also DOR Technical Information Release (TIR) 12-7: Individual Mandate Penalties for Tax Year 2021.)

ANALYSIS AND CONCLUSIONS OF LAW

The case is before me on the appeal filed by the Appellant [Husband GB] from the state Department of Revenue’s (DOR) assessment of a 7 month tax penalty because the Appellant did not have health insurance coverage for all of 2021. See Exhibits 1 and 2. The issue to be decided is whether the penalty should be waived, either in whole or in part.

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

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

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

The legal underpinnings of the appeal in this case are found in the federal Affordable Care Act (ACA) and in the Massachusetts regulation governing the Office of Patient Protection.

Under the ACA a young person may be insured on his parent’s health insurance policy “until the child turns 26 years of age.” 42 United States Code, sec. 300gg-14. In this case, the Appellant had been insured under his Mother’s health insurance policy for 2020, and his understanding was that he was still covered under his Mother’s policy in 2021. Only late in 2021 did the Appellant learn that his Mother had mistakenly removed him from her policy when she removed her Husband, whom she had just divorced.

The Appellant promptly pursued the only remedy that was available to him when he learned in October 2021 that there was a coverage gap for 2021. He applied to the Massachusetts Office of Patient Protection (OPP) for a waiver of the open enrollment limits that barred him from obtaining health insurance. The OPP granted the waiver, based on its conclusion that the Appellant had not intentionally foregone timely enrollment in health insurance for 2021. Exhibit 4. See 958 Code Mass. Regs. 4.001 and 4.030. Thus, the Appellant was able to obtain health insurance coverage for November and December 2021, but a retroactive remedy was not available.

There is no indication in the facts presented on the hearing record that the Appellant was in any way to blame for his lack of health insurance coverage earlier in 2021. To the contrary, the Appellant's prompt and careful presentation of the evidence for this appeal indicates a willingness to comply with the individual mandate, as does his prompt insurance enrollment pursuant to the OPP waive.

After considering all the circumstances I conclude that it is appropriate to waive the DOR's 2021 tax assessment in its entirety.

PENALTY ASSESSED

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

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

OR

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

NOTIFICATION OF YOUR RIGHT TO APPEAL TO COURT

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

Hearing Officer

Cc: Massachusetts Health Connector Appeals Unit

Massachusetts Health Connector Appeals Unit

Tax Penalty Appeal Decision—Docket No. PA21-2315 [JM + KT]

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

Hearing Issue: Appeal of the 2021 Tax Year Penalty

Hearing Date: March 1, 2023

Decision Date: March 11, 2023

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

Both the Husband and Wife testified under oath and they both participated in all aspects of the appeal 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 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 – 2021;
3. Husband's Letter Concerning Appeal (1 page); and
4. 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. Husband and Wife appealed from the Massachusetts Department of Revenue (DOR) assessment of a tax penalty for 2021. As set forth in Exhibit 1, the DOR assessed a 6 month penalty against the Husband (JM) and a -0- penalty against the Wife (KT). In Exhibit 1 the DOR stated that neither the Husband nor the Wife was insured for any month in 2021 and that the Appellant (presumably the Husband) was a part-year resident in Massachusetts starting on January 1, 2021, and ending on September 30, 2021. Based on the evidence produced at the appeal hearing I find that the DOR's treatment of the Appellants' health insurance situation for 2021 is mistaken, as will be set forth in more detail below.
2. In a letter dated May 10, 2022, that the Husband filed in support of the appeal the Husband stated that "I do not live or work in the state of Massachusetts." Instead, the Husband stated, "I work for a [sheriff's office] in [name of city omitted], Maine." Exhibit 3. Based on the testimony by both Husband and Wife during the appeal hearing that I found credible and persuasive, I find that the Husband did not reside or work in Massachusetts in 2021. I find that the Appellant has lived in Maine all his life, and in [name of city or town omitted], Maine for the past nine years.
3. I find that the Wife was a long-term resident of Massachusetts. The Wife lived and worked in Massachusetts in 2021 until she and the Husband were married in September 2021. After their marriage the Wife moved to Maine at the end of September 2021 to live with her new husband. I find that it is the Wife – not the Husband -- who was the part-year Massachusetts resident in 2021 starting on January 1 and ending on September 30, as set forth in Exhibit 1. Testimony.
4. I find that the Wife was insured all 12 months in 2021. The Wife was long-time employee of a major national department store, and she had health insurance through her employer's health plan as a job benefit. The Wife continued to work for the department store for the remainder of 2021, and she maintained her health insurance coverage through her employer for all of 2021. Testimony.
5. For all of 2021 and continuing in 2022, the Husband was insured through his employer in Maine. Starting in January 2022 the Wife was insured under her Husband's health insurance policy. Testimony.

6. Based on their marriage in September 2021 the Wife and Husband filed a joint Massachusetts income tax return for 2021. Exhibit 1 and Testimony. The federal adjusted gross income reported to the DOR in Exhibit 1 was earned by the Wife in 2021. The Husband filed a Maine income tax return for 2021 that reported the income that he earned from his employment in Maine for 2021. Testimony.
7. Except as set forth in the foregoing findings of fact, I adopt the facts set forth in Exhibit 1 as my own findings of fact. Exhibit 1 is a computer printout prepared by the Massachusetts Department of Revenue (DOR) that extracts information submitted by the Appellant on Schedule HC as part of the Appellant's 2021 Massachusetts income tax return.
8. I take administrative notice of the financial information set forth in Tables 1 through 6 of the DOR 2021 Massachusetts Schedule HC Health Care Instructions and Worksheet. Tables 3 and 4 incorporate the affordability schedules adopted by the board of directors for the Commonwealth Health Insurance Connector Authority (Health Connector or Connector) for 2021. See 956 Code Mass. Regs. 6.05. Table 1 sets forth income levels less than 150% of the federal poverty level that are exempt from the assessment of a state tax penalty. Table 2 sets forth income eligibility standards for various family sizes at 300% of the federal poverty level, which is the income eligibility standard for the ConnectorCare government subsidized health insurance program. Tables 5 and 6 set forth the tax penalties in effect for 2020. (The DOR instructions are published online at <http://www.mass.gov/dor/2018ScheduleHCInstructions> and are also available in the state income tax forms supplied to taxpayers. See also DOR Technical Information Release (TIR) 12-7: Individual Mandate Penalties for Tax Year 2021.)

ANALYSIS AND CONCLUSIONS OF LAW

The case is before me on the Husband and Wife's appeal from the state Department of Revenue's (DOR) assessment of a 6 month tax penalty because they did not have health insurance coverage every month in 2021. See Exhibits 1 and 2. The issue to be decided is whether the penalty should be waived, either in whole or in part.

I begin by summarizing the legal rules that underlie this appeal. The tax penalty was enacted by the Massachusetts Legislature to encourage compliance with what is known as the "individual mandate" under the Massachusetts Health Care Reform Act of

2006. The individual mandate requires that all Massachusetts residents, age 18 and older, “shall obtain and maintain” health insurance coverage, as long as it is “deemed affordable” under the schedule set by the Health Connector’s board of directors that is incorporated in the DOR tables referred to earlier. Massachusetts General Laws c. 111M, sec. 2(a). Any health insurance policy must also satisfy the Massachusetts minimum creditable coverage standards (“MCC”) in order to avoid the penalty. Mass. Gen. Laws c. 111M, sec. 2(b). See also 956 Code Mass Regs. 501 and 5.03.

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

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

The evidence presented by the Husband and Wife in this appeal establishes that there is no basis for a tax penalty assessment in 2021.

I will start with the Husband. The evidence shows that he was not a Massachusetts resident at any time in 2021, as he neither lived nor worked in Massachusetts. Under Massachusetts law only Massachusetts residents are subject to the individual mandate and the state tax penalty, as set forth above. Accordingly, no penalty should have been assessed against the Husband. See Mass. Gen. L. c. 111M, sec. 2 (a). The evidence also shows that the Husband had health insurance for all of 2021 -- albeit through his employer in Maine – which is a further reason why the Husband is not subject to a penalty for 2021.

The Wife’s situation is somewhat different because the evidence shows that she was a long-term Massachusetts resident who lived and worked in Massachusetts. Her Massachusetts residency continued up until she married the Husband in September 2021. The Wife then moved to Maine, where she lived with her Husband for October,

November, and December 2021. Although the Wife was subject to the individual mandate for January through September 2021, the evidence shows that she had health insurance through her employer for all of that time (and also for the final three months in 2021). Consequently, the Wife is not subject to a tax penalty for 2021.

For the foregoing reasons I conclude that the Appellants (Husband and Wife) are not subject to a tax penalty for 2021. Accordingly, I vacate the entire penalty assessed by the DOR for 2021.

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

OR

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

NOTIFICATION OF YOUR RIGHT TO APPEAL TO COURT

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

Hearing Officer

Cc: Massachusetts Health Connector Appeals Unit

Massachusetts Health Connector Appeals Unit

FINAL APPEAL DECISION: PA201192

Appeal Decision: The penalty is overturned in full.

Hearing Issue: Appeal of the 2020 Tax Year Penalty

Hearing Date: January 19, 2023

Decision Date: March 23, 2023

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 19, 2023. The procedures to be followed during the hearing were reviewed with Appellant who was then sworn in. Exhibits were marked and admitted in evidence with no objection from the appellant. Appellant testified.

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

Exhibit 1: Statement of Grounds for Appeal signed by Appellant on May 30, 2021 with letter attached (letter received November 26, 2021)

Exhibit 2: Appeal Case Information from Schedule HC 2020 showing Appellant failed to call in for hearing

Exhibit 2a: Appeal Case Information from Schedule HC 2020 showing appeal dismissed on October 1, 2021

Exhibit 2b: Appeal Case Information from Schedule HC 2020 showing appeal dismissal vacated and new hearing approved, dated April 6, 2022

Exhibit 3: Notice of Hearing sent to Appellant dated February 22, 2022 for March 10, 2022 hearing

Exhibit 3a: Notice of Hearing sent to Appellant dated January 5, 2023 for January 19, 2023 hearing

Exhibit 4: Letter from Appellant received by Connector on April 5, 2022 requesting vacating of dismissal

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 22 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 \$31,954 in 2020 (Testimony of Appellant, Exhibit 2).
4. From January through mid-March, Appellant worked full-time as a tow-truck operator. He was laid off because of the pandemic. In June, he was rehired, but only worked for a few weeks. Appellant was then unemployed for several weeks until he found a new job on a farm. He worked on the farm until September (Testimony of Appellant).

5. While working on the farm, Appellant took a course to become an emergency medical technician. He graduated from the program in September and in October he was hired by an ambulance company. Appellant worked full-time for the company and received \$14.25 an hour (Testimony of Appellant).
6. Appellant was not offered health insurance coverage when he worked for the tow truck company or when he worked on the farm. He applied to the Connector for coverage and had insurance in July and August. He dropped the coverage because he felt he could not afford to pay the premium (Testimony of Appellant).
7. When the appellant started work at the ambulance company, Appellant was offered health insurance, but only after the appellant worked for 90 days. He enrolled in the plan offered with a start date of January 1, 2021. As of the date of this hearing, Appellant still had the coverage (Testimony of Appellant).
8. Appellant had health insurance for two months in 2020. Appellant has been assessed a penalty for four months, January through March and December. The appellant has appealed this assessment (Testimony of Appellant, Exhibits 1 and 2).
9. I take administrative notice of the financial information set forth in Tables 1 through 6 in the DOR 2020 Massachusetts Schedule HC Health Care Instructions and Worksheets. Tables 3 and 4 incorporate affordability and premium schedules adopted by the Board of Directors for the Commonwealth Health Insurance Connector Authority for 2020. Table 2 sets forth income at 300% of the Federal poverty level and Tables 5 and 6 set forth tax penalties in effect for 2020.
10. According to Table 3 of Schedule HC for 2020, the appellant with no dependents claimed with an adjusted gross income of \$31,954 could afford to pay \$133 per month for health insurance. According to Table 4, Appellant, 22 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).
11. 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).
12. Appellant did not incur significant and unexpected increases in essential expenses as a result of domestic violence; the death of a spouse, family member, or partner who shared household expenses; the sudden responsibility for providing full care for an aging parent or other family member, or a natural or human-caused event which caused substantial personal damage in 2020 (Testimony of Appellant).
13. Appellant did not receive any shut-off notices for basic utilities in 2020 (Testimony of Appellant).
14. Appellant did not fall more than thirty days behind in rent payments in 2020 (Testimony of Appellant).
15. Appellant had the following monthly expenses for basic necessities in 2020: rent, electricity, and heat-\$800; telephone-\$130; food, household items, and personal care items-\$180; clothing-\$50; car insurance-\$206; gas-\$160; car payment-\$352. The appellant also paid \$3,500 for tuition for his emergency medical technician course (Testimony of Appellant).

ANALYSIS AND CONCLUSIONS OF LAW

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

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

Appellant was insured in July and August, 2020. Appellant has been assessed a penalty for four months, January through March and December. The appellant has appealed the assessment. See Exhibits 1, 2.

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

According to Table 3 of Schedule HC for 2020, the appellant with no dependents claimed with an adjusted gross income of \$31,954 could afford to pay \$133 per month for health insurance. According to Table 4, Appellant, 22 years old and living in Middlesex County, could have purchased insurance for \$269 per month for a plan for an individual. Insurance on the individual market was unaffordable for the appellant. See Schedule HC for 2020 Tables 3 and 4, Exhibit 2.

Appellant was eligible for enrollment in the ConnectorCare program. The appellant’s annual Federal Adjusted Income was \$31,954, less 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 not offered health insurance through the job he had from January through March. He was offered health insurance through the job he had in December but the effective start date was not until January 1, 2021. See the testimony of the appellant which I find to be credible. Appellant had no access to employer-sponsored health insurance during the months for which he has been assessed a tax penalty. See Exhibit 2 also.

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, electricity, and heat-\$800; telephone-\$130; food, household items, and personal care items-\$180; clothing-\$50; car insurance-\$206; gas-\$160; car payment-\$352. The appellant also paid \$3,500 for tuition for his emergency medical technician course. See the testimony of appellant which I find to be credible.

Appellant’s Federal Adjusted Gross Income in 2020 was \$31,954. Appellant’s pay before taxes and other deductions came to about \$2,600 per month. His expenses, if we take into account his tuition for the training course he

took, amounts to about \$2,200. I note, however, that Appellant had periods of unemployment during the pandemic. He was laid off several times and did not secure steady employment until the fall of 2020.

Based upon these facts, I determine that pursuant to 956 CMR 6.08(1)(e), the cost of insurance would have caused Appellant to experience a serious deprivation of basic necessities. This constitutes financial hardship, making health insurance unaffordable for the appellant. In addition, pursuant to 956 CMR 6.08(3), I find that the cost of tuition and the financial insecurity resulting from the pandemic should be taken into consideration.

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

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

PENALTY ASSESSED

Number of Months Appealed: 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: PA21-2112

Appeal Decision: Penalty Overturned in Full
Hearing Issue: Appeal of the 2021 Tax Year Penalty
Hearing Date: January 10, 2023
Decision Date: March 1, 2023

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 10, 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. At the end of the hearing, the record was left open so that Appellant could submit further evidence. Appellant has submitted further documents which have been marked as Exhibit 6.

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: Statement of Grounds and supporting documents, dated April 18, 2022
- Exhibit 3: Correspondence from Health Connector, dated December 27, 2022
- Exhibit 4: None
- Exhibit 5: Correspondence from Health Connector, dated October 14, 2022
- Exhibit 6: Open record documents submitted by Appellant

FINDINGS OF FACT

The record shows, and I so find:

1. Appellant was 30 years old in 2021 and resided in Middlesex County (Exhibit 1).
2. Appellant filed a Massachusetts 2021 tax return as single with no dependents claimed (Exhibit 1).
3. Appellant had an Adjusted Gross Income for 2021 of \$84,225 (Exhibit 1).
4. Appellant lost a permanent job due to the Covid pandemic in 2020 (Testimony of Appellant).
5. Appellant was interested in a permanent job, but due to the pandemic, took a contract job for four months (Testimony of Appellant).
6. Appellant's time at the contract job was extended, but Appellant was unsure of how long the job would last (Testimony of Appellant).
7. Appellant's father lost his job due to Covid and there was no source of income for Appellant's parents and sister (Testimony of Appellant).

8. Appellant moved in with the family so that Appellant could help them financially (Testimony of Appellant).
9. Appellant helped to pay for the family's living expenses (Exhibit 2 and Testimony of Appellant).
10. Appellant helped to pay college expenses, including books, tuition, living expenses and spending money for Appellant's sister and living expenses for Appellant and the whole family (Exhibit 2 and Testimony of Appellant).
11. Appellant does not recall being offered employer sponsored health insurance through the contract job until some time in 2022 (Testimony of Appellant).
12. Appellant did sign up for employer sponsored health insurance from the contract job for the start of 2022 (Testimony of Appellant and Exhibit 6).
13. I take administrative notice of the financial information set forth in Tables 1 through 6 in the DOR 2021 Massachusetts Schedule HC Health Care Instructions and Worksheets. Tables 3 and 4 incorporate affordability and premium schedules adopted by the Board of Directors for the Commonwealth Health Insurance Connector Authority for 2021. Table 2 sets forth income at 300% of the Federal poverty level and Tables 5 and 6 set forth tax penalties in effect for 2021.
14. According to Table 3 of Schedule HC for 2021 a person filing as single with no dependents claimed with an adjusted gross income of \$84,225 could afford to pay \$562 per month for private insurance. According to Table 4, Appellant, who was 30 years old and lived in Middlesex County could have purchased private insurance for a cost of \$263 per month.
15. Private insurance was considered affordable for Appellant in 2021 (Schedule HC for 2021).
16. Appellant, earning more than \$38,280 would not have been income eligible for government subsidized health insurance (Schedule HC for 2021).
17. Appellant did not have health insurance for twelve months of 2021 (Exhibit 1 and Testimony of Appellant).
18. Appellant has been assessed a penalty for twelve months for 2021 (Exhibit 1).
19. Appellant filed a hardship Appeal on April 18, 2022 (Exhibit 2).

ANALYSIS AND CONCLUSIONS OF LAW

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

Appellant has been assessed a tax penalty for 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 considered able to afford private health insurance, so we must consider whether the purchase of insurance would have caused Appellant to experience a hardship. Appellant lost a job in 2020 due to the Covid 19 pandemic. Although Appellant looked for a job, Appellant was unable to find a permanent job at that time. Appellant took a temporary contract job during 2020 and 2021. Appellant was unsure of how long the assignments would last as Appellant could be let go at any time. Appellant moved into a family home to help Appellant's family with expenses as they had lost their income. Appellant also paid for college for Appellant's sister. Considering Appellant's circumstances, I find that for 2021, Appellant could not afford to purchase health

insurance that met minimum creditable coverage standards. See Schedule HC for 2021, 956 CMR 6.08 (1)(d)(3), Exhibits 1, 2, 6 and Testimony of Appellant, which I find to be credible.

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

OR

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

NOTIFICATION OF YOUR RIGHT TO APPEAL TO COURT

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

ADDENDUM

This decision is based upon the facts as I have found them for 2021 and Appellant should not assume that a similar decision would be made if Appellant fails to have health insurance in future years.

Massachusetts Health Connector Appeals Unit

FINAL APPEAL DECISION: PA21-2118

Appeal Decision: Penalty Overturned in Full

Hearing Issue: Appeal of the 2021 Tax Year Penalty

Hearing Date: January 10, 2023

Decision Date: March 10, 2023

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 10, 2023. The procedures to be followed during the hearing were reviewed with Appellant. Appellant was sworn in. Exhibits were marked and admitted in evidence with no objection from Appellant. Appellant testified. At the end of the hearing, the record was left open so that Appellant could submit further information about Appellant's insurance coverage during 2021. Appellant submitted documents which have been marked as Exhibit 5. The record is now closed.

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 April 18, 2022

Exhibit 3: Hearing Notice dated December 27, 2022

Exhibit 4: Additional Documents NONE

Exhibit 5: Documents regarding Appellant's health insurance in 2021

FINDINGS OF FACT

The record shows, and I so find:

1. Appellant was 32 years old in 2021. Appellant filed a Massachusetts 2021 tax return as Head of Household with two dependents claimed (Exhibit 1).
2. Appellant resided in Worcester County during 2021 (Exhibit 1 and Testimony of Appellant).
3. Appellant's Adjusted Gross Income for 2021 was \$55,464 (Exhibit 1).
4. In 2021, Appellant worked part-time, and employer sponsored health insurance was not available (Testimony of Appellant).
5. Appellant looked at health insurance through the Health Connector but did not sign up due to the cost of the premium and the deductible (Testimony of Appellant).
6. Appellant purchased a plan outside of the Connector. The plan had very limited benefits and Appellant paid \$200 per month for the plan (Exhibit 5 and Testimony of Appellant).

7. The plan that Appellant purchased did not provide coverage for wellness visits and had very limited primary care visits. The Plan covered a fixed amount per day or stay in the hospital, with the patient responsible for all other charges. The plan did not offer a comprehensive set of services (Exhibit 5).
8. The plan documents state that the insurance is not an alternative to comprehensive coverage, is not designed to replace major medical insurance and did not meet the minimum essential benefits of the Affordable Care Act (Exhibit 5).
9. Appellant purchased the plan because that was all that Appellant could afford (Testimony of Appellant).
10. When Appellant purchased the plan, Appellant was unaware about the need for coverage which met the Massachusetts standards (Testimony of Appellant).
11. During 2021, Appellant struggled to pay for necessary expenses for the household of three (Testimony of Appellant).
12. I take administrative notice of the financial information set forth in Tables 1 through 6 in the DOR 2021 Massachusetts Schedule HC Health Care Instructions and Worksheets. Tables 3 and 4 incorporate affordability and premium schedules adopted by the Board of Directors for the Commonwealth Health Insurance Connector Authority for 2021. Table 2 sets forth income at 300% of the Federal poverty level and Tables 5 and 6 set forth tax penalties in effect for 2021.
13. According to Table 3 of Schedule HC for 2021 a person filing as Head of Household with two dependents with an adjusted gross income of \$55,464 could afford to pay \$273 per month for private insurance. According to Table 4, Appellant, aged 32, filing as Head of Household with two dependents and living in Worcester County could have purchased private insurance for \$684 per month.
14. Private insurance was not considered to be affordable for Appellant in 2021 (Schedule HC for 2021).
15. Appellant, earning less than \$65,160 would have been income eligible for government subsidized health insurance (Schedule HC for 2021).
16. Appellant has been assessed a penalty for twelve months for 2021 (Exhibit 2).
17. Appellant filed an Appeal and a Statement in support of Appeal appealing the assessment of the penalty on April 18, 2022 (Exhibit 2).

ANALYSIS AND CONCLUSIONS OF LAW

G.L.c. 111M, § 2, also called the “individual mandate,” requires every adult resident of Massachusetts to obtain health insurance that meets minimum creditable coverage standards “[s]o long as it is deemed affordable” under the schedule set by the board of directors for the Commonwealth Health Insurance Connector Authority. Residents who do not obtain insurance or who do not obtain insurance that meets the minimum creditable coverage standard are subject to a tax penalty for “each of the months” that the individual did not have health insurance as required by the individual mandate. There is a three-month grace period to allow the taxpayer to obtain health insurance coverage or to make the transition between health insurance policies. See G. L. c. 111M, sec. 2(b) and for Tax Year 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, 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 (1). 956 CMR 6.08(2)(d) provides that 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.

Appellant has been assessed a tax penalty for twelve months. During 2021, Appellant was covered by a plan that did not meet the Massachusetts standards. 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. We must also consider whether the plan that Appellant had in 2021 substantially

met the Massachusetts minimum creditable coverage standards and whether Appellant's circumstances prevented Appellant from buying other insurance that met the Massachusetts requirements.

The health insurance purchased by Appellant was very limited. It did not provide coverage for a comprehensive set of services. It did not cover wellness visits and only covered a very limited amount of primary care visits. It provided a limited amount of benefits for hospitalization, leaving the rest of the cost to be paid by Appellant. It did not substantially meet the Massachusetts minimum creditable coverage standards. See 956 CMR 6.08 (2)(d).

Appellant was income eligible for government subsidized health insurance. Appellant worked part-time and struggled to pay household expenses. Given these circumstances, I find that the penalty assessed against Appellant for 2021 should be waived in its entirety. See 956 CMR 6.08 (1)(e), Schedule HC for 2021, Exhibits 1, 2, 5 and Testimony of Appellant which I find to be credible.

Appellant is advised that this decision is based upon the facts as I have found them for 2021 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.

PENALTY ASSESSED

Number of Months Appealed: 12

Number of Months Assessed: 0

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

OR

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

NOTIFICATION OF YOUR RIGHT TO APPEAL TO COURT

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

ADDENDUM

Appellant is encouraged to immediately obtain health insurance that meets the Massachusetts minimum creditable standards. Appellant should contact the Health Connector at 1 877 623-6765 to find out about affordable plans that do meet the Massachusetts standards.

Massachusetts Health Connector Appeals Unit

FINAL APPEAL DECISION: PA212182

Appeal Decision: The penalty is overturned in full.

Hearing Issue: Appeal of the 2021 Tax Year Penalty

Hearing Date: January 12, 2023

Decision Date: February 28, 2023

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 12, 2023. The procedures to be followed during the hearing were reviewed with Appellant who was then sworn in. Exhibits were marked and admitted in evidence with no objection from the appellant. Appellant testified.

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

Exhibit 1: Statement of Grounds for Appeal signed by Appellant on April 29, 2022

Exhibit 2: Appeal Case Information from Schedule HC 2021

Exhibit 3: Notice of Hearing sent to Appellant dated December 27, 2022 for January 12, 2023 hearing

FINDINGS OF FACT

The record shows, and I so find:

1. Appellant, who filed a 2021 Massachusetts tax return as a single person with no dependents claimed, was 63 years old in 2021 (Exhibit 2, Testimony of Appellant).
2. Appellant resided in Plymouth County in 2021, though for the first six months of the year, Appellant had no permanent address. Because his income was so low, he could not afford his own place to live. He stayed with different friends, moving from place to place (Testimony of Appellant, Exhibit 2).
3. Appellant had a Federal Adjusted Income of \$106,243 in 2021 (Testimony of Appellant, Exhibit 2).
4. Appellant was self-employed from January through June, 2021. He earned about \$1,000 a month. He did not collect any unemployment compensation during this period (Testimony of Appellant).
5. Towards the end of June, 2021, Appellant obtained full-time employment. During the last six months of the year, Appellant earned about \$100,000. Appellant did not get his first paycheck until the end of July. (Testimony of Appellant).

6. Appellant was not offered health insurance through his job. His employer did offer to reimburse the appellant for the cost of insurance if Appellant enrolled in a plan. Appellant tried to obtain insurance. He thought he was applying to the Connector online and he purchased coverage. He paid the premium for two months before he realized the plan was a scam. He found out in mid-September when he went to his doctor. Appellant then tried to obtain coverage again. He was told that he had to wait for the next open enrollment period (Testimony of Appellant).
7. Appellant obtained coverage as of January 1, 2022 (Testimony of the Appellant).
8. Appellant had no health insurance in 2021. Appellant has been assessed a penalty for the entire year. The appellant has appealed this assessment (Testimony of Appellant, Exhibits 1 and 2).
9. I take administrative notice of the financial information set forth in Tables 1 through 6 in the DOR 2021 Massachusetts Schedule HC Health Care Instructions and Worksheets. Tables 3 and 4 incorporate affordability and premium schedules adopted by the Board of Directors for the Commonwealth Health Insurance Connector Authority for 2021. Table 2 sets forth income at 300% of the Federal poverty level and Tables 5 and 6 set forth tax penalties in effect for 2021.
10. According to Table 3 of Schedule HC for 2021, the appellant with no dependents claimed with an adjusted gross income of \$106,243 could afford to pay \$708 per month for health insurance. According to Table 4, Appellant, 63 years old and living in Plymouth County, could have purchased insurance for \$401 per month for a plan for an individual. Insurance on the individual market was affordable for the appellant (Schedule HC for 2021 Tables 3 and 4, Exhibit 2).
11. According to Table 2 of Schedule HC for 2021, Appellant, who earned more than \$38,280 per year, would have been ineligible for the ConnectorCare program based upon income (Table 2 of Schedule HC-2021, and Exhibit 2).
12. Appellant did not incur significant and unexpected increases in essential expenses as a result of domestic violence; the death of a spouse, family member, or partner who shared household expenses; 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 2021 (Testimony of Appellant).
13. Appellant received shut-off notices for phone and internet in 2021 (Testimony of Appellant).
14. Appellant homeless during the first six months of 2021. He had no apartment or house of his own. He stayed with friends, moving from place to place and sleeping on couches. His housing situation changed once he obtained a job at the end of June (Testimony of Appellant).
15. During the first six months of 2021, Appellant had a low and inconsistent income. He had overdue bills which he could not pay and incurred about \$15,000 debt for business expenses when he was self-employed. He was unable to pay these bills until he found steady employment during the second half of the year. He paid off the debt once he started earning a consistent income (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 2021 should be waived, either in whole or in part.

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

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

Appellant was uninsured all of 2021. Appellant has been assessed a penalty for twelve months. The appellant has appealed the assessment. See Exhibits 1, 2.

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

According to Table 3 of Schedule HC for 2021, the appellant with no dependents claimed with an adjusted gross income of \$106,243 could afford to pay \$708 per month for health insurance. According to Table 4, Appellant, 63 years old and living in Plymouth County, could have purchased insurance for \$401 per month for a plan for an individual. Insurance on the individual market was affordable for the appellant. See Schedule HC for 2021 Tables 3 and 4, and Exhibit 2.

Appellant was ineligible for enrollment in the ConnectorCare program if we consider what his annual income was. The appellant’s annual Federal Adjusted Income was more than the income limit for one person (\$38,280). See 956 CMR 12.00 et. seq., Exhibit 2, and Table 2 of Schedule HC 2021. There is no evidence in the record that Appellant was eligible for any other government sponsored program. If the appellant had applied for this coverage at the beginning of the year, he would have been income-eligible for the program. See the testimony of the appellant which I find to be credible.

Appellant was self-employed until the end of June. Appellant then obtained employment. He was not offered health insurance by his employer, but he was offered reimbursement if he purchased coverage. Appellant sought coverage online, and paid for what he thought was health insurance only to find out that he had been scammed when he went to his doctor in September. Whatever it was that Appellant paid for, it was not coverage that met the Commonwealth’s minimum creditable coverage standards. See the testimony of the appellant which I find to be credible.

After Appellant realized that he did not have health insurance, he tried to get coverage through the Connector and was told that he did not qualify for a special open enrollment period. Appellant did enroll for coverage through the Connector for 2022. His coverage was effective as of January, 2022. See the testimony of the appellant which I find to be credible.

Whether Appellant had access to affordable coverage which met the Commonwealth’s standards is complicated. He might have been eligible for a ConnectorCare plan for the first six months of the year, but his eligibility would have ended as soon as he obtained employment and started earning significantly more than he had been as a self-employed person. If we look at his annual income (over \$100,000) for the year, he could have purchased insurance during the open enrollment period. But during the open enrollment period, he could not afford the coverage on the individual market; Appellant was earning about \$1,000 a month at that time. Once employed, he attempted to get coverage and ended up paying for a scam. Based upon these facts alone, Appellant could have his penalty waived at least in part.

Besides the complications concerning access, I find that that the appellant also had a financial hardship for at least part of the year. From January through June, Appellant was homeless. He stayed with various friends, moving from place to place, not having a room of his own. In addition, Appellant received shut-off notices for his phone and internet. See the testimony of the appellant which I find to be credible. Based upon these facts, I determine that pursuant to 956 CMR 6.08(1)(a) and (b), Appellant had financial hardships, making health insurance unaffordable for the appellant. In addition, Appellant incurred considerable debt (about \$15,000) when he was self-employed during the first half of the year. He could not pay his bills until he obtained full-time employment. See 956 CMR 6.08 (3) which allows consideration of financial issues raised by the appellant at the hearing.

I also note that Appellant obtained health insurance through the Connector as of January 1, 2022.

Appellant's penalty is waived in its entirety.

Appellant should note that any waiver granted here is for 2021 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 2021.

NOTIFICATION OF YOUR RIGHT TO APPEAL TO COURT

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

Cc: Connector Appeals Unit

Hearing Officer

Massachusetts Health Connector Appeals Unit

FINAL APPEAL DECISION: PA21-2228

Appeal Decision: Penalty Overturned in Full
Hearing Issue: Appeal of the 2021 Tax Year Penalty
Hearing Date: January 19, 2023
Decision Date: March 15, 2023

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 19, 2023. 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. At the end of the hearing the record was kept open so that Appellant could submit further documents showing that Appellant had health insurance in 2021. Appellant submitted two forms MA 1099-HC, which have been marked as Exhibit 6. 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 May 4, 2022
- Exhibit 3: Correspondence from Health Connector dated January 3, 2023
- Exhibit 4: None
- Exhibit 5: None
- Exhibit 6: Two Forms MA 1099-HC for 2021

FINDINGS OF FACT

The record shows, and I so find:

1. Appellants were 49 and 39 years old in 2021. Appellants filed a Massachusetts 2021 tax return as married filing jointly with no dependents claimed (Exhibit 1).
2. Appellants resided in Norfolk County, MA in 2021 (Exhibit 1).
3. Appellants had an Adjusted gross income of \$142,280 for 2021 (Testimony of Appellant and Exhibit 1).
4. Appellant was covered by a health insurance plan that met Massachusetts creditable coverage standards from January through September 30, 2021 (Testimony of Appellant and Exhibit 6).
5. Appellant was also covered by a different health insurance plan that met Massachusetts creditable coverage standards from October through December 30, 2021 (Testimony of Appellant and Exhibit 6).
6. Appellant spouse was covered by a health insurance plan that met Massachusetts creditable coverage standards for the entire year (Testimony of Appellant and Exhibit 1).

7. Appellant has been assessed a penalty for twelve months for 2021 (Exhibit 1).
8. Appellant spouse was not assessed a penalty for 2021 (Exhibit 1).
9. Appellant filed an appeal on May 4, 2022 (Exhibit 2).

ANALYSIS AND CONCLUSIONS OF LAW

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

Appellant has been assessed a tax penalty for twelve months. Appellant was properly insured by a Health Insurance Plan that met Massachusetts Creditable Coverage Standards for the entire year of 2021. See Exhibit 6 and Testimony of Appellant, which I find to be credible.

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

PENALTY ASSESSED

Number of Months Appealed: 12/0

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

OR

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

NOTIFICATION OF YOUR RIGHT TO APPEAL TO COURT

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