

Massachusetts Health Connector Appeals Unit

FINAL APPEAL DECISION: PA 21-2610

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

Hearing Issue: Appeal of the 2021 Tax Year Penalty

Hearing Date: March 13, 2024

Decision Date: March 19, 2024

AUTHORITY

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

JURISDICTION

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

HEARING RECORD

Appellant appeared at the hearing, which was held by telephone, on March 13, 2024. 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: Request to vacate dismissal (2 pages)

FINDINGS OF FACT

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

1. Appellant was 53 at the end of 2021. Exhibit 2.
2. Appellant lived in Bristol County in 2021. Exhibit 2.
3. Appellant filed his taxes as a single person with no dependents. Exhibit 2.
4. Appellant's household income in 2021, as reported on his 2021 state income tax returns and confirmed at the hearing, equaled \$43,608.

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 at any point in 2021. Exhibit 2.
6. At the start of 2021, Appellant was unemployed.
7. Further, Appellant lost his residence at the end of 2020. He started staying in a hotel. After a few months, he began to stay at a friend's house while he tried to improve his financial situation.
8. At some point during 2021, he obtained a job, but that job did not offer him health insurance as a benefit.
9. In March 2022, Appellant sought emergency treatment at a hospital, where he was assisted in applying for insurance benefits. At that time, he was determined eligible for coverage through the Health Connector. He was insured 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 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.

Because Appellant did not have health insurance in 2021, he is subject to a penalty under M.G.L. c. 111M if he could have afforded to purchase such 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 was either unemployed or worked at a job that did not offer him insurance as a benefit. Thus, he could not have obtained employment-based insurance.

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 income below 300 percent of the federal poverty level. See 956 C.M.R. § 12.04 (Connector Care eligibility requirements.) In 2021, 300 percent of the federal poverty level for a person like Appellant who was in a one-person household was \$38,280. (I obtain this figure from Table 2 of the 2021 instructions to the Schedule HC.) Thus, Appellant was not income-eligible for Connector Care because his income was above that figure.

Finally, Appellant could not have afforded to purchase unsubsidized insurance on the non-group market under state affordability standards established by the Health Connector board in accordance with Mass.

Gen. Laws c. 111M. Under those standards, an individual like Appellant who was in a household of one person and had annual income of \$43,608 was deemed able to afford 7.45 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 \$3,248 annually or \$270 a month. During 2021, a person like Appellant who lived in Bristol County and was 53 years of age would have had to pay a monthly premium of \$390 a month to obtain insurance on the non-group market. (I obtain the premium figure from Table 4 to the instructions for the 2021 Schedule HC). Thus, under state standards, this amount would not have been affordable.

Because Appellant could not have obtained affordable insurance in 2021, he should not have been subject to the individual mandate penalty for that year. Thus, 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. Instead, I will allow the appeal and waive the penalty 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

FINAL APPEAL DECISION: PA 22-1506

Appeal Decision: The penalty is overturned **in part**.

Hearing Issue: Appeal of the 2022 Tax Year Penalty

Hearing Date: March 14, 2024

Decision Date: March 19, 2024

AUTHORITY

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

JURISDICTION

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

HEARING RECORD

The Appellant appeared at the hearing, which was held by telephone on March 14, 2024. The procedures to be followed during the hearing were reviewed with the Appellant who was then sworn in. Exhibits were marked and admitted in evidence with no objection from the Appellant. The Appellant testified.

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

Exhibit 1:	Appeal Case Information from Schedule HC.	(1 P).
Exhibit 2:	Email to Vacate Dismissal by Appellant on 10/9/2023.	(1 P).
Exhibit 2(a):	Appellant's 2022 1095 C	(1 P).
Exhibit 2(b):	Health Insurance Card and HSA Card	(2 PP).
Exhibit 3:	Health Connector's Notice of Hearing dated 2/6/2024.	(2 PP).

The record shows, and I so find:

1. Appellant, single filing filed a 2022 Massachusetts tax return filed with a family size of 1, was age 43 a in 2022, lived in Middlesex County, and had zero (0) dependents. (Exhibit 1).
2. Appellants' Federal Adjusted Gross Income for 2022 was \$150,156. (Exhibit 1).
3. Appellant testified he moved to Massachusetts in 2021 and was concurrently employed by California and Massachusetts Employers for part of 2022. (Appellant Testimony).

4. Appellant testified he had Employer Sponsored Insurance (“ESI”) from his employer in California until August 2022. (Appellant Testimony, Exhibit 2(a)-(b)).
5. Appellant testified there was no reason to pay for insurance through the 2nd employer where he had coverage. (Appellant Testimony).
 6. Appellant testified that when ESI stopped with the first employer in August 2022, he attempted to obtain ESI in September 2022 from his current employer, but it was during open enrollment, and he had to wait until January 2023 to obtain coverage. (Appellant Testimony, Exhibit 2(a), (b)).
7. The Appellant obtained ESI in January 2023(Appellant Testimony).
8. The Appellant did not investigate obtaining private insurance or insurance from the Connector as and was not familiar with the Connector. (Appellant Testimony).
9. According to Table 3 Appellant could have afforded \$1,001.04 per month for health insurance in 2022. According to Table 4 Appellant could have purchased an individual plan insurance for \$318.00 per month. (See Tables 3 and 4 of Schedule HC 2022).
10. The Appellant would not have been eligible for ConnectorCare coverage in 2022 because the Appellant’s income was more than 300% of the poverty level, which was \$38,640.00 for a family of (1). (See Table 2 of Schedule HC 2022).
11. The Appellant testified that he paid into an HSA with his CA ESI. (Exhibit 2(a), (b)).
12. In addition to the foregoing, I take administrative notice of the 2022 Schedule HC Instructions and Worksheets, available at <http://www.mass.gov.dor/docs/dor/health-care/2022>, and in particular, Tables 1-6 which, as discussed below, include the Affordability Schedule and other financial information used in making 2022 individual mandate tax penalty determinations.

ANALYSIS AND CONCLUSIONS OF LAW

The issue on appeal is whether the tax penalty assessed by the Massachusetts Department of Revenue for 2022 should be waived, either in whole or in part. Appellant has been assessed a tax penalty for 12 (12) months in 2022. Appellant has appealed the penalty. (See Exhibits 1 and 2).

The Appellant submitted a statement of grounds for appeal (Ex. 2) with the appeal that during 2022 that the individual mandate did not apply to his because Other: he had health insurance and adduced evidence regarding other circumstances. (Exhibits 2(a)-(c), and Appellant Testimony).

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

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

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

The evidence provided by the Appellant established that his income for 2022, \$150,156 was more than 300% of the federal poverty level, which for 2022 was \$38,640.00 for a family of one (1). According to Table 3 of Schedule HC for 2022, the Appellant could have afforded \$1,001.04 per month. According to Table 4, Appellant, age 43 in Middlesex County during the time he was being penalized for not having insurance, could have purchased an individual insurance plan for \$318 per month. Individual coverage was affordable through the individual market for the Appellant in 2022 (Schedule HC for 2022).

The next issue to consider is whether the Appellant had access to affordable employer health insurance ("ESI") in 2022. The Appellant testified that he was concurrently employed and had ESI through his California employer until August 2022. (Testimony, Exs. 2(a),(b). However, after his ESI stopped, he was not able to obtain ESI from his 2nd employer until January, 2023. (Appellant Testimony). Pursuant to 26 IRC section 36B and 45 CFR section 155.305(f), applicants are eligible for an Advanced Premium Tax Credit (APTC) if they meet qualifying income levels and other eligibility requirements. Massachusetts residents may also be eligible for additional state premium assistance through the Health Connector's ConnectorCare program if: a) their household income does not exceed 300 percent of the Federal Poverty Level (FPL) and b) they are eligible for an APTC. 956 CMR 12.09(1) An applicant who has access to other qualifying health insurance, including insurance through an employer, will be blocked from eligibility for an APTC if the coverage is affordable and meets minimum value standards, as those terms are defined by the law. See 26 CFR section 1.36B-2(c)(3). Coverage for plan year 2022 is considered to be affordable if the employee's contribution for an individual plan is 9.61 percent or less of the employee's projected household modified adjusted income (MAGI). The coverage is considered to meet minimum value standards if it has an actuarial value of at least 60 percent. In this case, as referenced above, the Appellant was not able to enroll in ESI with his Massachusetts Employer until January 2023(Appellant Testimony).

I find credible that the Appellant was not able to obtain ESI until January 2023, however, where private insurance was affordable for the Appellant during the time he was unenrolled, and where he had moved to Massachusetts in 2021, he should have realized that he would need health insurance as part of the Massachusetts mandate if his ESI was going to end. I find the Appellant should have investigated and obtained private insurance for the months he was unenrolled. However, where the Appellant was uninsured for five (5) months in 2022, is now insured, and in order to mitigate the harshness of a full

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

Appellant should note that any waiver granted here is for 2022 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: 2

The Connector has notified the Department of Revenue that pursuant to its decision, you should be assessed a penalty for Tax Year 2022 for the amount equal to one half of the lowest cost health insurance plan available to you for each month you have been assessed the penalty, as listed above, plus applicable interest back to the due date of the return without regard to extension.

NOTIFICATION OF YOUR RIGHT TO APPEAL TO COURT

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

Cc: Connector Appeals Unit

Hearing Officer

ADDENDUM

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

Massachusetts Health Connector Appeals Unit

FINAL APPEAL DECISION: PA 22-1452

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

Hearing Issue: Appeal of the 2022 Tax Year Penalty

Hearing Date: February 27, 2024

Decision Date: March 4, 2024

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, 2024. 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 (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 60 at the end of 2022. Exhibit 2.
2. Appellant lived in Suffolk County in 2022. Exhibit 2.
3. Appellant filed his taxes as a single person with no dependents. Exhibit 2.
4. Appellant's household income in 2022, as reported on his 2022 state income tax returns and confirmed at the hearing, equaled \$70,420.

¹ Exhibit 2 is a computer printout containing information extracted from the Schedule HC that Appellant submitted as part of his 2022 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 2022 state income taxes, and confirmed at the hearing, that he did not have health insurance at any point in 2022. Exhibit 2.
6. In 2022, Appellant worked at a job that did not offer him health insurance.
7. Appellant had been covered in insurance before 2022, but the insurance was canceled. He was not sure how that happened.
8. When he learned that he was no longer covered, he tried to enroll but it was too late and he had already missed the open enrollment period.
9. Appellant enrolled in insurance through the Health Connector at the start of 2023.

In addition to the foregoing, I take administrative notice of the 2022 Schedule HC Instructions and Worksheets, available at <https://www.mass.gov/doc/2022-schedule-hc-instructions/download>, which, as discussed below, include the Affordability Schedule and other financial information used in making 2022 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.

Because Appellant did not have health insurance in 2022, he is subject to a penalty under M.G.L.c. 111M if he could have afforded to purchase such 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 2022 Schedule HC instructions at pages HC 7-9

During the period that Appellant was uninsured in 2022, he worked at a job that did not offer health insurance. As a result, Appellant could not have obtained insurance through employment during 2022.

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 2022, 300 percent of the federal poverty limit for a household of one person like Appellant’s was \$38,640. (I obtain the figure of \$38,640 from Table 2 to the instructions for the 2022 Schedule HC.) In this case, Appellant’s household income during 2022 was \$70,420 and therefore he was not income-eligible for Connector Care.

However, Appellant could have obtained affordable insurance on the private, 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 \$70,420 was deemed able to afford 8 percent of income on insurance. (I obtain that figure

from Table 3 of the 2022 instructions for the Schedule HC.) In this case, that amounts to \$5,633 annually or \$469 a month. During 2022, a person like Appellant who lived in Suffolk County and was 60 years of age could have obtained health insurance for a monthly premium of \$435. (I obtain the premium figure from Table 4 to the instructions for the 2022 Schedule HC). Thus, under state standards, this amount would have been affordable.

Because Appellant could have obtained affordable insurance in 2022, but didn't, 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. Appellant lost insurance in 2021, but did not realize that he was without insurance until some time in 2022. By that point it was too late for him to purchase insurance on the non-group market because the annual open enrollment period, during which people can sign up for insurance, had ended. At that point he was effectively unable to obtain insurance. When the next open enrollment period arrived at the end of 2022, Appellant enrolled and was covered in 2023.

Based on the foregoing, I will exercise my discretion to allow this 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

Tax Penalty Appeal Decision—Docket No. PA22-1500

Appeal Decision: Appeal Approved -- 2022 tax penalty overturned.

Hearing Issue: Appeal of the 2022 Tax Year Penalty

Hearing Date: March 13, 2024

Decision Date: March 14, 2024

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 – 2022;
3. Health Connector’s Notice of Hearing (2 pages); and
4. Appellant’s Letter in Support of Appeal (1 page).

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 2022. The basis for the penalty was that the Appellant was not insured at any time in 2022. 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 2022 as a single person with no dependents. The Appellant's federal adjusted gross income (AGI) for 2022 was \$ 58,352. Exhibit 1.
3. The Appellant was 24 years old at the beginning of 2022 and resided in [name of city or town omitted] in Worcester County, Massachusetts. Exhibit 1.
4. The Appellant's 2022 AGI (\$58,352) was more than 300% of the federal poverty level (\$38,640 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 \$389 per month -- for health insurance coverage in 2022. (The calculation is 8.00 % multiplied by \$ 58,352 AGI = \$4,668.16 per year divided by 12 months = \$389.01 per month.)
6. Based on DOR Table 4 (Region 2) the Appellant could obtain individual health insurance coverage at her age (0 – 30 years) and location for \$277 per month in 2022.
7. I find that the Appellant, who was under 26 years of age at all time pertinent to this appeal, was insured under her parents' health plan in 2021. For 2022 – the year at issue in this appeal – the Appellant was dropped from her parents' health plan without her knowledge or consent. The Appellant's siblings, who were still in college or school, continued to be insured under her parents' health plan. The Appellant, by comparison, was employed in 2022. Testimony and Exhibit 4.
8. The Appellant sought, without success, to learn why she had been dropped from her parents' health plan. She filed an administrative appeal, as suggested by the Health Connector, but her appeal was denied because, as the Appellant recalls, she was not eligible because she did not have a qualifying event. Testimony and

Exhibit 4. (I note that the eligibility appeal hearing decision is not in the hearing record for this taxpayer penalty appeal, and I have no independent knowledge of the eligibility appeal.)

9. The Appellant was informed that she could not enroll in health insurance until November 2022, the beginning of the next open enrollment period. The Appellant did enroll, and she has had health insurance coverage starting in January 2023. Testimony and Exhibit 4.
10. The Appellant needed medical care while she was not insured in 2022, and she paid out-of-pocket for her treatment. She deferred other treatment. Testimony.
11. The Appellant's student loan balance is \$27,000 for which she pays \$300 per month. Testimony.
12. 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 2022 Massachusetts income tax return.
13. I take administrative notice of the financial information set forth in Tables 1 through 6 of the DOR 2022 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 2022. (The DOR instructions are published online at <http://www.mass.gov/dor/2022ScheduleHCInstructions> 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 2022.)

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 2022. 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 – 2022 that the Appellant signed and filed in this case. See Exhibit 2.

This appeal involves yet another legal rule, that provides that children under the age of 26 years old may enroll in their parents' health plan, which is surely the most cost-effective means of being insured and complying with the individual mandate in Massachusetts. See Code Fed. Regs. 147.120 (a) (1) ("[employer or insurer] must make such coverage available for children until attainment of 26 years of age").

The credible evidence shows that the Appellant met this test, as she was under 26 years old at all times pertinent to this appeal. The Appellant, along with her siblings, was enrolled in her parents' health plan in 2021. The Appellant, not unreasonably, assumed that she would continue to be enrolled in her parents' health plan in 2022 – the year at issue in this appeal. She subsequently learned, however, that her siblings would continue to be insured in 2022, but she would not.

The Appellant never received a satisfactory explanation for this state of affairs. Instead, the Appellant got insured again on her own health plan starting in January 2023, which was the earliest possible date due to the open enrollment policies.

Under these circumstances I would not compound the confusion and impose yet more costs on the Appellant by adding a tax penalty for 2022 on top of her out-of-pocket (or delayed) medical care and the added premium costs until the Appellant reaches her 26th birthday. 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 2022 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 2022.

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: PA 21-2256

Appeal Decision: The penalty is overturned in part.

Hearing Issue: Appeal of the 2021 Tax Year Penalty

Hearing Date: March 25, 2024

Decision Date: March 28, 2024

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 was the Appellant and Spouse (“Appellant”). The Appellant appeared at the hearing, which was held by telephone on March 25, 2024. The Appellant Spouse was not present, but the Appellant testified he had verbal authorization to appear on his Spouse’s behalf. The procedures to be followed during the hearing were reviewed with the Appellant who was then sworn in. Exhibits were marked and admitted in evidence with no objection from the Appellant. The Appellant testified.

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

Exhibit 1:	Appeal Case Information from Schedule HC.	(1 P).
Exhibit 2:	Statement of Grounds for Appeal 2021 Signed by Appellant on 4/13/2023.	(2 PP).
Exhibit 2(a):	Appellant’s Statement in Support of Appeal dated 5/5/2022.	(1 P).
Exhibit 2(b):	Documents including Summary of Benefits submitted in Support of Appeal.	(6 PP).
Exhibit 2(c):	Documents including Insurance Cards submitted in Support of Appeal.	(6 PP).
Exhibit 2(d):	Documents including Emails between Spouse Appellant and Employee Regarding minimum credible coverage and reimbursement	(13 PP).
Exhibit 2(e):	Documents including Plan Coverage, Availability, Costs Confirmation	(6 PP).
Exhibit 3:	Health Connector’s Notice of Hearing dated 2/9/2024.	(2 PP).

The record shows, and I so find:

1. Appellant, who filed a 2021 Massachusetts tax return filed married with a family size of 4, were ages 30 and 29, lived in Middlesex County, and had two (2) dependents. (Exhibit 1).
2. Appellant’s Federal Adjusted Gross Income for 2021 was \$161,444. (Exhibit 1).

3. The Appellant worked and was enrolled in his employer sponsored insurance (“ESI”) from January-March in an individual plan 2021. (Exhibit 1, Testimony of Appellant).
4. The Appellant testified that his Employer’s ESI was Blue Cross Blue Shield in Massachusetts, but they stopped offering the plan in 2021 and he became enrolled in his Spouse’s ESI. (Testimony of Appellant, Exhibits 2(a)-(c)).
5. The Appellant Spouse worked and along with their two (2) children were enrolled in the Appellant Spouse’s Employer Sponsored Insurance (“ESI”) in 2022. (Testimony of Appellant).
6. The Appellant credibly testified that his Spouses ESI plan was inexpensive, but it did not meet the meet minimum credible coverage (“MCC”) standards for Massachusetts residents. (Testimony of Appellant, Exhibit 2(a)-(c)).
7. The Appellant testified his Spouse’s ESI plan was offered to Massachusetts employees as having minimum essential coverage, but the Spouse’s Employer failed to inform its employees that the plan failed to meet MCC until 2021. (Testimony of Appellant, Exhibits 2(a)-(c)).
8. The Appellant testified that in 2021 the Spouse’s Employer informed employees that it would reimburse MA tax penalty assessments for not having MCC and their error, but despite the Appellant’s requests for same, the Employer has not reimbursed the Appellant’s Spouse. (Testimony of Appellant, Exhibits 2(a)-(c)).
9. The Appellant testified that because of the expectation that they would be seeking reimbursement for incurring costs because of the non-compliant MCC coverage, they did not purchase private insurance or through the Connector.
10. The Appellant testified that it was cost effective to have individual ESI coverage from his ESI for him only, and not a family plan, and to have non-compliant ESI through his Spouse’s Employer. (Testimony of Appellant).
11. The Appellant testified they investigated obtaining insurance through the Connector but the monthly premium of approximately \$400 was not cost effective. (Testimony of Appellant, Exhibits 2(a)-(c)).
12. Appellant has been assessed a tax penalty for six (6) months and his Spouse has been assessed a tax penalty for twelve (12) months in 2022. The Appellant has appealed this assessment (Exhibits 1, 2).
13. According to Table 3 Appellant could have afforded \$1,076.29 per month for health insurance in 2021. According to Table 4 Appellant could have purchased insurance for \$ 684 per month.
14. The Appellant would not have been eligible for ConnectorCare coverage in 2021 because the Appellant’s income was more than 300% of the poverty level, which was \$78,600.00. (See Table 2 of Schedule HC 2021, Appellant’s Testimony).

15. In addition to the foregoing, I take administrative notice of the 2021 Schedule HC Instructions and Worksheets, available at <http://www.mass.gov.dor/docs/dor/health-care/2021>, and in particular, Tables 1-6 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

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. Appellant has been assessed a tax penalty for six (6) months and the Appellant Spouse for twelve (12) months in 2021. Appellant has appealed the penalty. (See Exhibits 1 and 2).

The Appellant submitted a statement of grounds for appeal (Ex. 2) with the appeal and checked that during 2021 that the individual mandate did not apply to them because they had health insurance that didn't meet minimum creditable coverage standards because that is what the employer offered, and their circumstances prevented them from buying other insurance that met the requirements. (Exhibit 2, 2(a)).

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

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

The evidence provided by the Appellant established that their income for 2021, \$161,444 was more than 300% of the federal poverty level, which for 2021 was \$78,600.00 for a family of four. According to Table 3 of Schedule HC for 2021, the Appellant could have afforded \$1,076.29 per month. According to Table 4, Appellant, ages 29 and 30 and living in Middlesex County during the time they were being penalized for not having insurance, could have purchased insurance for \$684 per month. Family coverage was affordable through the individual market for the Appellant in 2021 (Schedule HC for 2021).

The next issue to consider is whether the Appellant had access to affordable employer health insurance ("ESI") in 2021. The Appellant testified that he was offered ESI from his employer for which he enrolled for three months in an individual plan until it was discontinued (Appellant's Testimony). The Appellant's Spouse and their children were enrolled in his Spouse's ESI non-compliant MCC Plan. (Appellant's Testimony). Pursuant to 26 IRC section 36B and 45 CFR section 155.305(f), applicants are

eligible for an Advanced Premium Tax Credit (APTC) if they meet qualifying income levels and other eligibility requirements. Massachusetts residents may also be eligible for additional state premium assistance through the Health Connector's ConnectorCare program if: a) their household income does not exceed 300 percent of the Federal Poverty Level (FPL) and b) they are eligible for an APTC. 956 CMR 12.09(1) An applicant who has access to other qualifying health insurance, including insurance through an employer, will be blocked from eligibility for an APTC if the coverage is affordable and meets minimum value standards, as those terms are defined by the law. See 26 CFR section 1.36B-2(c)(3). Coverage for plan year 2021 is considered to be affordable if the employee's contribution for an individual plan is 9.83 percent or less of the employee's projected household modified adjusted income (MAGI). The coverage is considered to meet minimum value standards if it has an actuarial value of at least 60 percent. In this case, as referenced above, the Appellant and Spouse, and family, did have access to ESI through the Appellant's Employer for part of the year during the months they were being penalized.

Where the Appellant did have access to ESI for part of the year, and affordable coverage for full-rate insurance on the market, we need to determine if the Appellant experienced a financial hardship such the coverage would have been unaffordable for him. See 956 CMR 6.08. et. seq. The Appellant may not be subject to a penalty for failing to get health insurance for the months in question if he can show that he experienced a hardship during 2021. Examples of hardships include being homeless or overdue in rent or mortgage payments, receiving a shut-off notice for utilities, or incurring unexpected increases in basic living expenses due to domestic violence, death of a family member, sudden responsibility for providing care for a family member or fire, flood or natural disaster. In addition, the Appellants' tax penalty for 2021 could be waived if he experienced financial circumstances such that the expense of purchasing health insurance would have caused him to experience a serious deprivation of food, shelter, clothing or other necessities. See 956 CMR 6.08.

Based upon the facts summarized above, I find that where the Appellant was informed during 2021 that the Appellant Spouse had ESI that did not meet minimum creditable coverage but relied on the expectation they were going to be reimbursed by the Spouse's Employer for penalties associated with not having MCC compliance insurance, but failed to obtain affordable private insurance, their circumstances should not have prevented them from buying other insurance that met the requirements. Accordingly, they are subject to a penalty within the meaning of 956 CMR 6.08 (2) and (3). However, in order to mitigate the harshness of a full penalty, and because the Appellant testified they obtained MCC coverage in 2022, the mandate has not been lost on them, and the penalty is partially reduced.

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: 2

Number of Months Appealed: 6 Number of Months Assessed: 2

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

NOTIFICATION OF YOUR RIGHT TO APPEAL TO COURT

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

Cc: Connector Appeals Unit

Hearing Officer

ADDENDUM

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

Massachusetts Health Connector Appeals Unit

FINAL APPEAL DECISION: PA 21-2288

Appeal Decision: The penalty is overturned in full.

Hearing Issue: Appeal of the 2021 Tax Year Penalty

Hearing Date: March 25, 2024

Decision Date: March 28, 2024

AUTHORITY

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

JURISDICTION

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

HEARING RECORD

The Appellant appeared at the hearing, which was held by telephone on March 25, 2024. The procedures to be followed during the hearing were reviewed with the Appellant who was then sworn in. Exhibits were marked and admitted in evidence with no objection from the Appellant. The Appellant testified.

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

Exhibit 1:	Appeal Case Information from Schedule HC.	(1 P).
Exhibit 2:	Statement of Grounds for Appeal 2021 Signed by Appellant on 5/11/2022.	(2 PP).
Exhibit 2(a):	Appellant's Statement in Support of Appeal dated 5/10/2022.	(1 P).
Exhibit 2(b):	Documents including Expenses submitted in Support of Appeal.	(4 PP).
Exhibit 2(c):	Request to Vacate Dismissal	(6 PP).
Exhibit 3:	Health Connector's Notice of Hearing dated 2/9/2024.	(2 PP).

The record shows, and I so find:

1. Appellant, who filed a 2021 Massachusetts tax return filed single with a family size of 1, was age 26 in 2021, lived in Middlesex County, and had zero (0) dependents. (Exhibit 1).
2. Appellant's Federal Adjusted Gross Income for 2021 was \$42,966. (Exhibit 1).
3. Appellant was employed part time at a restaurant where his approximate monthly net take home pay was \$2,000. (Appellant's Testimony).
4. Appellant's Employer did not offer him Employer Sponsored Insurance("ESI"). (Appellant's Testimony).

5. Appellant investigated Connectorcare but could not afford the premiums as he had reduced hours and costly moving expenses including first and last month's rent, and a security deposit for which he had to borrow and pay back. (Appellant's Testimony, Exs. 2(a), (b)).
6. Appellant has been assessed a tax penalty for twelve (12) months in 2021. The Appellant has appealed this assessment (Exhibits 1, 2).
7. Appellant had the following approximate monthly living expenses in 2021: Rent: \$1,100, Utilities: \$80, Cell Phone/Internet: Food: \$300, Transportation: \$50, totaling \$1,550. (Appellant's Testimony, Ex. 2(a)).
8. According to Table 3 Appellant could have afforded \$266.75 per month for health insurance in 2021. According to Table 4 Appellant could have purchased insurance for \$263.00 per month.
9. The Appellant would not have been eligible for ConnectorCare coverage in 2021 because the Appellant's income was more than 300% of the poverty level, which was \$38,280.00. (See Table 2 of Schedule HC 2021, Appellant's Testimony).
10. In addition to the foregoing, I take administrative notice of the 2021 Schedule HC Instructions and Worksheets, available at <http://www.mass.gov.dor/docs/dor/health-care/2021>, and in particular, Tables 1-6 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

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. Appellant has been assessed a tax penalty for twelve (12) months in 2021. Appellant has appealed the penalty. (See Exhibits 1 and 2).

The Appellant submitted a statement of grounds for appeal (Ex. 2) with the appeal and checked that during 2021 that the individual mandate did not apply to him because and adduced testimony that the expense of purchasing health insurance would have caused him to experience a serious deprivation of food, shelter, clothing or other necessities and that during 2021. See 956 CMR 6.08.

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

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

The evidence provided by the Appellant established that his income for 2021, \$42,966.00 was more than 300% of the federal poverty level, which for 2021 was \$38,280.00 for a single person. According to Table 3 of Schedule HC for 2021, the Appellant could have afforded \$266.75 per month. According to Table 4, Appellant, age 26 and living in Middlesex County during the time he was being penalized for not having insurance, could have purchased insurance for \$263 per month. Individual coverage was affordable through the individual market for the Appellant in 2021 (Schedule HC for 2021).

The next issue to consider is whether the Appellant had access to affordable employer health insurance ("ESI") in 2021. The Appellant testified he was not offered ESI from his employer. (Appellant's Testimony). Pursuant to 26 IRC section 36B and 45 CFR section 155.305(f), applicants are eligible for an Advanced Premium Tax Credit (APTC) if they meet qualifying income levels and other eligibility requirements. Massachusetts residents may also be eligible for additional state premium assistance through the Health Connector's ConnectorCare program if: a) their household income does not exceed 300 percent of the Federal Poverty Level (FPL) and b) they are eligible for an APTC. 956 CMR 12.09(1) An applicant who has access to other qualifying health insurance, including insurance through an employer, will be blocked from eligibility for an APTC if the coverage is affordable and meets minimum value standards, as those terms are defined by the law. See 26 CFR section 1.36B-2(c)(3). Coverage for plan year 2021 is considered to be affordable if the employee's contribution for an individual plan is 9.83 percent or less of the employee's projected household modified adjusted income (MAGI). The coverage is considered to meet minimum value standards if it has an actuarial value of at least 60 percent. In this case, as referenced above, the Appellant did not have access to ESI during the months he was being penalized. (Appellant's Testimony).

Where the Appellant did have access to affordable coverage for full-rate insurance on the market, we need to determine if the Appellant experienced a financial hardship such the coverage would have been unaffordable for him. See 956 CMR 6.08. et. seq. The Appellant may not be subject to a penalty for failing to get health insurance for the months in question if he can show that he experienced a hardship during 2021. Examples of hardships include being homeless or overdue in rent or mortgage payments, receiving a shut-off notice for utilities, or incurring unexpected increases in basic living expenses due to domestic violence, death of a family member, sudden responsibility for providing care for a family member or fire, flood or natural disaster. In addition, the Appellants' tax penalty for 2021 could be waived if he experienced financial circumstances such that the expense of purchasing health insurance would have caused him to experience a serious deprivation of food, shelter, clothing or other necessities. See 956 CMR 6.08.

The Appellant had the following average monthly living expenses in 2021: Rent: \$1,100, Utilities: \$ 80, Cell Phone/Internet: Food: \$300, Transportation: \$50, totaling \$1,550. (Appellant's Testimony, Ex. 2(a)).

The evidence presented by the Appellant in this case is sufficient to establish that he experienced a hardship pursuant to 956 CMR 6.08(1)(e) and (3), as defined by law so as to waive his penalty for the

months in question. I find the Appellant has met his burden that he could not afford the cost of \$266.75 given his transitional housing expenses for approximately 3 months of rent (for which he had to borrow and pay back), as well as the monthly expenses of \$1,550, I find the cost of \$ 266.75 would have caused the Appellant to experience a serious deprivation of shelter and other necessities. (Appellant Testimony).

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

Appellant should note that any waiver granted here is for 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

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.

NOTIFICATION OF YOUR RIGHT TO APPEAL TO COURT

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

Cc: Connector Appeals Unit

Hearing Officer

ADDENDUM

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

Appeal Decision: The penalty is overturned in full.

Hearing Issue: Appeal of the 2022 Tax Year Penalty

Hearing Date: February 20, 2024

Decision Date: March 18, 2024

AUTHORITY

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

JURISDICTION

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

HEARING RECORD

The Appellant appeared at the hearing, which was held by telephone on February 20, 2024. The procedures to be followed during the hearing were reviewed with the Appellant who was then sworn in. Exhibits were marked and admitted in evidence with no objection from the Appellant. The Appellant testified.

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

Exhibit 1:	Appeal Case Information from Schedule HC.	(1 P).
Exhibit 2:	Statement of Grounds for Appeal 2022 Signed by Appellant on 6/15/2023.	(2 PP).
Exhibit 2(a):	Appellant's Statement in Support of Appeal dated 6/15/2023.	(1 P).
Exhibit 3:	Health Connector's Notice of Hearing dated 1/15/2024.	(2 PP).

The record was left open until March 15, 2024, for the Appellant to submit proof of ESI compliant MCC from April 2022.

Exhibit 4: The Appellant submitted a 2022 Form 1099-HIC showing MCC compliant coverage from April 2022 through the end of December 2022. (2PP).

The record shows, and I so find:

1. Appellant, single filing filed a 2022 Massachusetts tax return filed with a family size of 1, was age 27 a in 2022, lived in Norfolk County, and had zero (0) dependents. (Exhibit 1).
2. Appellants' Federal Adjusted Gross Income for 2022 was \$56,054 (Exhibit 1).
3. Appellant testified he had been unemployed for 13 months from 2020 until 2021 when he was hired as a contractor. (Appellant Testimony, Ex. 2(a)).
4. Appellant was covered by his parents' health insurance through 2021 until he turned 26. (Appellant Testimony).

5. Appellant testified he could not afford health insurance because he had been unemployed for 13 months. (Appellant Testimony).
6. Appellant testified he contacted the Connector when he was hired as a contractor and signed up with insurance at the cost of approximately \$200 a month. (Appellant Testimony).
7. Appellant thought he had enrolled with a compliant plan through the Connectorcare but the plan he enrolled was not recognizable as a Connectorcare plan. (Exhibit 1, Appellant Testimony).
8. Appellant started a new position in March 2022 as an employee and obtained Employer Sponsored Insurance (ESI) effective April 1, 2022, with a premium of approximately \$150 per month. (Appellant Testimony).
9. According to Table 3 Appellant could have afforded \$377.69 per month for health insurance in 2022. According to Table 4 Appellant could have purchased an individual plan insurance for \$277.00 per month. (See Tables 3 and 4 of Schedule HC 2022).
10. The Appellant would not have been eligible for ConnectorCare coverage in 2022 because the Appellant's income was more than 300% of the poverty level, which was \$38,640.00 for a family of (1). (See Table 2 of Schedule HC 2022).
11. Appellant testified he has ESI and was insured in 2023. (Appellant Testimony).
12. In addition to the foregoing, I take administrative notice of the 2022 Schedule HC Instructions and Worksheets, available at <http://www.mass.gov/dor/docs/dor/health-care/2022>, and in particular, Tables 1-6 which, as discussed below, include the Affordability Schedule and other financial information used in making 2022 individual mandate tax penalty determinations.

ANALYSIS AND CONCLUSIONS OF LAW

The issue on appeal is whether the tax penalty assessed by the Massachusetts Department of Revenue for 2022 should be waived, either in whole or in part. Appellant has been assessed a tax penalty for twelve (12) months in 2022. Appellant has appealed the penalty. (See Exhibits 1 and 2).

The Appellant adduced evidence at the hearing and submitted a statement of grounds for appeal (Ex. 2) with the appeal that during 2022 that the individual mandate did not apply to him because he purchased insurance that didn't meet minimum creditable coverage standards because that is what the employer offered, and his circumstances prevented him from buying other insurance that met the requirements. (Exhibit 2, and Appellant Testimony).

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

by 956 CMR 6.00, which interprets the 63-day gap in coverage to be three months. The Connector's regulations provide for a waiver of the tax penalty in the case of financial hardship. See 956 CMR 6.08.

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

The evidence provided by the Appellant established that his income for 2022, \$56,054 was more than 300% of the federal poverty level, which for 2022 was \$38,640.00 for a family of one (1). According to Table 3 of Schedule HC for 2022, the Appellant could have afforded \$377.69 per month. According to Table 4, Appellant, age 27 in Norfolk County during the time he was being penalized for not having insurance, could have purchased an individual insurance plan for \$277 per month. Individual coverage was affordable through the individual market for the Appellant in 2022 (Schedule HC for 2022).

The next issue to consider is whether the Appellant had access to affordable employer health insurance ("ESI") in 2022. The Appellant testified that he obtained ESI in April 2022 and prior to April 2022 he was paying for a plan as a contractor at approximately \$200 per month. (Appellant Testimony, Exhibit 2(a)). Pursuant to 26 IRC section 36B and 45 CFR section 155.305(f), applicants are eligible for an Advanced Premium Tax Credit (APTC) if they meet qualifying income levels and other eligibility requirements. Massachusetts residents may also be eligible for additional state premium assistance through the Health Connector's ConnectorCare program if: a) their household income does not exceed 300 percent of the Federal Poverty Level (FPL) and b) they are eligible for an APTC. 956 CMR 12.09(1). An applicant who has access to other qualifying health insurance, including insurance through an employer, will be blocked from eligibility for an APTC if the coverage is affordable and meets minimum value standards, as those terms are defined by the law. See 26 CFR section 1.36B-2(c)(3). Coverage for plan year 2022 is considered to be affordable if the employee's contribution for an individual plan is 9.61 percent or less of the employee's projected household modified adjusted income (MAGI). The coverage is considered to meet minimum value standards if it has an actuarial value of at least 60 percent. In this case, as referenced above, the Appellant was working as a contractor and testified he obtained insurance on his own at a cost of approximately \$200. The Appellant submitted a 2022 1099 HC showing MCC compliant coverage from April 2022 through the end of December 2022. Accordingly, the Appellant had ESI for 9 months in 2022. (Appellant Testimony, Exhibits 1 and 2(a), 4.

I conclude that where the Appellant submitted a 2022 showing MCC compliant coverage from April 2022 through the end of December, 2022 and had ESI for 9 months in 2022, his testimony that he had purchased private health insurance during those months that he was not covered in 2022, and his other circumstances in not being able to afford health insurance after being unemployed for 13 months, coming off his parents health insurance, and his attempts at applying for what he thought was private insurance for which he paid approximately \$200 per month, and based upon the facts summarized and on the totality of the evidence, that the Appellant's request for a waiver from the penalty is **approved where he has met the criteria under 956 CMR 6.08 (1) (e) & (3).**

Appellant should note that any waiver granted here is for 2022 only and is based upon the specific facts I have found to be true and should not assume that the same determination will be made should Appellant be assessed a penalty in the future.

PENALTY ASSESSED

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

The Connector has notified the Department of Revenue that pursuant to its decision, you should be assessed a penalty for Tax Year 2022 for the amount equal to one half of the lowest cost health insurance plan available to you for each month you have been assessed the penalty, as listed above, plus applicable interest back to the due date of the return without regard to extension.

NOTIFICATION OF YOUR RIGHT TO APPEAL TO COURT

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

Cc: Connector Appeals Unit Hearing Officer

ADDENDUM

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

Appeal Decision: The penalty is overturned in full.

Hearing Issue: Appeal of the 2022 Tax Year Penalty

Hearing Date: March 12, 2024

Decision Date: March 19, 2024

AUTHORITY

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

JURISDICTION

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

HEARING RECORD

The Appellant's Spouse, who was authorized by the Appellant in Exhibit 2(a), appeared at the hearing, which was held by telephone on March 12, 2024. The Appellant was at work. The procedures to be followed during the hearing were reviewed with the Appellant who was then sworn in. Exhibits were marked and admitted in evidence with no objection from the Appellant. The Appellant testified.

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

Exhibit 1:	Appeal Case Information from Schedule HC.	(1 P).
Exhibit 2:	Statement of Grounds for Appeal 2022 Signed by Appellant on 9/15/2023.	(2 PP).
Exhibit 2(a):	Appellant's Statement in Support of Appeal received 9/20/2023.	(1 P).
Exhibit 2(b):	Appellant's 2022 1095-C.	(1P).
Exhibit 2(b):	Documents including Expenses submitted in Support of Appeal.	(1 P).
Exhibit 3:	Health Connector's Notice of Hearing dated 2/7/2024.	(2 PP).

The record was left open until March 29, 2024, for the Appellant to submit proof of ESI from Spouse.

Exhibit 4: The Appellant submitted a 2022 1099-HC's from Blue Cross and Health Plans, Inc. ("HPI"), as well as a BCBS Card for the Appellant, showing coverage 2022 from his Spouse. (12PP).

The record shows, and I so find:

1. The Appellant, head of household, filing filed a 2022 Massachusetts tax return filed with a family size of 3, was age 42 in 2022, lived in Suffolk County, and had two (2) dependents. (Exhibit 1).
2. The Appellants' Federal Adjusted Gross Income for 2022 was \$58,924 (Exhibit 1).
3. The Appellant's Representative credibly testified that her Spouse was insured through her Employer Sponsored Insurance (ESI) plans in 2022. (Appellant' Representative Testimony, Ex. 4).

4. The Appellant had access to ESI through his Employer but did not obtain same where he was covered under his Spouse's ESI. (Appellant's Representative Testimony, Ex. 2(b), 4).
5. According to Table 3 Appellant could have afforded \$287.25 per month for health insurance in 2022. According to Table 4 Appellant could have purchased an individual plan insurance for \$318 per month. (See Tables 3 and 4 of Schedule HC 2022).
6. The Appellant would have been eligible for ConnectorCare coverage in 2022 because the Appellant's income was less 300% of the poverty level, which was \$65,880.00 for a family of (3). (See Table 2 of Schedule HC 2022).
7. In addition to the foregoing, I take administrative notice of the 2022 Schedule HC Instructions and Worksheets, available at <http://www.mass.gov.dor/docs/dor/health-care/2022>, and in particular, Tables 1-6 which, as discussed below, include the Affordability Schedule and other financial information used in making 2022 individual mandate tax penalty determinations.

ANALYSIS AND CONCLUSIONS OF LAW

The issue on appeal is whether the tax penalty assessed by the Massachusetts Department of Revenue for 2022 should be waived, either in whole or in part. Appellant has been assessed a tax penalty for twelve (12) months in 2022. Appellant has appealed the penalty. (See Exhibits 1 and 2).

The Appellant's Representative adduced evidence at the hearing and submitted a statement of grounds for appeal (Ex. 2) with the appeal that during 2022 that the individual mandate did not apply to him because he had coverage through her ESI and that his circumstances prevented him from buying other insurance that met the requirements. (Exhibit 2, and Appellant Testimony).

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

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

The evidence provided by the Appellant established that his income for 2022, \$58,924 was less than 300% of the federal poverty level, which for 2022 was \$65,880.00 for a family of three (3). According to Table 3 of Schedule HC for 2022, the Appellant could have afforded \$287.25 per month. According to Table 4, Appellant, age 41 and living in Suffolk County during the time he was being penalized for not having insurance, could have purchased an

individual insurance plan for \$318 per month. Individual coverage was not affordable through the individual market for the Appellant in 2022 (Schedule HC for 2022).

The next issue to consider is whether the Appellant had access to affordable employer health insurance (“ESI”) in 2022. The Appellant’s Representative Spouse testified that the Appellant had access to obtained ESI but was covered under her ESI. (Testimony, Exhibit 4). Pursuant to 26 IRC section 36B and 45 CFR section 155.305(f), applicants are eligible for an Advanced Premium Tax Credit (APTC) if they meet qualifying income levels and other eligibility requirements. Massachusetts residents may also be eligible for additional state premium assistance through the Health Connector’s ConnectorCare program if: a) their household income does not exceed 300 percent of the Federal Poverty Level (FPL) and b) they are eligible for an APTC. 956 CMR 12.09(1). An applicant who has access to other qualifying health insurance, including insurance through an employer, will be blocked from eligibility for an APTC if the coverage is affordable and meets minimum value standards, as those terms are defined by the law. See 26 CFR section 1.36B-2(c)(3). Coverage for plan year 2022 is considered to be affordable if the employee’s contribution for an individual plan is 9.61 percent or less of the employee’s projected household modified adjusted income (MAGI). The coverage is considered to meet minimum value standards if it has an actuarial value of at least 60 percent. In this case, as referenced above, the Appellant had access to ESI but was covered by the Appellant’s Spouse.

Accordingly, I conclude that where the Appellant’s Representative has submitted a 2022 HC showing MCC compliant coverage for the Appellant from two different plans for the entirety of 2022, and based upon the facts summarized and on the totality of the evidence, that the Appellant’s request for a waiver from the penalty is **approved where he has met the criteria under 956 CMR 6.08 (3)**. (Testimony, Exhibit 4).

Appellant should note that any waiver granted here is for 2022 only and is based upon the specific facts I have found to be true and should not assume that the same determination will be made should Appellant be assessed a penalty in the future.

PENALTY ASSESSED

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

The Connector has notified the Department of Revenue that pursuant to its decision, you should be assessed a penalty for Tax Year 2022 for the amount equal to one half of the lowest cost health insurance plan available to you for each month you have been assessed the penalty, as listed above, plus applicable interest back to the due date of the return without regard to extension.

NOTIFICATION OF YOUR RIGHT TO APPEAL TO COURT

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

Cc: Connector Appeals Unit Hearing Officer

ADDENDUM

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

FINAL APPEAL DECISION: PA 22-1490

Appeal Decision: The penalty is overturned **in full**.

Hearing Issue: Appeal of the 2022 Tax Year Penalty

Hearing Date: March 12, 2024

Decision Date: March 19, 2024

AUTHORITY

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

JURISDICTION

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

HEARING RECORD

The Appellant appeared at the hearing, which was held by telephone on March 12, 2024. The procedures to be followed during the hearing were reviewed with the Appellant who was then sworn in. Exhibits were marked and admitted in evidence with no objection from the Appellant. The Appellant testified.

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

- | | | |
|------------|--|---------|
| Exhibit 1: | Appeal Case Information from Schedule HC. | (1 P). |
| Exhibit 2: | Appellant’s Statement in Support of Appeal 2022 received on 2/26/2023. | (2 PP). |
| Exhibit 3: | Health Connector’s Notice of Hearing dated 2/7/2024. | (2 PP). |

The record shows, and I so find:

1. Appellant, married filing filed a 2022 Massachusetts tax return filed with a family size of 2, was age 32 a in 2022, lived in Hampden County, and had zero (0) dependents. (Exhibit 1).
2. Appellants’ Federal Adjusted Gross Income for 2022 was \$56,894. (Exhibit 1).
3. Appellant testified he moved to Massachusetts in June 2022 for a job that began in January 2022. (Appellant Testimony, Exhibits 1, 2).
4. Appellant testified that he had access to Employer Health Insurance (“ESI”) but did not realize he only had 30 days to enroll. (Appellant Testimony, Exhibit 2).

5. The Appellant testified that despite attempting to obtain ESI he was unable because in was not allowed unless there was a “significant life event”. (Appellant Testimony, Exhibit 2).
6. The Appellant testified he had ESI prior to obtaining new employment but lived in Connecticut previously and after he obtained new employment in 2022 and that Connecticut did not have a health insurance mandate. (Appellant Testimony).
7. The Appellant testified his Spouse had ESI, who is not being penalized, but the Appellant did not look into obtaining coverage through his Spouse’s plan because of the circumstances regarding his employment change, move, and other circumstances. (Appellant Testimony, Exhibits 1 and 2).
8. The Appellant testified he investigated obtaining insurance through the Connector but was put on hold, and transferred and was told “you don’t need to worry about it”. (Appellant Testimony, Exhibit 2).
9. The Appellant testified he is currently insured through his Employer and does not pay anything for ESI and realizes how important having coverage is. (Appellant Testimony, Exhibit 2).
10. The Appellant has incurred substantial necessary health out of pocket expenses in 2022 in the amount of \$1,447 and recognizes that if he had insurance, he would have saved over \$4,000. (Appellant Testimony, Exhibit 2).
11. The Appellant also had other family member health and other circumstances that required attention and energy and distracted him from pursuing health insurance. (Appellant Testimony, Exhibit 2).
12. According to Table 3 Appellant could have afforded \$353.21 per month for health insurance in 2022. According to Table 4 Appellant could have purchased an individual plan insurance for \$311.00 per month. (See Tables 3 and 4 of Schedule HC 2022).
13. The Appellant would not have been eligible for ConnectorCare coverage in 2022 because the Appellant’s income was more than 300% of the poverty level, which was \$52,260.00 for a family of (2). (See Table 2 of Schedule HC 2022).
14. In addition to the foregoing, I take administrative notice of the 2022 Schedule HC Instructions and Worksheets, available at <http://www.mass.gov.dor/docs/dor/health-care/2022>, and in particular, Tables 1-6 which, as discussed below, include the Affordability Schedule and other financial information used in making 2022 individual mandate tax penalty determinations.

ANALYSIS AND CONCLUSIONS OF LAW

The issue on appeal is whether the tax penalty assessed by the Massachusetts Department of Revenue for 2022 should be waived, either in whole or in part. Appellant has been assessed a tax penalty for four (4) months in 2022. Appellant has appealed the penalty. (See Exhibits 1 and 2).

The Appellant submitted a statement of grounds for appeal (Ex. 2) with the appeal that during 2022 that the individual mandate did not apply to him because Other: that he didn't reside in Massachusetts during his period of uninsurance and he adduced evidence regarding other circumstances including hardships. (Exhibits 2(a)-(c), and Appellant Testimony).

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

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

The evidence provided by the Appellant established that his income for 2022, \$56,894 was more than 300% of the federal poverty level, which for 2022 was \$52,260 for a family of two (2). According to Table 3 of Schedule HC for 2022, the Appellant could have afforded \$353.21 per month. According to Table 4, Appellant, age 32 in Hampden County during the time he was being penalized for not having insurance, could have purchased an individual insurance plan for \$311 per month. Individual coverage was affordable through the individual market for the Appellant in 2022 (Schedule HC for 2022).

The next issue to consider is whether the Appellant had access to affordable employer health insurance ("ESI") in 2022. The Appellant testified that he had access to ESI but missed the 30 days enrollment period and continued to attempt to obtain ESI but was unable because he did not have a "significant life event". (Appellant Testimony, Exhibit 2). Pursuant to 26 IRC section 36B and 45 CFR section 155.305(f), applicants are eligible for an Advanced Premium Tax Credit (APTC) if they meet qualifying income levels and other eligibility requirements. Massachusetts residents may also be eligible for additional state premium assistance through the Health Connector's ConnectorCare program if: a) their household income does not exceed 300 percent of the Federal Poverty Level (FPL) and b) they are eligible for an APTC. 956 CMR 12.09(1) An applicant who has access to other qualifying health insurance, including insurance through an employer, will be blocked from eligibility for an APTC if the coverage is affordable and meets minimum value standards, as those terms are defined by the law. See 26 CFR section 1.36B-2(c)(3). Coverage for plan year 2022 is considered to be affordable if the employee's contribution for an individual plan is 9.61 percent or less of the employee's projected household modified adjusted income (MAGI). The coverage is considered to meet minimum value standards if it

has an actuarial value of at least 60 percent. In this case, as referenced above, the Appellant had access to affordable ESI but missed the enrollment deadline and was not eligible for ESI until 2023(Appellant Testimony, Exhibit 2).

Based upon the facts summarized and on the totality of the evidence, I find credible that the Appellant was not able to obtain ESI until 2023, and the circumstances surrounding his employment, move, and other hardships including his substantial out of pocket expenses and circumstances regarding family member health situations, provide sufficient basis for failing to obtain coverage. I also apply the three-(3) month grace period as referenced above to the month's the Appellant was uninsured as mitigating circumstances. The Appellant clearly understands the significance of having coverage and the Appellant is now insured. Accordingly, in order to mitigate the harshness of a penalty, I find that the mandate has not been lost on the Appellant. Therefore, it is concluded that the Appellant's request for a waiver from the penalty is **approved**.

Appellant should note that any waiver granted here is for 2022 only and is based upon the specific facts I have found to be true and should not assume that the same determination will be made should Appellant be assessed a penalty in the future.

PENALTY ASSESSED

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

The Connector has notified the Department of Revenue that pursuant to its decision, you should be assessed a penalty for Tax Year 2022 for the amount equal to one half of the lowest cost health insurance plan available to you for each month you have been assessed the penalty, as listed above, plus applicable interest back to the due date of the return without regard to extension.

NOTIFICATION OF YOUR RIGHT TO APPEAL TO COURT

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

Cc: Connector Appeals Unit

Hearing Officer

ADDENDUM

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

Massachusetts Health Connector Appeals Unit

FINAL APPEAL DECISION: PA 22-1508

Appeal Decision: The penalty is overturned in part.

Hearing Issue: Appeal of the 2022 Tax Year Penalty

Hearing Date: March 14, 2024

Decision Date: March 19, 2024

AUTHORITY

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

JURISDICTION

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

HEARING RECORD

The Appellant's authorized representative, his mother, appeared at the hearing, which was held by telephone on March 14, 2024. The procedures to be followed during the hearing were reviewed with the Appellant's representative who was then sworn in. Exhibits were marked and admitted in evidence with no objection from the Appellant. The Appellant's Representative testified.

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

Exhibit 1:	Appeal Case Information from Schedule HC.	(1 P).
Exhibit 2:	Statement of Grounds for Appeal 2022 Signed by Appellant on 10/5/2023.	(2 PP).
Exhibit 2(a):	Appellant's Statement in Support of Appeal dated 10/7/2023.	(1 P).
Exhibit 2(b):	Documents including Death Certificate, Cremation, Utility Disconnect Notice, Expenses submitted in Support of Appeal.	(5 PP).
Exhibit 2 (c)	Authorized Representative Form dated 3/4/2024	(1P).
Exhibit 3:	Health Connector's Notice of Hearing dated 2/6/2024.	(1P).

The record shows, and I so find:

1. The Appellant, who filed a 2022 Massachusetts tax return filed single with a family size of 1, was age 27 in 2022, lived in Suffolk County, and had zero (0) dependents. (Exhibit 1).
2. The Appellant's Federal Adjusted Gross Income for 2022 was \$54,640. (Exhibit 1).
3. The Appellant's representative testified that her son had health insurance through the Connector in 2022 and was not sure of the amount of the payment, but stopped paying because he could not afford it due to having to care for his father (Testimony).

4. The Appellant's representative testified that the Appellant was the only child and that his father only had social security and that her son paid for food, care, books and babysitters. (Testimony).
5. The Appellant's Representative testified that he was working but not offered Employer Sponsored Insurance (ESI). (Testimony).
6. The Appellant's Representative testified that the Appellant was a student and had expenses for tuition, travel expenses, and assisted her with the utility payments of approximately \$400 per month for which she received a disconnect notice that was in her name. (Testimony, Exhibit 2(a), (b)).
7. The Appellant Representative testified that the Appellant had discontinued Connectorcare because but could not afford it given the cost of contributing to his father's care, assisting with the utilities for his mother, and the basic monthly necessities. (Testimony, Exhibits 2(a), (b)).
8. According to Table 3 Appellant could have afforded \$364.27 per month for health insurance in 2022. According to Table 4 Appellant could have purchased insurance for \$277.00 per month.
9. The Appellant would not have been eligible for ConnectorCare coverage in 2022 because the Appellant's income was more than 300% of the poverty level, which was \$38,640.00. (See Table 2 of Schedule HC 2022).
10. The Appellant's monthly living expenses in 2022, Utility contribution: (\$400), Cell Phone: \$100, Food (no amount provided), Transportation (no amount provided), Tuition (no amount provided). (Testimony).
11. I find that the documentation regarding the utility shutoff was redacted and there was no evidence that it was in the Appellant's, and not the Appellant's Mother's name. Exhibits 2(a), (b), and Testimony).
12. I find that the Appellant was not able to substantiate any costs for care and support of his Father, tuition, monthly expenses, and contributions towards his mother's utility invoice arrears. (Exhibits 2(a), (b), and Testimony).
13. The Appellant's Representative testified that the Appellant has obtained Connectorcare in 2023 for which he is paying approximately \$150 a month. (Testimony).
14. The Appellant's Representative testified that it would be a hardship for the Appellant if he had to pay a penalty. (Testimony).
13. In addition to the foregoing, I take administrative notice of the 2022 Schedule HC Instructions and Worksheets, available at <http://www.mass.gov/dor/docs/dor/health-care/2022>, and in particular, Tables 1-6 which, as discussed below, include the Affordability Schedule and other financial information used in making 2022 individual mandate tax penalty determinations.

ANALYSIS AND CONCLUSIONS OF LAW

The issue on appeal is whether the tax penalty assessed by the Massachusetts Department of Revenue for 2022 should be waived, either in whole or in part. Appellant has been assessed a tax penalty for six (6) months in 2022. Appellant has appealed the penalty. (See Exhibits 1 and 2).

The Appellant adduced evidence at the hearing submitted a statement of grounds for appeal (Ex. 2(a-c) with the appeal and that during 2022 that the individual mandate did not apply to him because he incurred a significant, unexpected increase in essential expenses resulting directly from the consequences of the sudden responsibility of caring for a parent, the death of a family member, and a utility shut off notice, and that as a result of the above the expense of purchasing health insurance during 2022 would have caused hm a deprivation of food and other necessities, and that he received a utility notice, and was caring for family member. (Exhibits 2, 2(a)-(d)) and Appellant's Representative Testimony).

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

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

The evidence provided by the Appellant established that his income for 2022, \$54,640 was more than 300% of the federal poverty level, which for 2022 was \$38,640.00 for a single person. According to Table 3 of Schedule HC for 2022, the Appellant could have afforded \$364.27 per month. According to Table 4, Appellant, age 27 and living in Suffolk County during the time he was being penalized for not having insurance, could have purchased insurance for \$277 per month. Individual coverage was affordable through the individual market for the Appellant in 2022 (Schedule HC for 2022).

The next issue to consider is whether the Appellant had access to affordable employer health insurance ("ESI") in 2022. The Appellant's Representative testified that ESI was not offered and available to him. (Testimony). Pursuant to 26 IRC section 36B and 45 CFR section 155.305(f), applicants are eligible for an Advanced Premium Tax Credit (APTC) if they meet qualifying income levels and other eligibility requirements. Massachusetts residents may also be eligible for additional state premium assistance through the Health Connector's ConnectorCare program if: a) their household income does not exceed 300 percent of the Federal Poverty Level (FPL) and b) they are eligible for an APTC. 956 CMR 12.09(1) An applicant who has access to other qualifying health insurance, including insurance through an

employer, will be blocked from eligibility for an APTC if the coverage is affordable and meets minimum value standards, as those terms are defined by the law. See 26 CFR section 1.36B-2(c)(3). Coverage for plan year 2022 is considered to be affordable if the employee's contribution for an individual plan is 9.61 percent or less of the employee's projected household modified adjusted income (MAGI). The coverage is considered to meet minimum value standards if it has an actuarial value of at least 60 percent. In this case, as referenced above, the Appellant did not have access to ESI during the months he was being penalized. (Exhibits 1).

Given that affordable private insurance was available to the Appellant, it must be determined if such insurance was not affordable to the Appellant because of a financial hardship as defined in 956 CMR 6.08.

The Appellant's Representative testified that the Appellant had hardship including for taking care of his Father who did not have an adequate income and died in 2022, and assisting with payment of utilities which were in arrears, and for which subsequently received a shutoff notice. (Testimony, Exhibits 2(a)-(c)). In addition, this was in addition to his other basic necessary monthly living expenses including tuition that precluded him from buying health insurance. However, I find that the documentation regarding the utility shutoff was redacted and there was no evidence that it was in the Appellant's, and not the Appellant's Mother's name. Exhibits 2(a), (b), and Testimony). I also find that the Appellant was not able to substantiate any costs for care and support of his Father, tuition, monthly expenses, and contributions towards his mother's utility invoice arrears. (Exhibits 2(a), (b), and Testimony).

I find and conclude that the Appellant could have purchased purchasing health insurance at the cost of \$ 364.27, in addition to his basic monthly necessary living expenses during 2022, would not have caused the Appellant to experience financial hardship. 956 CMR 6.08 (1), (b), (d) 2.,3, (e) & (3). However, given the totality of the circumstances, and in order to mitigate the harshness of a full penalty, the Appellant's assessed tax penalty of six (6) months is waived **in part** for those reasons.

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

Appellant should note that any waiver granted here is for 2022 only and is based upon the specific facts I have found to be true and should not assume that the same determination will be made should Appellant be assessed a penalty in the future.

PENALTY ASSESSED

Number of Months Appealed: 6 Number of Months Assessed: 2

The Connector has notified the Department of Revenue that pursuant to its decision, you should be assessed a penalty for Tax Year 2022 for the amount equal to one half of the lowest cost health insurance plan available to you for each month you have been assessed the penalty, as listed above, plus applicable interest back to the due date of the return without regard to extension.

NOTIFICATION OF YOUR RIGHT TO APPEAL TO COURT

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

Cc: Connector Appeals Unit

Hearing Officer

ADDENDUM

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

FINAL APPEAL DECISION: PA 22-1510

Appeal Decision: The penalty is overturned in part

Hearing Issue: Appeal of the 2022 Tax Year Penalty

Hearing Date: March 14, 2024

Decision Date: March 19, 2024

AUTHORITY

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

JURISDICTION

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

HEARING RECORD

The Appellant appeared at the hearing, which was held by telephone on March 14, 2024. The procedures to be followed during the hearing were reviewed with the Appellant who was then sworn in. Exhibits were marked and admitted in evidence with no objection from the Appellant. The Appellant testified.

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

- | | | |
|------------|---|---------|
| Exhibit 1: | Appeal Case Information from Schedule HC. | (1 P). |
| Exhibit 2: | Statement of Grounds for Appeal 2022 Signed by Appellant on 10/11/2023. | (2 PP). |
| Exhibit 3: | Health Connector’s Notice of Hearing dated 2/6/2024. | (2 PP). |

The record shows, and I so find:

1. Appellant, who filed a 2022 Massachusetts tax return filed single with a family size of 1, was age 64 in 2022, lived in Essex County, and had zero (0) dependents. (Exhibit 1).
2. Appellant’s Federal Adjusted Gross Income for 2022 was \$25,723. (Exhibit 1).
3. Appellant testified he was self-employed and did not have access to Employer Sponsored Insurance (“ESI”). (Appellant’s Testimony).

4. The Appellant testified he did not look into obtaining Connectorcare and public insurance because he had other financial obligations and bills that he had to pay that would preclude him from obtaining health insurance. (Appellant's Testimony).
5. The Appellant testified that he had to pay child support at \$210 a week in addition to other basic monthly expenses but did not submit supporting documentation and the testimony was unclear regarding how many children he continued to pay support and for how long. (Appellant's Testimony),
6. According to Table 3 Appellant could have afforded \$ 62.16 per month for health insurance in 2022. According to Table 4 Appellant could have purchased insurance for \$435.00 per month.
7. The Appellant would have been eligible for ConnectorCare coverage in 2022 because the Appellant's income was less than 300% of the poverty level, which was \$38,640.00. (See Table 2 of Schedule HC 2022, Appellant's Testimony).
8. The Appellant testified but was unable to substantiate and provide supporting documentation that his monthly living expenses in 2022 included: Utilities \$366(Heat, Electric, Water), Taxes: \$333, Car \$300, Car Insurance: \$100, Transportation Costs: \$200, Cell Phone: \$50, Food-Incidentals \$600,. (Appellant's Testimony).
9. The Appellant was previously insured through the Connector but had let his insurance lapse during and since COVID-19). (Testimony).
10. The Appellant testified his approximate monthly net take home pay was \$2,100. (Appellant's Testimony).
11. The Appellant was in the process of applying for Medicare. (Appellant Testimony).
12. In addition to the foregoing, I take administrative notice of the 2022 Schedule HC Instructions and Worksheets, available at <http://www.mass.gov/dor/docs/dor/health-care/2022>, and in particular, Tables 1-6 which, as discussed below, include the Affordability Schedule and other financial information used in making 2022 individual mandate tax penalty determinations.

ANALYSIS AND CONCLUSIONS OF LAW

The issue on appeal is whether the tax penalty assessed by the Massachusetts Department of Revenue for 2022 should be waived, either in whole or in part. Appellant has been assessed a tax penalty for twelve (12) months in 2022. Appellant has appealed the penalty. (See Exhibits 1 and 2).

The Appellant adduced evidence at the hearing submitted a statement of grounds for appeal (Ex. 2) with the appeal that during 2022 that the individual mandate did not apply to him because the expense of purchasing health insurance during 2022 would have caused him a deprivation of food and other necessities and a financial hardship as defined in 956 CMR 6.08. (Exhibit 2 and Appellants' Testimony).

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

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

The evidence provided by the Appellant established that his income for 2022, \$25,723 was less than 300% of the federal poverty level, which for 2022 was \$38,640.00 for a single person. According to Table 3 of Schedule HC for 2022, the Appellant could have afforded \$62.16 per month. According to Table 4, Appellant, age and living 64 living in Essex County during the time he was being penalized for not having insurance, could have purchased insurance for \$435 per month. Individual coverage was not affordable through the individual market for the Appellant in 2022 (Schedule HC for 2022).

The next issue to consider is whether the Appellant had access to affordable employer health insurance (“ESI”) in 2022. The Appellant testified that he was self employed and did not have access to ESI. Pursuant to 26 IRC section 36B and 45 CFR section 155.305(f), applicants are eligible for an Advanced Premium Tax Credit (APTC) if they meet qualifying income levels and other eligibility requirements. Massachusetts residents may also be eligible for additional state premium assistance through the Health Connector’s ConnectorCare program if: a) their household income does not exceed 300 percent of the Federal Poverty Level (FPL) and b) they are eligible for an APTC. 956 CMR 12.09(1) An applicant who has access to other qualifying health insurance, including insurance through an employer, will be blocked from eligibility for an APTC if the coverage is affordable and meets minimum value standards, as those terms are defined by the law. See 26 CFR section 1.36B-2(c)(3). Coverage for plan year 2022 is considered to be affordable if the employee’s contribution for an individual plan is 9.61 percent or less of the employee’s projected household modified adjusted income (MAGI). The coverage is considered to meet minimum value standards if it has an actuarial value of at least 60 percent. In this case, as referenced above, the Appellant did not have access to ESI. (Appellant’s Testimony).

Given that ESI was not available, but government sponsored insurance was available, it must be determined if such insurance was not affordable to the Appellant because of a financial hardship as defined in 956 CMR 6.08.

I find the Appellant's could afford to purchase insurance at \$62.16 per month given his net monthly income of approximately \$2,100. (Appellant Testimony). The Appellant was unable to substantiate and provide supporting documentation regarding child support and other expenses. I conclude that the Appellant purchasing health insurance at the cost of \$62.16, in addition to his basic monthly necessary living expenses during 2022, would not have caused the Appellant to experience financial hardship. 956 CMR 6.08 (1) (e) & (3). However, given the totality of the circumstances, and in order to mitigate the harshness of a full penalty, the Appellant's assessed tax penalty of twelve (12) months is waived in part for these reasons.

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

Appellant should note that any waiver granted here is for 2022 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: 3

The Connector has notified the Department of Revenue that pursuant to its decision, you should be assessed a penalty for Tax Year 2022 for the amount equal to one half of the lowest cost health insurance plan available to you for each month you have been assessed the penalty, as listed above, plus applicable interest back to the due date of the return without regard to extension.

NOTIFICATION OF YOUR RIGHT TO APPEAL TO COURT

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

Cc: Connector Appeals Unit

Hearing Officer

ADDENDUM

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

Massachusetts Health Connector Appeals Unit

FINAL APPEAL DECISION: PA 17-861

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

Hearing Issue: Appeal of the 2017 Tax Year Penalty

Hearing Date: March 6, 2024

Decision Date: March 19, 2024

AUTHORITY

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

JURISDICTION

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

HEARING RECORD

Appellant appeared at the hearing, which was held by telephone, on March 6, 2024. 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/ 2017 tax return attached) (6 pages)

FINDINGS OF FACT

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

1. Appellant was 58 at the end of 2017. Exhibit 2.
2. Appellant lived in Middlesex County in 2017. Exhibit 2.
3. Appellant filed her taxes as a single person with no dependents. Exhibit 2.
4. Appellant's household income in 2017, as reported on her 2017 state income tax returns and confirmed at the hearing, equaled \$129,210.

¹ Exhibit 2 is a computer printout containing information extracted from the Schedule HC that Appellant submitted as part of her 2017 Massachusetts tax return. The Schedule HC is the form on which Massachusetts taxpayers report information relevant to the individual mandate penalty, which is the subject of this appeal.

5. Appellant reported in the Schedule HC that she filed with her 2017 state income taxes, and confirmed at the hearing, that she did not have health insurance at any point in 2017. Exhibit 2.
6. During 2017, Appellant worked at a job at which she earned \$14,420 in wages. See Exhibit 3 (tax return). This job was part-time and did not offer her health insurance as a benefit.
7. She also received \$24,000 in alimony, which is considered taxable income. Id.
8. Finally, in November of 2017, Appellant inherited approximately \$91,000. Id. Because this money had been in an individual retirement account before the testator's death, the amount was considered taxable to Appellant when she received it.
9. Appellant used the money she inherited to purchase a home in New Hampshire. She moved there in early 2018 and has been a New Hampshire resident since then.
10. Appellant obtained insurance when she moved to New Hampshire and has been covered since.

In addition to the foregoing, I take administrative notice of the 2017 Schedule HC Instructions and Worksheets, available at <https://www.mass.gov/doc/2017-schedule-hc-instructions/download>, which include the Affordability Schedule and other financial information used in making 2017 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.

Because Appellant did not have health insurance in 2017, she is subject to a penalty under M.G.L. c. 111M if she could have afforded to purchase such insurance. In order to determine whether she had access to affordable health insurance, I must consider whether she could have obtained affordable insurance from any of the following three sources: (1) employment-based insurance; (2) government-subsidized insurance; or (3) unsubsidized insurance purchased on the non-group market. See 2017 Schedule HC instructions at pages HC 7-9

During 2017, Appellant worked part-time and was not offered insurance as a benefit. Thus, she could not have obtained employment-based insurance.

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 income below 300 percent of the federal poverty level. See 956 C.M.R. § 12.04 (Connector Care eligibility requirements.) In 2017, 300 percent of the federal poverty level for a person like Appellant who was in a one-person household was \$35,640. (I obtain this figure from Table 2 of the 2017 instructions to the Schedule HC.) Thus, Appellant was not income-eligible for Connector Care because her income was above that figure.

However, Appellant could have afforded to purchase unsubsidized insurance on the non-group market under state affordability standards established by the Health Connector board in accordance with Mass. Gen. Laws c. 111M. Under those standards, an individual like Appellant who was in a household of one person and had annual income of \$129,210 was deemed able to afford 8.16 percent of income on insurance. (I obtain that figure from Table 3 of the 2017 instructions for the Schedule HC.) In this case, that amounts to \$10,543 annually or \$878 a month. During 2017, a person like Appellant who lived in Middlesex County and was 58 years of age could have obtained insurance on the non-group market for a monthly premium of \$374. (I obtain the premium figure from Table 4 to the instructions for the 2017 Schedule HC). Thus, under state standards, this amount would have been affordable.

Because Appellant could have obtained affordable insurance in 2017, but didn't, I am required to consider whether she has stated grounds sufficient to waive the penalty under Health Connector regulations. 956 C.M.R. § 6.08. I conclude that she has. In this case, strict application of the state affordability standards would be inequitable. Appellant's reported taxable income for 2017 was high because it included a one-time payment from the inheritance she received. This money was not received until November, almost at the end of the year. Before that date, her income was actually \$38,240, which included her earnings from work and the alimony she received. This amount would have been too high for her to obtain Connector Care, because, as discussed above, that program was available only to persons with income below \$35,640. Further, on an income of \$38,240, she could not have afforded to purchase unsubsidized insurance on the non-group market under the applicable Health Connector affordability standards. Under those standards, an individual like Appellant who was in a household of one person and had annual income of \$38,240 was deemed able to afford only 7.4 percent of income on insurance. (I obtain that figure from Table 3 of the 2017 instructions for the Schedule HC.) In this case, that amounts to \$2,829 annually or \$235 a month. As stated above, during 2017, a person like Appellant who lived in Middlesex County and was 58 years of age would have had to pay at least \$374 a month in premium for insurance. (I obtain the premium figure from Table 4 to the instructions for the 2017 Schedule HC). Thus, under state standards, this amount would have been affordable. In conclusion, Appellant could not have afforded insurance on the income that she was receiving throughout almost the entirety of 2017. Accordingly, I conclude that Appellant has stated sufficient grounds to waive the penalty against her.

Based on the foregoing, I will exercise my discretion to allow this 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 19-1146

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

Hearing Issue: Appeal of the 2019 Tax Year Penalty

Hearing Date: March 6, 2024

Decision Date: March 19, 2024

AUTHORITY

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

JURISDICTION

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

HEARING RECORD

Appellant appeared at the hearing, which was held by telephone, on March 6, 2024. 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: Request to vacate dismissal (12/17/20) (3 pages)
- Exhibit 4: Request to Vacate dismissal (4/22/22) (1 page)
- Exhibit 5: Request to vacate dismissal (3/4/21) (2 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 2019. Exhibit 2.
2. Appellant lived in Middlesex County in 2019. Exhibit 2.
3. Appellant filed his taxes as a single person 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 his 2019 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's household income in 2019, as reported on his 2019 state income tax returns and confirmed at the hearing, equaled \$20,172.
5. Appellant reported in the Schedule HC that he filed with his 2019 state income taxes, and confirmed at the hearing, that he did not have health insurance at any point in 2019. Exhibit 2.
6. During 2019, when Appellant turned 26, he became no longer eligible for coverage under his parents' insurance policy.
7. During 2019, Appellant was working as a realtor. He supplemented his income as a driver for ride services. In both these employments he was an independent contractor and was not offered health insurance as a benefit.
8. Appellant was unaware of the existence of the Health Connector and the Connector Care program in 2019. At some point in 2023, he learned about the program and applied for coverage. He was covered as of the date of the hearing.

In addition to the foregoing, I take administrative notice of the 2019 Schedule HC Instructions and Worksheets, available at <https://www.mass.gov/doc/2019-schedule-hc-instructions/download>, which include the Affordability Schedule and other financial information used in making 2019 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.

Because Appellant did not have health insurance in 2019, he is subject to a penalty under M.G.L. c. 111M if he could have afforded to purchase such 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 2019 Schedule HC instructions at pages HC 7-9

During 2019, Appellant worked as an independent contractor and was not offered insurance as a benefit. Thus, he could not have obtained employment-based insurance.

Further, Appellant could not have afforded to purchase unsubsidized insurance on the non-group market under state affordability standards established by the Health Connector board in accordance with Mass. Gen. Laws ch. 111M. Under those standards, an individual like Appellant who was in a household of one person and had annual income of \$20,172 was deemed able to afford only 2.9 percent of income on insurance. (I obtain that figure from Table 3 of the 2019 instructions for the Schedule HC.) In this case, that amounts to \$584 annually or \$48.74 a month. During 2019, a person like Appellant who lived in Middlesex County and was 26 years of age would have had to pay at least \$257 a month in

premium for insurance. (I obtain the premium figure from Table 4 to the instructions for the 2019 Schedule HC). Thus, under state standards, this amount would not have been affordable.

However, Appellant would 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 income below 300 percent of the federal poverty level and meet other eligibility requirements, such as citizenship or legal permanent residence in the United States and lack of access to affordable employment-based insurance. See 956 C.M.R. § 12.04 (Connector Care eligibility requirements.) In 2019, 300 percent of the federal poverty level for a person like Appellant who was in a one-person household was \$36,420. (I obtain this figure from Table 2 of the 2019 instructions to the Schedule HC.) Thus, Appellant was income-eligible for Connector Care because his income was below that figure. Further, I conclude that Appellant met the other eligibility guidelines based on his testimony about his employment situation and on the fact that he was eligible to receive Connector Care in 2023 when he finally applied. Thus, Appellant could have obtained Connector Care, which would have been affordable, comprehensive insurance.

Because Appellant could have obtained affordable insurance in 2019, but didn't, 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. Appellant's income in 2019 was low. Also, because of his independent contractor status, the income was uncertain and variable. Appellant had just turned 26, which is the point where a person can no longer be covered under their parents' health insurance. He was unaware of how to obtain insurance. Appellant did eventually learned about the existence of Connector Care and, when he did so, he applied and received insurance.

Based on the foregoing, I will exercise my discretion to allow this 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 19-1209

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

Hearing Issue: Appeal of the 2019 Tax Year Penalty

Hearing Date: March 6, 2024

Decision Date: March 19, 2024

AUTHORITY

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

JURISDICTION

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

HEARING RECORD

Appellant appeared at the hearing, which was held by telephone, on March 6, 2024. 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 (2 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 60 years old at the end of 2019. Exhibit 2.
2. Appellant used an address in Middlesex County to receive mail in 2019, but he didn't reside there. Instead, he was working in New Hampshire and slept there most of the time.
3. Appellant filed his taxes as a single person with no dependents. Exhibit 2.
4. Appellant's household income in 2019, as reported on his 2019 state income tax returns and confirmed at the hearing, equaled \$20,613.

¹ Exhibit 2 is a computer printout containing information extracted from the Schedule HC that Appellant submitted as part of his 2019 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 2019 state income taxes, and confirmed at the hearing, that he did not have health insurance at any point in 2019. Exhibit 2.
6. During 2019, Appellant worked as a driver. He was considered an independent contractor and was not offered health insurance as a benefit through work.
7. Prior to 2019, Appellant had his own business. However, in 2019, he defaulted on a business loan and was forced to close the business.
8. Appellant's work was based in New Hampshire. He was unable to afford an apartment in New Hampshire and so during much of the time, he slept in his truck or in motels. He used a friend's home in Middlesex County as an address to receive mail. As a result, he filed Massachusetts state income taxes.
9. Appellant was unaware of the existence of the Health Connector and the Connector Care program in 2019.

In addition to the foregoing, I take administrative notice of the 2019 Schedule HC Instructions and Worksheets, available at <https://www.mass.gov/doc/2019-schedule-hc-instructions/download>, which include the Affordability Schedule and other financial information used in making 2019 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.

Because Appellant did not have health insurance in 2019, he is subject to a penalty under M.G.L. c. 111M if he could have afforded to purchase such 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 2019 Schedule HC instructions at pages HC 7-9.

During 2019, Appellant worked as an independent contractor and was not offered insurance as a benefit. Thus, he could not have obtained employment-based insurance.

Further, Appellant could not have afforded to purchase unsubsidized insurance on the non-group market under state affordability standards established by the Health Connector board in accordance with Mass. Gen. Laws ch. 111M. Under those standards, an individual like Appellant who was in a household of one person and had annual income of \$20,613 was deemed able to afford only 2.9 percent of income on insurance. (I obtain that figure from Table 3 of the 2019 instructions for the Schedule HC.) In this case, that amounts to \$597 annually or \$49 a month. During 2019, a person like Appellant who lived in Middlesex County and was 60 years of age would have had to pay at least \$418 a month in

premium for insurance. (I obtain the premium figure from Table 4 to the instructions for the 2019 Schedule HC). Thus, under state standards, this amount would not have been affordable.

However, Appellant would 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 income below 300 percent of the federal poverty level and meet other eligibility requirements, such as citizenship or legal permanent residence in the United States and lack of access to affordable employment-based insurance. See 956 C.M.R. § 12.04 (Connector Care eligibility requirements.) In 2019, 300 percent of the federal poverty level for a person like Appellant who was in a one-person household was \$36,420. (I obtain this figure from Table 2 of the 2019 instructions to the Schedule HC.) Thus, Appellant was income-eligible for Connector Care because his income was below that figure. Further, I conclude that Appellant met the other eligibility guidelines based on his testimony about his employment and living situation.

Because Appellant could have obtained affordable insurance in 2019, but didn't, 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. Appellant testified credibly that he was essentially homeless in 2019 and that he resorted to sleeping in a truck or in motels during that time period. Under the Health Connector's regulations, homelessness constitutes a hardship that would justify a waiver of the individual mandate penalty. See 956 C.M.R. § 6.08(1)(a). Thus, under that regulation, Appellant merits a waiver of the penalty.

As long as Appellant maintains an address in Massachusetts, he can apply for Connector Care, which would provide him with comprehensive insurance at a very low rate. He can apply for Connector Care by going to the Health Connector's website at <https://www.mahealthconnector.org/> or by calling 877-623-6765.

Based on the foregoing, I will allow this 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 21-2624

Appeal Decision The appeal is denied in part and allowed in part; the tax penalty is reduced.

Hearing Issue: Appeal of the 2021 Tax Year Penalty

Hearing Date: March 13, 2024

Decision Date: March 19, 2024

AUTHORITY

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

JURISDICTION

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

HEARING RECORD

Appellant appeared at the hearing, which was held by telephone, on March 13, 2024. 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: Request to vacate dismissal (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 34 at the end of 2021. Exhibit 2.
2. Appellant lived in Norfolk County in 2021. Exhibit 2.
3. Appellant filed his taxes as a single person with no dependents. Exhibit 2.
4. Appellant's household income in 2021, as reported on his 2021 state income tax returns and confirmed at the hearing, equaled \$54,519.

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 at any point in 2021. Exhibit 2.
6. Throughout 2021, Appellant worked at jobs in the restaurant industry where health insurance is not provided as a benefit.
7. Appellant stated that he had not had health insurance since 2014. He was not insured as of the date of the hearing.
8. Appellant stated that he didn't think he should have to get insurance unless it was offered through employment.
9. Appellant did not report any unusual financial circumstances in 2021, such as homelessness, or a shut-off of any utility.

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 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.

Because Appellant did not have health insurance in 2021, he is subject to a penalty under M.G.L. c. 111M if he could have afforded to purchase such 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 at jobs that did not offer him insurance as a benefit. Thus, he could not have obtained employment-based insurance.

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 income below 300 percent of the federal poverty level. See 956 C.M.R. § 12.04 (Connector Care eligibility requirements.) In 2021, 300 percent of the federal poverty level for a person like Appellant who was in a one-person household was \$38,280. (I obtain this figure from Table 2 of the 2021 instructions to the Schedule HC.) Thus, Appellant was not income-eligible for Connector Care because his income was above that figure.

However, Appellant could have afforded to purchase unsubsidized insurance on the non-group market under state affordability standards established by the Health Connector board in accordance with Mass.

Gen. Laws c. 111M. Under those standards, an individual like Appellant who was in a household of one person and had annual income of \$54,519 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 \$4,361 annually or \$363 a month. During 2021, a person like Appellant who lived in Norfolk County and was 34 years of age could have obtained insurance at a monthly premium of \$268 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 didn't, I must 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 not. Appellant was asked if he had experienced any major financial reversals in 2021 that would have made the purchase of insurance a hardship, but he did not identify any. He did not identify any of the circumstances that are identified as grounds for a waiver under the governing regulations. He did state that he had some credit card debt, which required a monthly payment of \$250, but that does not constitute a ground for waiver of the penalty under the Health Connector regulations. I conclude that the purchase of health insurance would not have caused him to experience a serious deprivation of the necessities of life. See 956 C.M.R. § 6.08(1)(e). Rather, Appellant did not obtain health insurance because he did not think that the law should apply to someone who does not get insurance through work. That is not the case, however. The law does require people to obtain insurance if they can afford it even if they are not insured through work. Further, Appellant thought he should not have to get insurance because he is relatively young and healthy. Again, that is not the law; the individual mandate does not apply only to people who are older or less healthy.

However, I note that if Appellant is penalized in full, the penalty will be significant because he was uninsured for a full year and the penalty is assessed on a per-month basis. See instructions to the 2021 Schedule HC at HC-11. In light of Appellant's income, I will exercise my discretion to reduce that penalty by assessing the penalty for only three months instead of 12.

Appellant is urged to purchase insurance during the next open enrollment period, which will run from November 1, 2024 through January 15, 2025. Appellant can obtain insurance by applying through the Health Connector at www.mahealthconnector.org or by calling 877-623-6765.

PENALTY ASSESSED

Number of Months Appealed: 12

Number of Months Assessed: 3

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 21-2729

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

Hearing Issue: Appeal of the 2021 Tax Year Penalty

Hearing Date: March 13, 2024

Decision Date: March 19, 2024

AUTHORITY

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

JURISDICTION

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

HEARING RECORD

Appellant appeared at the hearing, which was held by telephone, on March 13, 2024. 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: Request to vacate dismissal (w/ attachments) (34 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 37 at the end of 2021. Exhibit 2.
2. Appellant lived in Hampden County in 2021. Exhibit 2.
3. Appellant filed her taxes as a single person with no dependents. Exhibit 2. However, Appellant lived with and provided support to her minor child. She filed her taxes as having no dependents because the child's father, who contributed to support, took the child as a dependent. Appellant

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.

qualified for the earned income tax credit in 2021 on the basis of supporting her minor child. See 2021 federal income tax return (attached to Exhibit 3.)

4. Appellant's household income in 2021, as reported on her 2021 state income tax returns and confirmed at the hearing, equaled \$37,735.
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 at any point in 2021. Exhibit 2.
6. During 2021, Appellant worked as a paralegal. She was an independent contractor and was not offered health insurance as a benefit.
7. Appellant did not apply for health insurance through the Connector Care program because she did not think she could afford it even though the premium would have been relatively low.
8. In February 2023, after receiving notices that she was subject to a tax penalty under the individual mandate statute for not having health insurance in 2021 and 2022, Appellant applied for Connector Care. She was insured 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 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.

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

During 2021, Appellant worked as an independent contractor and was not offered health insurance as a benefit. Thus, she could not have obtained employment-based insurance.

Further, Appellant could not have afforded to purchase unsubsidized insurance on the non-group market under state affordability standards established by the Health Connector board in accordance with Mass. Gen. Laws c. 111M. Under those standards, an individual like Appellant who was in a household of one person and had annual income of \$37,735 was deemed able to afford 5 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 \$1,886 annually or \$157 a month. During 2021, a person like Appellant who lived in Hampden County and was 37 years of age would have had to pay \$283 a month to obtain

insurance on the non-group market. (I obtain the premium figure from Table 4 to the instructions for the 2021 Schedule HC). Thus, under state standards, this amount would not have been affordable.

However, Appellant would 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 income below 300 percent of the federal poverty level and meet the other eligibility requirements, such as citizenship or legal permanent resident status, and lack of access to employer-subsidized insurance. See 956 C.M.R. § 12.04 (Connector Care eligibility requirements.) In 2021, 300 percent of the federal poverty level for a person like Appellant who was in a one-person household was \$38,280. (I obtain this figure from Table 2 of the 2021 instructions to the Schedule HC.) Appellant's income of \$37,735 was below that amount and thus she was income-eligible. I conclude that she met the other eligibility standards based on her testimony about her employment and on the fact that she was determined eligible for Connector Care when she applied in 2023.

Because Appellant could have obtained affordable insurance in 2021, but didn't, I must consider whether she has stated grounds sufficient to waive the penalty under Health Connector regulations. 956 C.M.R. § 6.08. I conclude that she has. Appellant's financial circumstances in 2021 were strained. The amount of the Connector Care premium that she would have been charged would have been determined based on her status as being in a tax household of one person. But effectively Appellant was in a household of two persons, because she contributed to the support of her minor son. Thus, the Connector Care premium, while significantly below the market rate because of the government subsidies, would still have seemed to be a financial strain. Further, Appellant did apply for and receive Connector Care in 2023 and was insured as of the date of the hearing.

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

FINAL APPEAL DECISION: PA22-1375

Appeal Decision: Appeal Granted; the tax penalty is waived.

Hearing Issue: Appeal of the 2022 Tax Year Penalty

Hearing Date: February 14, 2024

Decision Date: February 22, 2024

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 1 and Appellant 2 filed their 2022 tax return jointly as Married with no dependents. Both Appellants appeared at the hearing. The Hearing was held by telephone, on February 14, 2024. The procedures to be followed during the hearing were reviewed with Appellants who were then sworn in. Exhibits were marked and admitted into evidence with no objection from Appellants. The hearing record consists of the Appellant's testimony and the following documents which were admitted into evidence:

Exhibit 1: Health Connector Appeals Unit Notice of Hearing dated January 8, 2024.

Exhibit 2: Appeal Case Information from Schedule HC 2022.

Exhibit 3: Statement of Grounds for Appeal, with attachments, signed by both Appellants on May 26, 2023.

FINDINGS OF FACT

The record shows, and I so find:

1. Appellant 1 was age 21 and Appellant 2 was age 26 in January 2022, and they filed their Federal Income Tax return as Joint, Married with no Dependents (Exhibit 2).
2. The Appellants lived in Worcester County in 2022 (Exhibit 2, 3 and Appellant 1 Testimony).
3. The Appellants' Federal Adjusted Gross Income for 2022 was \$56,189 .00 (Exhibit 2).

4. Appellant 1 testified that she was insured for 2022 through MassHealth and a private insurer, while Appellant 2 stated she did not have health insurance for twelve months of tax year 2022 (Exhibit 2 and Appellants Testimony).
5. Appellant 1 was not assessed a penalty while Appellant 2 has been assessed a twelve-month tax penalty for 2022 (Exhibit 3).
6. I take administrative notice of the financial information set forth in Tables 1 through 6 in the DOR 2022 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 2022. Table 2 sets forth income at 300% of the Federal poverty level and Tables 5 and 6 set forth tax penalties in effect for 2022.
7. In accordance with Table 3 of Schedule HC for 2022, the Appellants filing their Federal tax return jointly as Married with no dependents, with an annual adjusted gross income of \$56,189.00 could afford to pay \$349 per month for health insurance. In accordance with Table 4, Appellant 2 (older spouse), age 26 living in Worcester County, could have purchased private insurance for \$554 per month. Private insurance was not affordable for Appellants.
8. Appellant 1 testified that her and Appellant 2 were married in November of 2022. She added that in 2021 her father died and she assumed financial responsibilities for some her family and fell behind on her utility payments and received a termination notice from a utility company. She said she was not able to add Appellant 2 to her health insurance coverage until 2023. She stated that she was eligible for MassHealth due to being a former foster care child and had this coverage as well (Appellant Testimony and Exhibit 3).
9. Appellant 2 said she worked odd jobs and took care of her mother in 2022, thus had no access to health insurance. She added that she moved to Massachusetts in mid-2022 and was not aware she would qualify for the HealthConnector or MassHealth without a social security number so she did not apply (Appellant Testimony).
10. The Appellants' income was more than 300% of the federal poverty level, which was \$51,720 for a household of two in 2022 (See Table 2 of Schedule HC-2022 and 956 CMR 12.04). (Appellant 1 Testimony and Exhibit 2).
11. Appellant 1 estimated the couples monthly living expenses in 2022 exceeded \$2,300 including rent (Appellant Testimony).

ANALYSIS AND CONCLUSIONS OF LAW

The tax penalty was enacted by the Massachusetts Legislature to encourage compliance with M.G.L. Chapter 111M, Section 2, also called the "individual mandate". The mandate requires every adult resident of Massachusetts to obtain insurance coverage "[s]o long as it is deemed affordable" under the schedule set by the board of directors for the Commonwealth Health Insurance Connector Authority.

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

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

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

In accordance with Table 3 of Schedule HC for 2022, the Appellants filing their Federal tax return as Married filing Joint, with no dependents claimed and with an adjusted gross income of \$56,189.00, could afford to pay \$349 per month for health insurance. According to Table 4, Appellant 2, age 26, living in Worcester County, could have purchased a private insurance plan for \$554 a month¹. See Schedule HC for 2022. Private insurance was not affordable for the Appellants in tax year 2022. Appellant 2 was not employed and had no income for 2022.

The Appellants would not have been eligible for ConnectorCare coverage based upon their income that was more than 300% of the federal poverty level which was \$51,720 for a household of two in 2022. See Table 2 of Schedule HC 2022 and 956 CMR 12.04 for eligibility criteria. Although Appellant 1 qualified for MassHealth based on her previous foster child status, Appellants would not have qualified for MassHealth based on the income requirements in 2022.

Appellant 2 testified credibly that she moved to Massachusetts in mid-2022 and because she had no social security number she thought she was not eligible for MassHealth and the HealthConnector, thus she did not apply. Appellant 1 testified that she was the sole earner for the couple and had extreme monthly expenses including providing for family members after the death of her father. Insurance was not available to Appellant 2 through an employer as she did not work in 2022. She was able to obtain a social security card and was added to Appellant 1's policy in 2023. In light of these facts, I find that purchasing a health insurance policy by Appellant 2 in 2022 would have resulted in an economic hardship. Appellant 2's penalty of 12 months is waived in its entirety.

¹ Although Appellant 1 and 2 were not married for most of 2022, since Appellant 2 had no income for the year - health insurance would not have been affordable to Appellant 2 if she were assessed as a single person in 2022.

The Appellants should note that the partial waiver of their penalty is based upon the facts that I have determined to be true in 2022. The Appellant should not assume that a similar determination will be made for subsequent tax years should they again be assessed a penalty for failure to have health insurance.

PENALTY ASSESSED

Number of Months Appealed:

Appellant 1 0 Number of Months Assessed: 0

Appellant 2 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 2022.

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

FINAL APPEAL DECISION

Appeal Decision: Penalty Overturned in Full
 X Penalty Overturned in Part
 Penalty Upheld

Hearing Issue: Appeal of the 2022 Tax Year Penalty

Hearing Date: December 8, 2023 Decision Date: Tuesday, February 27, 2024

AUTHORITY

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

JURISDICTION

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

HEARING RECORD

The appellant appeared at the hearing which was held by telephone on December 8, 2023. The procedures to be followed during the hearing were reviewed with Appellant. He was 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:	Appeals Case Information from Schedule HC	1 page
Exhibit 2:	Appellant's Statement of Grounds for Appeal	2 Pages
Exhibit 3	Correspondence from the Appellant, dated 4/14/23	1 page

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Exhibit 4	Lease Agreement, dated 8/15/2022 - 30 Willbrook Park, Dublin	3 pages
Exhibit 5	Utility Bill (dated 1/27/2023)	6 pages
Exhibit 6:	2022 Form MA 1099-HC	1 page

FINDINGS OF FACT

The record shows, and I so find:

1. Appellant was 46 years old at the beginning of 2022.
2. Appellant filed his 2022 Massachusetts tax return as Married Filing Jointly.
3. The Appellant has 2 dependents. As the Appellant has dependents, his affordability calculations have been adjusted to reflect that they would pay the rate of a family for private health insurance per the affordability tables in the Schedule HC. (Exhibit 1).
4. Appellant lived in Plymouth County, MA in 2022 (Exhibit 1).
5. Appellant's Federal Adjusted Gross Income for 2022 was \$248,140.00 (Exhibit 1, Appellant's Testimony). Appellant's Income was 894% of the Federal Poverty level and based on his income, if all other conditions were met, he would be INELIGIBLE based on income for ConnectorCare.
6. From January until the Summer of 2022, the Appellant was employed as a Teacher at the Abington Public Schools in a full-time capacity. (Appellant's Testimony).
7. The Appellant testified that they experienced periods of transitioning employment after moving out of the country, from Massachusetts to Ireland, during the year 2022, and was employed in Massachusetts from January through June. (Appellant's Testimony).
 - a. January through June were the periods when the appellant was penalized for not having Health Insurance that met minimum creditable coverage standards and are the time periods this appeal is mainly concerned with. (Exhibit 1).
8. The Appellant was offered health insurance in 2022, by his employer, at an unspecified monthly cost. (Appellant's Testimony).
9. The Appellant does currently have Health Insurance. (Appellant's Testimony).
10. I take administrative notice of the financial information set forth in Tables 1

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through 6 in the DOR 2022 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 2022. Table 2 sets forth income at 300% of the Federal poverty level and Tables 5 and 6 set forth tax penalties in effect for 2022.

11. According to Table 3 of Schedule HC for 2022, The Appellant has 2 dependents. As the Appellant has a dependent, their affordability calculations have been adjusted to reflect that they would pay the rate of a family for private health insurance per the affordability tables in the Schedule HC., with an adjusted gross income of \$248,140.00 was deemed able to pay \$1,654.27 per month for health insurance, or 8.00% of his income. According to Table 4, Appellant, age 46 and living in Plymouth County, could have purchased private insurance for \$951.00 per month.
12. Private insurance was AFFORDABLE for the appellant in 2022 (Schedule HC for 2022).
13. Appellant's statement of grounds for appeal was on the basis of:
 - a. Other. During 2022 other circumstances, such as: applying the affordability tables and schedule HC to you, is an equitable (for example because of family size); that you were unable to obtain government subsidize insurance, even though your income, qualified you; or you didn't reside in Massachusetts during your period of uninsurance.(Testimony of Appellant, Exhibit 2).
14. Appellant did not incur significant and unexpected increases in essential expenses as a result of domestic violence; the death of a spouse, family member, or partner who shared household expenses; the sudden responsibility for providing full care for an aging parent or other family member; or fire, flood, or other natural or man-made disaster in 2022 (Testimony of Appellant).
15. Appellant did not fall more than thirty days behind in rent payments in 2022. Appellant did not receive any shut-off notices for basic utilities. There was no evidence or indication of this during the Appellant's testimony. (Testimony of Appellant)
16. The Appellant testified that he had proper Employer-Sponsored Insurance from January through the Summer and that his tax penalty should be waived. (Appellant's Testimony).
17. Appellant further testified that he signed up for his Employer-Sponsored Insurance and he was unsure why he was being penalized. (Appellant's Testimony).

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18. During the hearing an open records request was made, leaving the Appellant's case open for 60 days to allow him to provide proof of his Employer-Sponsored Insurance. Specifically, the Appellant indicated he could provide his Form 1099 HC in order to corroborate his statements relating to having Employer-Sponsored Insurance that meet minimum creditable coverage. (Appellant's Testimony).
19. During the hearing, the appellant shared that at the start of 2022, he was employed full-time with the Abington public school system and received health insurance through his job.
20. The Appellant testified that in August 2022, he moved to live outside the country, showing a lease for a house in Dublin, Ireland, as proof. (See Exhibit 4). The issue at hand is that he's been penalized for not having health insurance that met minimum creditable coverage standards from January to August.
 - a. It appears that, mistakenly, the appellant indicated, on his Statement of Grounds for his Appeal Form, that he didn't live in Massachusetts during his period of uninsurance.
21. The appellant provided, after the open records request, his 2022 MA 1099 HC form, a tax document that tracks health care coverage.
 - a. According to this form, he did have the required insurance from July to December 2022, covering them for six months within the year, which meets the minimum creditable coverage standards.
 - b. The same form however indicates that he did not have Health Insurance that met minimum creditable coverage from between January and June in 2022.
 - c. This discovery means that the initial information from the Health Connector, suggesting he lacked coverage for eight (8) months, was not accurate. (Exhibit 1).
 - i. The form shows he had two extra months of coverage not initially accounted for, reducing his penalty from five months to three months. (Exhibit 6).
 - ii. This adjustment is crucial in correctly assessing his situation and the penalties applied.
22. The Appellant has been assessed a penalty for not having health insurance in 2022 for 5 months.

ANALYSIS AND CONCLUSIONS OF LAW

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The issue on appeal is whether the tax penalty assessed by the Massachusetts Department of Revenue for 2022 should be waived in whole, in part, or not at all.

G.L.c. 111M, § 2, also called the “individual mandate,” requires every adult resident of Massachusetts to obtain insurance coverage “[s]o long as it is deemed affordable” under the schedule set by the board of directors for the Commonwealth Health Insurance Connector Authority. The Appellant was aware of the individual mandate, according to his testimony.

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 for 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 had health insurance for 6 month(s) in 2022. He has been assessed a tax penalty for 5 months. He appealed the assessment. See Exhibits listed above. 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 either (1) his employment, through (2) the private market, or through (3) a government-sponsored program. If affordable insurance was available, we must determine if such insurance was, in fact, not affordable to the appellant because he experienced a financial hardship as defined in 956 CMR 6.08.

Open Records Request

During the administrative appeal hearing, which occurred on December 8, 2023, the appellant he testified to his ability to provide documentation supporting his main reason for appealing, mainly: The Appellant testified that he had proper Employer-Sponsored Insurance from January through the Summer and that his tax penalty should be waived.

At the hearing's conclusion, the hearing officer granted the appellant a 60-day period to submit to the Health Connector any additional documents available to substantiate his claims. These documents were specified in the exhibits referenced above, specifically Exhibit 4.

Appellant’s Employment & Employer Based Insurance

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The Appellant was offered health insurance in 2022, by his employer, at an unspecified monthly cost. (Appellant's Testimony). The Appellant was assessed a penalty of 5 months based on their purported lack of coverage over 8 months.

In Massachusetts, the determination of affordability for employer-sponsored health plans, or Employer-Sponsored Insurance (“ESI”), is guided by state-specific guidelines. According to the 2022 Schedule HC instructions for the relevant tax year, the affordable premium is calculated based on a percentage of income that aligns with the individual's income range and filing status, as outlined in Table 3: Affordability, found on page HC-10. In this case, the maximum affordable amount for the Appellant, based on their income range and filing status, is 8.00%.

In reviewing the case presented by the appellant, it's clear from their own words that they had a job during the time we're looking at, and their job offered them health insurance. However, either they did not complete the steps needed to actually sign up for this insurance or they never checked with their employer to make sure they were covered.

The appellant did say they had the right kind of health insurance from their job from January to June, but when asked to show proof, the documents they provided did not confirm their story. In fact, these documents showed that he didn't have the type of health insurance Massachusetts requires, specifically one that met minimum creditable coverage and which was affordable.

After looking at all the evidence, I must conclude that the appellant's statements about having the right health insurance through their employment do not hold up. This decision is based on the lack of solid proof to support his claims. Even when given the chance to bring forward any additional information, the appellant could not provide the necessary evidence to prove they were covered by the required health insurance during the specified months.

ConnectorCare Eligibility

To be considered for ConnectorCare, with its state subsidies and tax credits, you can't be covered by affordable job-based insurance, as per the Affordable Care Act standards. See 956 CMR 12.05 and 45 CFR § 155.305(f)(1)(ii)(B). Only employer insurance that's affordable and meets minimum creditable coverage can disqualify you from getting assistance through the Health Connector to reduce your health plan cost. See 26 CFR § 1.36B-2(c)(3). Because the Appellant failed to show reasonable efforts to sign up for the health insurance offered by their employer as required by law, it must be assumed they were offered affordable coverage. As a result, I find that they would have been ineligible for ConnectorCare.

In Massachusetts, you could get state help with ConnectorCare plans if your income is

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300% of the FPL or less. For tax year 2022, the Appellant is ineligible for insurance through the ConnectorCare program. As the Appellant's income level was 894.20% of the Federal Poverty Level, the appellant would also not have been eligible for subsidies or Advanced Premium Tax Credits (APTCs), due to exceeding the income threshold. If you make more than 300% but less than 400% of the FPL, you might get a tax credit to cut down your health plan costs. To get this Advance Premium Tax Credit, your expected income must be at least 100% but less than 400% of the FPL. (45 CFR 155.305 (f) (1) (i)). Based on these rules, The Appellant's income does not qualify them for Advance Premium Tax Credits, as it does not lie within the required 300% to 400% FPL range.

Availability of Private Insurance

Private insurance was AFFORDABLE for the appellant on the open market during 2022. According to Tables 3 and 4 of the HC schedule for 2022, Appellant, with an adjusted gross income of \$248,140.00, was deemed to have been able to afford health insurance on the private market. According to Table 3, Appellant could have afforded to pay \$1,654.27 per month; according to Table 4, Appellant, who was 46 years old in 2022, lived in Plymouth County and filed his 2022 Massachusetts taxes as a Married Filing Jointly with 0 dependents, would have had to pay \$951.00 for insurance on the private market. See 956 CMR 6.05 (1)(2), Schedule HC Tables 3 and 4, and Exhibit 1.

In light of the Appellant's gross income (\$20,678.33 per month), tax filing status, place of residence, and the expected affordable amount the Appellant could pay per the 2022 Schedule HC Tables (\$1,654.27 per month), the Appellant could have afforded private health insurance with a premium of \$951.00 per month. (2022 Schedule HC Tables).

Other Government-Sponsored Healthcare Programs

There is no evidence in the record to show that Appellant was eligible for health insurance through any other government-sponsored program.

Financial Hardship Analysis

Since affordable insurance was available to the Appellant through the private market and their employer, as it must be assumed they were offered affordable coverage, in 2022, it must be determined whether the Appellant experienced a financial hardship pursuant to 956 CMR 6.08 (1).

Upon reviewing the appeal, it's important to clarify that the appellant did not claim financial hardship as the reason for their appeal. Interestingly, despite their income being significantly higher than the federal poverty level—over 800% higher—they seemed to believe they already had employer-sponsored health insurance.

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Additionally, the appeal complicates matters by requesting a waiver for the tax penalty based on the claim of not living in Massachusetts during the time they were uninsured. However, this claim conflicts with evidence and the appellant's own testimony, which confirms they did live in Massachusetts from January through June—the very period for which the tax penalty was applied.

Given that the appeal does not argue financial hardship and instead relies on assertions that are contradicted by the facts, I must sustain the tax penalty. However, taking into account the information provided during the open records period, I have decided to reduce the penalty rate from five (5) months to three (3) months. This decision was made after careful consideration of all the information presented and seeing that the forms provided by the appellant after the open records request confirmed that he in fact did have appropriate Health Insurance that met minimum creditable coverage for six (6) months in 2022.

Conclusion

The Appellant has not demonstrated that the cost of purchasing health insurance would have caused them to experience a serious financial hardship. See 956 CMR 6.08(1)(e). The Appellant's five (5) month penalty is therefore upheld, although it is reduced based on the information provided in the Appellant's 2022 Form MA 1099-HC. The penalty is reduced from a five (5) to a three (3) month penalty.

Appellant should note that the waiver of his penalty is based upon the facts that I have determined to be true for his 2022 appeal. He should not assume that a similar determination will be made in the future should he again be assessed a penalty for failure to have health insurance which meets the Commonwealth's minimum creditable coverage standards.

PENALTY ASSESSED

Number of Months Appealed: 5 Number of Months Assessed: 3

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 2022.

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

CONNECTOR APPEALS UNIT



Superior Court within thirty (30) days of your receipt of this decision.

Hearing
Officer

cc. Connector Appeals Unit

Addendum: Appellant may want to contact the Connector at 1-877-623-6765 to find out if he is eligible for assistance in obtaining health insurance.

Appeal Decision: Appeal Granted; the tax penalty is waived.

Hearing Issue: Appeal of the 2022 Tax Year Penalty

Hearing Date: February 14, 2024

Decision Date: February 27, 2024

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 14, 2024. The procedures to be followed during the hearing were reviewed with Appellant who was then sworn in. Exhibits were marked and admitted into evidence with no objection from the Appellant. The hearing record consists of the Appellant's testimony and the following documents which were admitted into evidence:

Exhibit 1: Health Connector Appeals Unit Notice of Hearing dated January 8, 2024.

Exhibit 2: Appeal Case Information from Schedule HC 2022.

Exhibit 3: Statement of Grounds for Appeal, with attachments, signed by the Appellant on May 22, 2023.

FINDINGS OF FACT

The record shows, and I so find:

1. The Appellant, age 31 in January 2022, filed a Federal Income Tax return as Single with no dependents (Exhibit 2).
2. The Appellant lived in Essex County in 2022 (Exhibit 2, 3 and Appellant Testimony).
3. The Appellant's Federal Adjusted Gross Income for 2022 was \$29,116.00 (Exhibit 2).
4. According to his Schedule HC for Tax Year 2022, the Appellant did not have health insurance for twelve months of tax year 2022 (Exhibit 2 and Appellant Testimony).
5. The Appellant has been assessed a twelve-month tax penalty for 2022 (Exhibit 3).

6. I take administrative notice of the financial information set forth in Tables 1 through 6 in the DOR 2022 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 2022. Table 2 sets forth income at 300% of the Federal poverty level and Tables 5 and 6 set forth tax penalties in effect for 2022.
7. In accordance with Table 3 of Schedule HC for 2022, the Appellant filing his Federal tax return as Single with no dependents, with an annual adjusted gross income of \$29,116.00 could afford to pay \$102 per month for health insurance. In accordance with Table 4, the Appellant, age 31, living in Essex County, could have purchased private insurance for \$290 per month. Private insurance was not affordable for the Appellant.
8. The Appellant testified that in 2022 he was homeless and living with friends and family, moving from place to place. He was employed mostly as a 1099 contractor and short term full-time jobs with no health care insurance option afforded to him (Appellant Testimony and Exhibits 3).
9. Appellant would have been eligible for ConnectorCare coverage in 2022, because the Appellant's income was less than 300% of the federal poverty level, which was \$38,640 for a household of one in 2022 (See Table 2 of Schedule HC-2022 and 956 CMR 12.04). He testified that he was not aware of the ConnectorCare so did not inquire into eligibility (Appellant Testimony).
10. Appellant estimated his monthly living expenses in 2022 exceeded \$1,400 (Exhibit 3 and Appellant Testimony). He stated he is now employed full time and has health insurance through his employer's health care benefit.

ANALYSIS AND CONCLUSIONS OF LAW

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

Any health insurance policy must also satisfy the Massachusetts "minimum creditable coverage standards" (MCC) to avoid the tax penalty. Mass. Gen. Laws c. 111M, sec. 2(b). In addition to financial

hardship, the Connector may also consider the extent to which insurance obtained deviated from or substantially met minimum creditable coverage standards when determining if a penalty should be waived. See 956 CMR 6.08(2)(d).

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

In accordance with Table 3 of Schedule HC for 2022, the Appellant filing his Federal tax return as Single with no dependents claimed and with an adjusted gross income of \$29,116 could afford to pay \$102 per month for health insurance. According to Table 4, the Appellant, age 31, living in Essex County, could have purchased a private insurance plan for \$290 a month. See Schedule HC for 2022. Private insurance was not affordable for the Appellant in tax year 2022.

The Appellant would have been eligible for ConnectorCare coverage based upon the Appellant's income that was more than 300% of the federal poverty level for a household of one. See Table 2 of Schedule HC 2022 and 956 CMR 12.04 for eligibility criteria. He testified credibly that he was not aware of the ConnectorCare as he was homeless and underemployed for most of 2022 (Appellant Testimony). He would not have been eligible for MassHealth by the income requirements in place for 2022.

Appellant believably testified to economic hardships including chronic homelessness and monthly expenses which consumed most of his net pay. He testified that he had a series of contracting jobs and short-lived full-time employment that did not provide health insurance options. He further stated he was not aware of the ConnectorCare and his eligibility. In light of these facts, it is determined that Appellant did not have access to health insurance and would have endured a financial hardship by purchasing a health insurance policy in 2022. Appellant's request to waive the penalty assessed against him of twelve months in Tax Year 2022 is granted.

The Appellant should note that the granting of a waiver of his penalty is based upon the facts that I have determined to be true in 2022. The Appellant should not assume that a similar determination will be made for subsequent tax years should they again be assessed a penalty for failure to have health insurance.

PENALTY ASSESSED

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

If the number of months assessed is zero (0) because your penalty has been overturned, the Connector has notified the Department of Revenue that you should NOT be assessed a penalty for Tax Year 2022.

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

FINAL APPEAL DECISION

Appeal Decision: Penalty Overturned in Full
 Penalty Overturned in Part
 X Penalty Upheld

Hearing Issue: Appeal of the 2022 Tax Year Penalty

Hearing Date: February 21, 2024 Decision Date: Tuesday, February 27, 2024

AUTHORITY

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

JURISDICTION

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

HEARING RECORD

The appellant appeared at the hearing which was held by telephone on February 21, 2024. The procedures to be followed during the hearing were reviewed with Appellant. She was 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:	Appeals Case Information from Schedule HC	1 page
Exhibit 2:	Appellant's Statement of Grounds for Appeal	2 Pages
Exhibit 3	Correspondence from the Appellant	1 page

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FINDINGS OF FACT

The record shows, and I so find:

1. Appellant was 47 years old in the beginning of 2022. Appellant filed her 2022 Massachusetts tax return as Single.
2. The Appellant has no dependents (Exhibit 1).
3. Appellant lived in Hampden County, MA in 2022 (Exhibit 1).
4. Appellant's Federal Adjusted Gross Income for 2022 was \$71,763.00 (Exhibit 1, Appellant's Testimony). Appellant's Income was 528% of the Federal Poverty level and based on her income, if all other conditions were met, she would be INELIGIBLE based on income for ConnectorCare.
5. In 2022, the Appellant was employed as a office manager at a recruiting agency (January through March 31st) in a full-time capacity. (Appellant's Testimony). Later in 2022, as a result of being laid off, the Appellant obtained a second position as a recruiter for a veterinary/medical company (May through August 5th, 2022). (Appellant's Testimony).
6. The Appellant was offered health insurance in 2022, by her first employer, at an unspecified monthly cost. (Appellant's Testimony).
 - a. The decision to impose a tax penalty on the Appellant was based on her not having Health Insurance during periods of unemployment or while working temporary jobs in 2022. She was also not provided with Health Insurance by her second employer during this time (Appellant's Testimony and Exhibit 1).
7. I take administrative notice of the financial information set forth in Tables 1 through 6 in the DOR 2022 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 2022. Table 2 sets forth income at 300% of the Federal poverty level and Tables 5 and 6 set forth tax penalties in effect for 2022.
8. According to Table 3 of Schedule HC for 2022, The Appellant, who has no dependents, and who has an adjusted gross income of \$71,763.00 was deemed able to pay \$478.42 per month for health insurance, or 8.00% of her income. According to Table 4, Appellant, age 47 and living in Hampden County, could have purchased private insurance for \$389.00 per month.
9. Private insurance was AFFORDABLE for the appellant in 2022 (Schedule HC for

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2022).

10. In 2022, Appellant had the following monthly expenses for basic necessities¹:

<u>Rent or Mortgage</u>	\$1,500.00	<u>Car Insurance</u>	\$50.00	<u>Medical/Dental</u>	\$42.00
<u>Property Taxes</u>	\$0.00	<u>Gas (Car)</u>	\$264.00	<u>House Maintenance</u>	\$0.00
<u>Cable/Internet</u>	\$120.00	<u>Food</u>	\$440.00	<u>Car</u>	\$0.00
<u>Heat</u>	\$209.00	<u>Cell Phone</u>	\$140.00	<u>Clothing</u>	\$100.00
<u>Electricity</u>	\$130.00	<u>Household & Toiletries</u>	\$100.00	<u>Other</u>	\$108.00
				<u>Total:</u>	\$3,203.00

11. Upon examining the appellant's testimony, it was ascertained that her gross monthly income was \$5,980.25. Her necessary expenses were determined to be \$3,203.00 per month. After accounting for an approximation of federal and state taxes, this leaves a difference of \$1,516.87 in her monthly financial situation when considering Filing status, Adjusted Gross income and the number of Dependents in the 2022 tax year.

12. Appellant's statement of grounds for appeal was on the basis of:

a. During 2022, the expense of purchasing health insurance would have caused a serious deprivation of food, shelter, clothing or other necessities. Provide proof to show additional expenses above and beyond that which your income would cover. If you were eligible to receive government subsidized insurance, explain why obtaining that would cause serious deprivation; (Testimony of Appellant, Exhibit 2).

13. Appellant did not incur significant and unexpected increases in essential expenses as a result of domestic violence; the death of a spouse, family member, or partner who shared household expenses; the sudden responsibility for providing full care for an aging parent or other family member; or fire, flood, or other natural or man-made disaster in 2022 (Testimony of Appellant).

¹The monthly expenses for basic necessities, as cited in this document, were derived from the Appellant's Testimony. To present a more accurate picture of the Appellant's financial situation over the entire tax year, certain expenses were normalized to reflect average monthly costs. For instance, if the Appellant purchased a new car in June with a monthly payment of \$370, that expense was averaged over the 12-month tax year to be \$185 per month. This adjustment ensures that monthly costs, which might have been unusually high or low for a specific period, are more accurately represented in the context of the Appellant's annual budget and adjusted gross income.

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14. Appellant did not fall more than thirty days behind in rent payments in 2022. Appellant did not receive any shut-off notices for basic utilities. There was no evidence or indication of this during the Appellant's testimony. (Testimony of Appellant)
15. During the appeal hearing, the Appellant explained that she faced significant financial challenges that made it difficult for her to afford health insurance coverage. She provided details on her household expenses and income limitations that prevented her from being able to pay the costs associated with a health insurance plan.
16. The Appellant has been assessed a penalty for not having health insurance in 2022 for 3 months.

ANALYSIS AND CONCLUSIONS OF LAW

The issue on appeal is whether the tax penalty assessed by the Massachusetts Department of Revenue for 2022 should be waived in whole, in part, or not at all.

G.L.c. 111M, § 2, also called the “individual mandate,” requires every adult resident of Massachusetts to obtain insurance coverage “[s]o long as it is deemed affordable” under the schedule set by the board of directors for the Commonwealth Health Insurance Connector Authority. The Appellant was aware of the individual mandate, according to her testimony.

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 for 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 had health insurance for 6 month(s) in 2022. She has been assessed a tax penalty for 3 months. She appealed the assessment. See Exhibits listed above. 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 either (1) her employment, through (2) the private market, or through (3) a government-sponsored program. If affordable insurance was available, we must determine if such insurance was, in fact, not affordable to the appellant because he experienced a financial hardship as defined in 956 CMR 6.08.

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Appellant's Employment & Employer Based Insurance

The Appellant was offered health insurance in 2022, by her employer, at an unspecified monthly cost. (Appellant's Testimony). The Appellant testified that she experienced periods of unemployment during the year 2022. (Appellant's Testimony). The Appellant was assessed a penalty of 3 months based on her lack of coverage over 6 months.

In light of the lack of coverage stemming from the Appellant's unemployment, the Appellant would have then become eligible for a Special Enrollment Period and could have contacted the Health Connector to obtain Health Insurance within 60 days of her termination event. A Special Enrollment Period is a time outside of the open enrollment period that you and your family have a right to sign up for health coverage through the Health Connector. You may qualify for a special enrollment period of 60 days following certain qualifying events that involve a change in family status (for example, marriage or birth of a child), loss of other health coverage, or job loss.

Based on the testimony of the Appellant, it appears that although she was employed and offered health insurance by her employer during part of 2022, her tax penalty was levied for a time period where she was unemployed or not offered Employer-Sponsored Insurance in light of being laid off. Because of this, she did not have access to Employer-Sponsored Insurance for the time that the tax penalty was assessed and therefore would not have been blocked from purchasing Health Insurance from the Health Connector, due to her lack of Employer-Sponsored Insurance.

ConnectorCare Eligibility

To be considered for ConnectorCare, with its state subsidies and tax credits, you can't be covered by affordable job-based insurance, as per the Affordable Care Act standards. See 956 CMR 12.05 and 45 CFR § 155.305(f)(1)(ii)(B). Only employer insurance that's affordable and meets minimum creditable coverage can disqualify you from getting assistance through the Health Connector to reduce your health plan cost. See 26 CFR § 1.36B-2(c)(3). The Appellant did not have access to Employer-Sponsored Insurance for the time that the tax penalty was assessed and therefore would not have been blocked from purchasing Health Insurance from the Health Connector due to her lack of Employer-Sponsored Insurance.

In Massachusetts, you could get state help with ConnectorCare plans if your income is 300% of the FPL or less. For tax year 2022, the Appellant is ineligible for insurance through the ConnectorCare program. The Appellant testified to not applying through the Health Connector in tax year 2022. Despite the requirement set by the individual mandate, due diligence in seeking health coverage through the Health Connector was not conducted. (Appellant's Testimony).

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As Appellant's income level was 528.06% of the Federal Poverty Level, she would not have been eligible for subsidies or Advanced Premium Tax Credits (APTCs), due to exceeding the income threshold. If you make more than 300% but less than 400% of the FPL, you might get a tax credit to cut down your health plan costs. To get this Advance Premium Tax Credit, your expected income must be at least 100% but less than 400% of the FPL. (45 CFR 155.305 (f) (1) (i)). Based on these rules, The Appellant's income does not qualify her for Advance Premium Tax Credits, as it does not lie within the required 300% to 400% FPL range.

Availability of Private Insurance

Private insurance was AFFORDABLE for the appellant on the open market during 2022. According to Tables 3 and 4 of the HC schedule for 2022, Appellant, with an adjusted gross income of \$71,763.00, was deemed to have been able to afford health insurance on the private market. According to Table 3, Appellant could have afforded to pay \$478.42 per month; according to Table 4, Appellant, who was 47 years old in 2022, lived in Hampden County and filed her 2022 Massachusetts taxes as a Single with 0 dependents, would have had to pay \$389.00 for insurance on the private market. See 956 CMR 6.05 (1)(2), Schedule HC Tables 3 and 4, and Exhibit 1.

In light of the Appellant's gross income (\$5,980.25 per month), tax filing status, place of residence, and the expected affordable amount the Appellant could pay per the 2022 Schedule HC Tables (\$478.42 per month), the Appellant could have afforded private health insurance with a premium of \$389.00 per month. (2022 Schedule HC Tables).

Other Government-Sponsored Healthcare Programs

There is no evidence in the record to show that Appellant was eligible for health insurance through any other government-sponsored program.

Financial Hardship Analysis

Since affordable insurance was available to the Appellant through the private market during the time frame in which they were penalized for not having Health Insurance, in 2022, it must be determined whether the Appellant experienced a financial hardship pursuant to 956 CMR 6.08 (1).

The appellant testified that in 2022 they incurred basic monthly expenses of approximately \$3,203.00. With a monthly difference of \$1,516.87 between income and expenses, and considering the monthly premium for private market coverage was found to be affordable at \$389.00 per month, it appears that affording health insurance was feasible for the Appellant in 2022.

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Conclusion

The Appellant has not demonstrated a financial hardship as defined by law. See 956 CMR 6.08(1)(e). Therefore, the 3-month penalty is upheld.

PENALTY ASSESSED

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

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 2022.

NOTIFICATION OF YOUR RIGHT TO APPEAL TO COURT

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

Hearing Officer

cc. Connector Appeals Unit

Addendum: Appellant may want to contact the Connector at 1-877-623-6765 to find out if she is eligible for assistance in obtaining health insurance.

FINAL APPEAL DECISION

Appeal Decision: Penalty Overturned in Full
 Penalty Overturned in Part
 X Penalty Upheld

Hearing Issue: Appeal of the 2022 Tax Year Penalty

Hearing Date: February 21, 2024 Decision Date: Tuesday, February 27, 2024

AUTHORITY

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

JURISDICTION

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

HEARING RECORD

The appellant appeared at the hearing which was held by telephone on February 21, 2024. The procedures to be followed during the hearing were reviewed with Appellant. He was 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:	Appeals Case Information from Schedule HC	1 page
Exhibit 2:	Appellant's Statement of Grounds for Appeal	2 Pages
Exhibit 3	Correspondence from the Appellant	1 page

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Exhibit 4	American Express 2022 Yearly Charges Statement	1 page
Exhibit 5	1095 C Form (2022)	2 Pages

FINDINGS OF FACT

The record shows, and I so find:

1. Appellant was 30 years old in the beginning of 2022. Appellant filed his 2022 Massachusetts tax return as Married Filing Jointly. The Appellant has no dependents (Exhibit 1).
2. Appellant lived in Worcester County, MA in 2022 (Exhibit 1).
3. Appellant's Joint Federal Adjusted Gross Income for 2022 was \$126,637.00 (Exhibit 1, Appellant's Testimony). Appellant's Income was 692% of the Federal Poverty level and based on his income, if all other conditions were met, he would be INELIGIBLE based on income for ConnectorCare.
4. In 2022, the Appellant was employed as a Store Manager at a Retail Store in a full-time capacity. (Appellant's Testimony).
5. The Appellant was employed for the full year and did not have any job disruptions during the year 2022.
6. The Appellant was offered health insurance in 2022, by his employer, at an approximate monthly cost of \$330.00. (Appellant's Testimony)
7. The Appellant does currently have Health Insurance. (Appellant's Testimony).. .
8. I take administrative notice of the financial information set forth in Tables 1 through 6 in the DOR 2022 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 2022. Table 2 sets forth income at 300% of the Federal poverty level and Tables 5 and 6 set forth tax penalties in effect for 2022.
9. According to Table 3 of Schedule HC for 2022, The Appellant has no dependents, with an adjusted gross income of \$126,637.00 was deemed able to pay \$844.25 per month for health insurance, or 8.00% of his income. According to Table 4, Appellant, age 30 and living in Worcester County, could have purchased private insurance for \$554.00 per month.
10. Private insurance was AFFORDABLE for the appellant in 2022 (Schedule HC for 2022).

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11. In 2022, Appellant had the following monthly expenses for basic necessities¹:

<u>Rent or Mortgage</u>	\$1,800.00	<u>Car Insurance</u>	\$158.00	<u>Medical/Dental</u>	\$17.00
<u>Property Taxes</u>		<u>Gas (Car)</u>	\$440.00	<u>House Maintenance</u>	\$0.00
<u>Cable/Internet</u>	\$120.00	<u>Food</u>	\$400.00	<u>Car</u>	\$584.00
<u>Heat</u>	\$50.00	<u>Cell Phone</u>	\$150.00	<u>Clothing</u>	\$100.00
<u>Electricity</u>	\$50.00	<u>Household & Toiletries</u>	\$50.00	<u>Other</u>	\$504.00
				<u>Total:</u>	\$4,023.00

12. Upon examining the appellant's testimony, it was ascertained that his gross monthly income was \$10,553.08. His necessary expenses were determined to be \$4,023.00 per month. After accounting for an approximation of federal and state taxes, this leaves a difference of \$3,967.94 in his monthly financial situation when considering Filing status, Adjusted Gross income and the number of Dependents in the 2022 tax year.

13. Appellant's statement of grounds for appeal was on the basis of:

a. During 2022, you purchased health insurance that didn't meet minimum creditable coverage standards, because that is what your employer offered, and you felt that your circumstances prevented you from buying other insurance that met the requirements.(Testimony of Appellant, Exhibit 2).

14.Appellant did not incur significant and unexpected increases in essential expenses as a result of domestic violence; the death of a spouse, family member, or partner who shared household expenses; the sudden responsibility for providing full care for an aging parent or other family member; or fire, flood, or other natural or man-made disaster in 2022 (Testimony of Appellant).

15. Appellant did not fall more than thirty days behind in rent payments in 2022. Appellant did not receive any shut-off notices for basic utilities. There was no

¹The monthly expenses for basic necessities, as cited in this document, were derived from the Appellant's Testimony. To present a more accurate picture of the Appellant's financial situation over the entire tax year, certain expenses were normalized to reflect average monthly costs. For instance, if the Appellant purchased a new car in June with a monthly payment of \$370, that expense was averaged over the 12-month tax year to be \$185 per month. This adjustment ensures that monthly costs, which might have been unusually high or low for a specific period, are more accurately represented in the context of the Appellant's annual budget and adjusted gross income.

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evidence or indication of this during the Appellant's testimony. (Testimony of Appellant)

16. The appellant shared that since moving to Massachusetts in 2019 and working for the same employer, he was informed from the start of his employment that the health insurance provided by his job, known as employer-sponsored insurance (ESI), did not meet Massachusetts' minimum standards for health coverage. He mentioned that in the years before the 2022 tax penalty, he had accepted this reality and paid any penalties without appealing. (Appellant's Testimony).
17. In 2022, however, the Appellant testified that he decided to appeal this penalty for two main reasons. First, he pointed out that the insurance offered by his employer was the only option available to him, and due to his particular situation, he couldn't get other insurance that met the state's requirements. (Appellant's Testimony).
18. He also explained that he had to prioritize other financial responsibilities, specifically paying off his wife's student loan debt, which made it difficult for him to afford the kind of insurance Massachusetts requires. (Appellant's Testimony).
19. The Appellant has been assessed a penalty for not having health insurance in 2022 for 12 months.

ANALYSIS AND CONCLUSIONS OF LAW

The issue on appeal is whether the tax penalty assessed by the Massachusetts Department of Revenue for 2022 should be waived in whole, in part, or not at all.

G.L.c. 111M, § 2, also called the "individual mandate," requires every adult resident of Massachusetts to obtain insurance coverage "[s]o long as it is deemed affordable" under the schedule set by the board of directors for the Commonwealth Health Insurance Connector Authority. The Appellant was aware of the individual mandate, according to his testimony.

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 for three months. The Connector's regulations provide for a waiver of the tax penalty in the case of a

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financial hardship. See 956 CMR 6.08.

Appellant had no health insurance in 2022 that met minimum creditable coverage standards. He has been assessed a tax penalty for 12 months. He appealed the assessment. See Exhibits listed above. 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 either (1) his employment, through (2) the private market, or through (3) a government-sponsored program. If affordable insurance was available, we must determine if such insurance was, in fact, not affordable to the appellant because he experienced a financial hardship as defined in 956 CMR 6.08.

Appellant's Employment & Employer Based Insurance

The Appellant was offered health insurance in 2022, by his employer, at an approximate monthly cost of \$330.00. (Appellant's Testimony) The Appellant was employed for the full year and did not have any job disruptions during the year 2022. (Appellant's Testimony). The Appellant was assessed a penalty of 12 months based on their lack of coverage over 12 months. The penalty was not levied in light of any period of unemployment for the Appellant.

In Massachusetts, the determination of affordability for employer-sponsored health plans, or Employer-Sponsored Insurance ("ESI"), is guided by state-specific guidelines. According to the 2022 Schedule HC instructions for the relevant tax year, the affordable premium is calculated based on a percentage of income that aligns with the individual's income range and filing status, as outlined in Table 3: Affordability, found on page HC-10. In this case, the maximum affordable amount for the Appellant, based on their income range and filing status, is 8.00%.

During the hearing, the Appellant testified, which I found credible, that the cost of insurance offered by his employer was \$330.00 per month for his family. This cost must be assessed against the state-determined affordability threshold. For the plan year 2022, considering the Appellant's income and the guidelines set forth in Table 3, the employer-sponsored plan's coverage is deemed affordable if the employee's contribution for self-only coverage does not exceed 8.00% of the employee's projected household modified adjusted gross income. According to Massachusetts state-specific guidelines, the health insurance offered by the Appellant's employer was deemed to be affordable for the Appellant based on it being less than 8.00% of the Appellant-employee's projected household modified adjusted gross income. The employer's offering was 3.13% of the employee's income.

While the employer did offer health insurance, and the appellant employee was employed during the time the tax penalty was levied, the appellant testified that the employer notified them that their Health Insurance coverage did not meet Minimum

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Creditable Coverage standards. Minimum Creditable Coverage standards are the essential health insurance benefits needed to avoid tax penalties in Massachusetts. Insurers must inform consumers if their plans meet these standards. Therefore the Appellant did not have access to affordable Employer-Sponsored Insurance that met minimum creditable coverage standards in 2022.

ConnectorCare Eligibility

To be considered for ConnectorCare, with its state subsidies and tax credits, you can't be covered by affordable job-based insurance, as per the Affordable Care Act standards. See 956 CMR 12.05 and 45 CFR § 155.305(f)(1)(ii)(B). Only employer insurance that's affordable and meets minimum creditable coverage can disqualify you from getting assistance through the Health Connector to reduce your health plan cost. See 26 CFR § 1.36B-2(c)(3). Because the Appellant's employer's health coverage is deemed affordable, but does not meet minimum creditable coverage standards, the appellant would be eligible to apply for connector care via the health connector.

In Massachusetts, you could get state help with ConnectorCare plans if your income is 300% of the FPL or less. For tax year 2022, the Appellant is ineligible for insurance through the ConnectorCare program due primarily to their income being too high to be eligible for subsidies. As the Appellant's income level was 691.63% of the Federal Poverty Level, the appellant would not have been eligible for subsidies or Advanced Premium Tax Credits (APTCs), due to exceeding the income threshold.

If you make more than 300% but less than 400% of the FPL, you might get a tax credit to cut down your health plan costs. To get this Advance Premium Tax Credit, your expected income must be at least 100% but less than 400% of the FPL. (45 CFR 155.305 (f) (1) (i)). Based on these rules, The Appellant's income does not qualify them for Advance Premium Tax Credits, as his does not lie within the required 300% to 400% FPL range.

Appellant's Engagement with the Health Connector

The Appellant testified to not applying through the Health Connector in tax year 2022. Despite the requirement set by the individual mandate, due diligence in seeking health coverage that met minimum creditable coverage standards through the Health Connector was not conducted.

Availability of Private Insurance

Private insurance was AFFORDABLE for the appellant on the open market during 2022. According to Tables 3 and 4 of the HC schedule for 2022, Appellant, with an adjusted gross income of \$126,637.00, was deemed to be able to afford health insurance on the private market. According to Table 3, Appellant could have afforded

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to pay \$844.25 per month; according to Table 4, Appellant, who was 30 years old in 2022, lived in Worcester County and filed his 2022 Massachusetts taxes as a Married Filing Jointly with 0 dependents, would have had to pay \$554.00 for insurance on the private market. See 956 CMR 6.05 (1)(2), Schedule HC Tables 3 and 4, and Exhibit 1.

In light of the Appellant's gross income (\$10,553.08 per month), tax filing status, place of residence, and the expected affordable amount the Appellant could pay per the 2022 Schedule HC Tables (\$844.25 per month), the Appellant could have afforded private health insurance with a premium of \$554.00 per month. (2022 Schedule HC Tables).

Other Government-Sponsored Healthcare Programs

There is no evidence in the record to show that Appellant was eligible for health insurance through any other government-sponsored program.

Minimum Creditable Coverage Issue

The clear reasoning as to why the Appellant is appealing involves the reality that he purchased Employer-Sponsored Insurance coverage which he believed to be adequate but which in fact did not meet the Commonwealth's standards for minimum creditable coverage standards.

Minimum Creditable Coverage (MCC) requirements ensure health insurance plans cover a comprehensive range of medical services to be compliant. These services include outpatient care, diagnostic procedures, emergency services, hospitalization, maternity and newborn care, mental health and substance abuse services, prescription drugs, and treatments like radiation and chemotherapy. Plans must adhere to financial limits on annual deductibles and out-of-pocket spending for in-network services, including all co-payments, coinsurance, and deductibles, though prescription drugs may have separate deductibles within set annual limits. Preventive care doctor visits must be covered before the deductible.

MCC standards prohibit limits or caps on prescription drug benefits, the total amount paid for specific illnesses, or annual benefit totals. Additionally, coverage must extend to all individuals under the plan, including dependent maternity services. If there's uncertainty whether a plan meets MCC standards, contacting the employer or insurer is advised for clarification.

In accordance with Massachusetts law, residents are required to have Minimum Creditable Coverage (MCC) for health insurance. The MCC requirement applies to individuals rather than health plans, although most plans available in Massachusetts meet the MCC standards. If a person is covered by a plan that does not meet MCC standards, they may be subject to a tax penalty. However, under certain

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circumstances, this penalty may be waived. The mandate for maintaining MCC is outlined in M.G.L. c. 111M §2.

By law, state penalties for non-compliance are set at one half of the premium for the lowest-cost plan an individual could purchase through the Massachusetts Health Connector. Exemptions to the mandate exist if the amount an individual can afford is lower than the lowest-cost insurance available to them.

In such cases, the individual is exempt from the mandate and will not be penalized. The affordability schedule assists consumers in making informed decisions about coverage and household budgets, defining the maximum amount they would be expected to contribute towards coverage before facing a penalty. This schedule is particularly relevant for Massachusetts residents who lack MCC and are potentially subject to a state penalty. Individuals who fail to have MCC during a tax year will face a penalty when they file their taxes.

Regulations at 956 CMR 6.08(1) outline considerations for determining whether a taxpayer experienced a hardship, which may exempt them from the penalty. Hardship basis are similar to those for ConnectorCare premium waiver/reductions, including circumstances such as homelessness, significant unexpected increases in essential expenses, or situations where the cost of MCC would cause the taxpayer to experience a serious deprivation of food, shelter, clothing, or other necessities.

Financial Hardship Analysis

Since affordable insurance that met minimum creditable coverage standards was available to the Appellant through the private market, in 2022, it must be determined whether the Appellant experienced a financial hardship pursuant to 956 CMR 6.08 (1).

The evidence presented by the appellant in this case is insufficient to establish a financial hardship as defined by law. The appellant testified that in 2022 his family incurred basic monthly expenses of approximately \$4,023.00. With a monthly difference of \$3,967.94 between income and expenses, and considering cost of Health Insurance on the Private Market would have been, based on his family size, \$554.00 per month, it appears that affording a healthcare plan that met the Commonwealth's minimum creditable coverage standards should be manageable for the Appellant and his family.

Conclusion

The Appellant has not demonstrated a financial hardship as defined by law. See 956 CMR 6.08(1)(e). Therefore, the 12-month penalty is upheld.

PENALTY ASSESSED

CONNECTOR APPEALS UNIT



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

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 2022.

NOTIFICATION OF YOUR RIGHT TO APPEAL TO COURT

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

Hearing Officer

cc. Connector Appeals Unit

Addendum: Appellant may want to contact the Connector at 1-877-623-6765 to find out if he is eligible for assistance in obtaining health insurance.

Massachusetts Health Connector Appeals Unit

Tax Penalty Appeal Decision—Docket No. PA22-1430

Appeal Decision: Appeal Approved -- 2022 tax penalty overturned.

Hearing Issue: Appeal of the 2022 Tax Year Penalty

Hearing Date: February 23, 2024

Decision Date: March 19, 2024

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. The Appellant's Tax Preparer also participated in the hearing with the Appellant's consent.

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 and the Tax Preparer'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 – 2022;
3. Health Connector's Notice of Hearing (2 pages);
4. Appellant's Letter in Support of Appeal (1 page);
5. Appellant's 2022 Schedule HC;
6. Appellant's IRS Form 4029 (Application for Exemption From Social Security and Medicare Taxes and Waiver of Benefits);
7. Health Connector's Letter Recognizing Mennonite Congregations' Exemption from Individual Mandate (2 pages, dated March 31, 2008); and

8. Statement That Appellant Is a Member of Pioneer Valley Mennonite Fellowship Entitled to Religious Exemption (1 page).

At the conclusion of the appeal hearing I acceded to the Tax Preparer's request to submit additional documents that he thought had been filed earlier. The result was duplicative documents that I have eliminated from the list of exhibits, above.

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 2 month penalty for 2022. The basis for the penalty was that the Appellant was not insured for any month in 2022 after he reached his 18th birthday in August 2022. Exhibits 1 and 2.
2. In Exhibit 2, the pre-printed Statement of Grounds for Appeal, the Appellant checked "Other" and added the following statement in handwriting: "Claiming Religious Exemption. See attached."
3. In support of his appeal the Appellant submitted a copy of the form 2022 Schedule HC that he had filed as part of his 2022 Massachusetts income tax return. In lines 8a and 8b on Exhibit 3 the Appellant asserted that was not insured in 2022 because he has a religious objection to the mandatory health insurance required by Massachusetts law. He also identified himself as a member of the Pioneer Valley Mennonite Fellowship. See also lines 3a and 7. The Appellant affirmed his religious objection in his testimony under oath at the appeal hearing. See also Exhibit 8 (statement that Appellant is a member of the Pioneer Valley Mennonite Fellowship that has "religious convictions against carrying health insurance").
4. The Appellant also submitted a federal tax form (Form 4029) in support of his religious exemption claim and that also identified him as a member of the Pioneer Valley Mennonite Fellowship in Massachusetts. I find that the federal application is consistent with the Appellant's religious exemption claim under Massachusetts law. Exhibit 6 and Testimony.

5. In addition to an individual congregant's assertion of a religious exemption under Massachusetts law, two Mennonite congregations (Pioneer Valley Mennonite Fellowship and Mendon Mennonite Church) sought assurance that their churches and their regularly participating members were entitled to a religious exemption. The Health Connector's then-General Counsel, speaking for the Health Connector and the Department of Revenue, concurred that "your Mennonite Churches do qualify for a religious exemption from the Individual Mandate." Exhibit 7, page 2.
6. I will not address the Appellant's income in 2022 or whether health insurance would be affordable to the Appellant because those tests do not apply where the evidence establishes that the Appellant has a religious objection to mandatory health insurance.

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 2 month tax penalty because the Appellant did not have health insurance coverage after his 18th birthday in 2022. 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 – 2022 that the Appellant signed and filed in this case. See Exhibit 2.

By statute, the Appellant in this case was not subject to the individual mandate before his 18th birthday in August 2022. See Mass. Gen. Laws c. 111M, sec. 2 (a), above. The question to be decided is whether DOR could impose a penalty because the Appellant lacked health insurance once he reached his 18th birthday.

Massachusetts law recognizes a religious exemption to the individual mandate. The exemption applies where an individual’s “sincerely held religious beliefs are the basis of his refusal to obtain and maintain creditable coverage.” The evidence presented in this appeal demonstrates that the Appellant meets this standard, as he has consistently asserted his religious objection since his 18th birthday. See, e.g., Exhibits 4 – 6, above. In addition to this individual standard the Appellant is a member of the Pioneer Valley Mennonite Fellowship that, in 2008, obtained from the Health Connector an assurance that its members are not subject to the individual mandate. See Exhibit 7, above.

For the foregoing reasons, I waive the penalty that the DOR assessed against the Appellant for 2022.

PENALTY ASSESSED

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

The Connector has notified the Department of Revenue that, pursuant to its decision, you should be assessed a penalty for Tax Year 2022 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 2022.

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. PA22- 1445

Appeal Decision: Appeal Approved -- 2022 tax penalty overturned.

Hearing Issue: Appeal of the 2022 Tax Year Penalty

Hearing Date: February 26, 2024

Decision Date: February 29, 2024

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 – 2022;
3. Health Connector’s Notice of Hearing (2 pages); and
4. Appellant’s Letter in Support of Appeal (1 page).

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 2 month penalty for 2022. The basis for the penalty was that the Appellant was a part-year resident in Massachusetts starting in August 2022 and that the Appellant did not have health insurance for the remainder of 2022. Exhibits 1 and 2. (The calculation is 5 months uninsured (August – December) minus 3-month administrative grace period = 2 penalty months.)
2. The Appellant filed a Massachusetts personal income tax return for 2022 as a single person with no dependents. The Appellant's federal adjusted gross income (AGI) for 2022 was \$50,549. Exhibit 1.
3. The Appellant was 32 years old at the beginning of 2022 and resided in [name of city or town omitted] in Barnstable County, Massachusetts. Exhibit 1.
4. The Appellant's 2022 AGI (\$50,549) was more than 300% of the federal poverty level (\$38,640 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 7.60 % of his income -- or \$320 per month -- for health insurance coverage in 2022. (The calculation is 7.60% multiplied by \$50,549 AGI = \$3,841 per year divided by 12 months = \$ 320.14 per month.)
6. Based on DOR Table 4 (Region 2) the Appellant could obtain individual health insurance coverage at his age and location in Massachusetts for \$290 per month in 2022.
7. The Appellant, an immigrant, resided in Michigan for approximately five years where he was a student. In 2022 the Appellant completed his Ph.D. studies in Michigan and intended to enter a prestigious post-doctoral program on Cape Cod in Massachusetts where he had been awarded a fellowship. Testimony and Exhibit 4.
8. The Appellant's transition from Michigan to Massachusetts was not straight-forward. A primary reason was the difficulty of obtaining housing on Cape Cod. This is illustrated by the residential address on the Appellant's appeal form (Exhibit

- 2) and the address that the Health Connector used to the Appellant of this appeal hearing (Exhibit 3) which the Appellant did not locate until March 2023. Testimony and Exhibit 4.
9. For the later part of 2022 the Appellant “shuttled” between Michigan and Massachusetts, part of which involved taking care of pets in Michigan. The Appellant also traveled during this period to Germany, to Hawaii, and elsewhere. Testimony and Exhibit 4.
 10. Coming from another country and from another state (Michigan), the Appellant was not aware that Massachusetts requires that its residents obtain health insurance coverage. Testimony and Exhibit 4.
 11. The Appellant was awarded a second fellowship on Cape Cod and a different position that provided him with health insurance in December 2022. The Appellant was insured for all of 2023. Testimony and Exhibit 4.
 12. 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 2022 Massachusetts income tax return.
 13. I take administrative notice of the financial information set forth in Tables 1 through 6 of the DOR 2022 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 2022. (The DOR instructions are published online at <http://www.mass.gov/dor/2022ScheduleHCInstructions> 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 2022.)

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 2 month tax penalty because the Appellant did not have health insurance coverage for the months of August through December 2022. 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 – 2022 that the Appellant signed and filed in this case. See Exhibit 2.

From the evidence presented in this appeal it is not altogether clear exactly when the Appellant became a Massachusetts resident who is subject to the individual mandate. See summary of legal rules above. What is clear is that in the latter half of 2022 the Appellant was "shuttling," as he put it, between Michigan and Massachusetts (as well as

traveling to other locations) and that he did not obtain permanent housing on Cape Cod (where his post-doctoral fellowship was located) until March 2023. Although the Appellant was not familiar with the requirements of the individual mandate when he decided to accept the fellowship on Cape Cod he did obtain health insurance at the end of 2022, and he was insured for the following year (2023).

After considering all the circumstances, I conclude that it is appropriate to waive the entire penalty assessed against the Appellant for 2022.

PENALTY ASSESSED

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

The Connector has notified the Department of Revenue that, pursuant to its decision, you should be assessed a penalty for Tax Year 2022 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 2022.

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. PA22- 1447

Appeal Decision: Appeal Approved -- 2022 tax penalty overturned.

Hearing Issue: Appeal of the 2022 Tax Year Penalty

Hearing Date: February 26, 2024

Decision Date: February 29, 2024

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. Appellants’ Statement of Grounds for Appeal – 2022;
3. Health Connector’s Notice of Hearing (2 pages);
4. Birth Certificate (May 2023); and
5. DCU Banking Statements (January – December 2022).

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 2022. The basis for the penalty was that the Appellant was not insured at any time in 2022. 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 2022 as a single person with no dependents. The Appellant's federal adjusted gross income (AGI) for 2022 was \$81,345. Exhibit 1.
3. The Appellant's testimony during the appeal hearing indicated that the Appellant's status is more complex than it appears from his 2022 income tax return (see above). As of early 2023 the Appellant has two children. The younger child (6 months) and Mother live with the Appellant. Testimony.
4. The Appellant was 36 years old at the beginning of 2022 and resided in [name of city or town omitted] in Middlesex County, Massachusetts. Exhibit 1.
5. The Appellant's 2022 AGI (\$81,345) was more than 300% of the federal poverty level (\$38,640 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.
6. Based on DOR Table 3 the Appellant could afford to pay 8.00 % of his income -- or \$542 per month -- for health insurance coverage in 2022. (The calculation is 8.00 % multiplied by \$81,345 AGI = \$6,507.60 per year divided by 12 months = \$542.30 per month.)
7. Based on DOR Table 4 (Region 2) the Appellant could obtain individual health insurance coverage at his age and location for \$298 per month in 2022.
8. The calculations in paragraphs 2, 5, and 6, above, are affected by the findings set forth in paragraph 3, above.
9. The Appellant testified that Family Court and Immigration Court proceedings have affected his ability to afford health insurance. The impact was not altogether clear from the testimony, except that the immigration is an ongoing proceeding that

requires the Appellant to pay for legal services including a recent \$3,500 payment..
Testimony.

10. The Appellant has made inquiries about health insurance. The premium quotes that he received were more than the Appellant felt he could afford. Testimony.
11. The Appellant owes \$4,500 in federal income taxes. He pays the Internal Revenue Service (IRS) \$100 per month under a payment plan. Testimony.
12. The Appellant has two outstanding loans from DCU, his bank. One loan is for \$6,000 and the other is for \$2,000. Testimony. See also Exhibit 5 (April-June and July 2022 bank statements).
13. The Appellant did not present an analysis of the monthly bank statements for 2022 that he submitted into evidence as Exhibit 5. The bank statements reflect a lot of activity at low amounts (e.g., typically under \$50 for the savings account and under \$1,000 for the checking account; the closing balances were higher for December 2022).
14. The Appellant's rent is \$2,100 per month plus \$260 per month for electric heat. The other living expenses that the Appellant singled out were food (\$200), diapers (\$52), milk (\$52), and clothing (unknown). Other bills include telephone (\$195), television (\$134).
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 2022 Massachusetts income tax return.
16. I take administrative notice of the financial information set forth in Tables 1 through 6 of the DOR 2022 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 2022. (The DOR instructions are published online at <http://www.mass.gov/dor/2022ScheduleHCInstructions> 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 2022.)

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 2022. 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 – 2022 that the Appellant signed and filed in this case. See Exhibit 2.

The evidence presented in this appeal is not altogether clear to me. As to the Appellant’s financial position, however, I particularly single out the existence of a payment plan with the IRS to cover the \$4,500 in back taxes and the two bank loans in 2022 for \$6,000 and \$2000. These items suggest that the Appellant’s finances are more precarious than might first appear from his federal adjusted gross income.

Given all the circumstances I will waive the entire penalty that the DOR assessed for 2022. See, e.g., 956 Code Mass. Regs. 6.08 (1) (e). The Appellant should not assume, however, that future penalties will be waived (or reduced) if he does not address his obligation to have health insurance coverage as required by Massachusetts law. See my **RECOMMENDATION** 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 2022 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 2022.

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. I encourage you to continue working with the Health Connector to try to obtain health insurance at a rate you can afford, given your employment and family obligations. The contact information for the website is www.mahealthconnector.org or call Customer Service at 1-877-623-6765.

You might find it helpful to use a free service outside the government. Health Care For All is a private, non-profit organization that maintains a free consumer hot line at 1-617-350-7279 and a website at www.hcfama.org.

Massachusetts Health Connector Appeals Unit

Tax Penalty Appeal Decision—Docket No. PA22- 1449

Appeal Decision: Appeal Approved -- 2022 tax penalty overturned.

Hearing Issue: Appeal of the 2022 Tax Year Penalty

Hearing Date: February 26, 2024

Decision Date: February 29, 2024

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. Appellants’ Statement of Grounds for Appeal – 2022;
3. Health Connector’s Notice of Hearing (2 pages);
4. Appellant’s Letter in Support of Appeal (1 page);
5. “Old Insurance” Membership Card (Tufts Health Plan);
6. “New Insurance” Membership Card (Health New England);
7. Massachusetts Drivers License; and
8. Internal Revenue Service Tax Collection Notices and Payment Plan.

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 2022. The basis for the penalty was that the Appellant was not insured at any time in 2022. 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 2022 as Married Filing Separately with no dependents. The Appellant's federal adjusted gross income (AGI) for 2022 was \$68,694. Exhibit 1.
3. Despite his state income tax filing status (see above), the Appellant lives with his Wife, a young child, and a stepdaughter who is a young adult. Testimony.
4. The Appellant was years old at the beginning of 2022 and resided in [name of city or town omitted] in Hampden County, Massachusetts. Exhibit 1.
5. The Appellant's 2022 AGI (\$68,694) was more than 300% of the federal poverty level (\$38,640 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.
6. Based on DOR Table 3 the Appellant could afford to pay 8.00% of his income -- or \$458 per month -- for health insurance coverage in 2022. (The calculation is 8.00 % multiplied by \$68,694 AGI = \$5,495.52 per year divided by 12 months = \$457.96 per month.)
7. Based on DOR Table 4 (Region 1) the Appellant could obtain individual health insurance coverage at his age and location for \$298 per month in 2022.
8. The Appellant has been insured by two insurers with a gap between the insurers. In 2001 the Appellant was insured by Tufts Health Plan. Testimony, Exhibit 4, and Exhibit 5 ("Old Insurance" membership card, front and back). Starting in July 2023

the Appellant was insured by Health New England. Testimony, Exhibit 4, and Exhibit 6 (“New Insurance” membership card, front and back, issued on 7/8/23).

9. As to the gap between the two insurers, the Appellant candidly admits that he “completely missed the deadline” to reenroll in a health insurance plan that was offered through his employer. Exhibit 4 and Testimony. The Appellant tried, without success, to enroll on three occasions after the deadline set by his employer (or its insurer), but his applications were denied because the deadline imposed by the open enrollment policy had expired. Exhibit 4 and Testimony.
10. The Appellant learned about the deadline and his resulting lack of health insurance when he went to an appointment at his doctor’s office and was told that he no longer had health insurance. Exhibit and Testimony.
11. The Appellant asserts that the open enrollment deadline was unfair and should be waived. The open enrollment period lasted only two weeks in June for insurance that would take effect in July. The open enrollment period was announced by an email that the Appellant admits he did not read until after the deadline passed. Exhibit 4 and Testimony.
12. The Appellant has a chronic medical condition – a serious disc problem that needs regular medical attention -- so it is important for the Appellant to maintain health insurance coverage. Exhibit 4.
13. The Appellant also worked part-time for two other employers but neither of them offered the Appellant health insurance as a job benefit because he is not a full-time employee. Exhibit 4 and Testimony.
14. The Appellant has a \$18,000 credit card bill in addition to regular household living expenses. Testimony.
15. The Appellant owes \$1,700 in back taxes and he is enrolled in a tax payment plan under which he pays \$80 per month to the federal Internal Revenue Service (IRS). Exhibit 8 and Testimony. (I note that the amounts vary in different IRS documents.)

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 2022 Massachusetts income tax return.
17. I take administrative notice of the financial information set forth in Tables 1 through 6 of the DOR 2022 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 2022. (The DOR instructions are published online at <http://www.mass.gov/dor/2022ScheduleHCInstructions> 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 2022.)

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 he Appellant did not have health insurance coverage in 2022. 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 – 2022 that the Appellant signed and filed in this case. See Exhibit 2.

The Appellant In this case was regularly insured both before and after the 2022 coverage gap that is the subject of the DOR tax penalty assessment and this appeal. The Appellant’s failure to reenroll in his employer’s health insurance plan was a mistake, though the enrollment period imposed by the employer (2 weeks in June for insurance that would take effect in July)) was exceptionally short and accompanied by limited advance notice. The Appellant has a chronic back problem that makes it unlikely that he would drop health insurance coverage. The Appellant also attempted to reenroll in his employer’s health insurance plan, but his efforts were not successful because they were outside the open enrollment period. The substantial amounts that the Appellant owes on credit card debt (\$18,000) and to the IRS for income tax arrearages (\$1,700) that are subject to a payment plan provide additional reasons not to impose a penalty in this appeal.

For the foregoing reasons, I conclude that it is appropriate to waive the entire penalty assessed against the Appellant for 2022. See, e.g., 956 Code Mass. Regs. 6.08 (1) (e) ([“The Appellant] experienced financial circumstances such that the expense of purchasing health insurance that met minimum creditable coverage standards would have caused him to experience a serious deprivation of food, shelter, clothing or other necessities.”).

Although I have waived the entire penalty assessed for 2022 the Appellant should not assume that penalties that may be imposed in future years will also be waived or reduced. The Appellant should take care to comply with the state law requirement that he “obtain and maintain” health insurance coverage. See summary of legal rules, above.

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 2022 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 2022.

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: PA 22-1450

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

Hearing Issue: Appeal of the 2022 Tax Year Penalty

Hearing Date: February 27, 2024

Decision Date: March 4, 2024

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, 2024. 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 (36 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 61 at the end of 2022. Exhibit 2.
2. Appellant lived in Hampden County in 2022. Exhibit 2.
3. Appellant filed his taxes as a single person with no dependents. Exhibit 2.
4. Appellant's household income in 2022, as reported on his 2022 state income tax returns and confirmed at the hearing, equaled \$74,808.

¹ Exhibit 2 is a computer printout containing information extracted from the Schedule HC that Appellant submitted as part of his 2022 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 2022 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 2022, but that he did have health insurance from July to December of that year. Exhibit 2.
6. In 2021, Appellant was covered under a plan paid for by his employer.
7. At some point in late 2021, the employer, which was experiencing financial difficulties, stopped paying premiums on Appellant's insurance. Appellant was unaware of this fact.
8. As a result of the non-payment, Appellant's insurance was cancelled effective November 1, 2021. Appellant did not learn of the cancellation until a couple of months after the fact.
9. Appellant was laid off from his employment in November 2021.
10. Appellant made efforts to reinstate his insurance plan after he was laid off, but he was unsuccessful because the plan was a group plan through the employer and Appellant was no longer an employee.
11. When Appellant gave up on reinstating his old insurance plan, he tried to purchase insurance in the private, non-group market. However, by that point, the annual open enrollment season had ended, and he was unable to purchase insurance.
12. Appellant applied for a waiver from the state Office of Patient Protection, which would allow him to purchase insurance outside of the open enrollment season. In support of that waiver, he recited the above-stated facts. Appellant was granted a waiver in June 2022. Exhibit 3 (attachments).
13. After receiving the waiver, Appellant purchased insurance. He remained covered as of the date of the hearing.
14. Appellant eventually found a new position during 2022. However, that position did not provide him with insurance as a benefit.

In addition to the foregoing, I take administrative notice of the 2022 Schedule HC Instructions and Worksheets, available at <https://www.mass.gov/doc/2022-schedule-hc-instructions/download>, which, as discussed below, include the Affordability Schedule and other financial information used in making 2022 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 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.

Because Appellant did not have health insurance in 2022, he is subject to a penalty under M.G.L. c. 111M if he could have afforded to purchase such 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 2022 Schedule HC instructions at pages HC 7-9

During the period that Appellant was uninsured in 2022, he was either unemployed or working at a job that did not offer health insurance. As a result, Appellant could not have obtained insurance through employment during the six months that he was uninsured in 2022.

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 2022, 300 percent of the federal poverty limit for a household of one person like Appellant's was \$38,640. (I obtain the figure of \$38,640 from Table 2 to the instructions for the 2022 Schedule HC.) In this case, Appellant's household income during 2022 was \$74,808, and therefore he was not income-eligible for Connector Care.

However, Appellant could have afforded to purchase insurance on the private, 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 \$74,808 was deemed able to afford 8 percent of income on insurance. (I obtain that figure from Table 3 of the 2022 instructions for the Schedule HC.) In this case, that amounts to \$5,984 annually or \$498 a month. During 2022, a person like Appellant who lived in Hampden County and was 61 years of age could have obtained health insurance for a monthly premium of \$466. (I obtain the premium figure from Table 4 to the instructions for the 2022 Schedule HC). Thus, under state standards, this amount would have been affordable.

Because Appellant could have obtained affordable insurance in 2022, but didn't, 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. Appellant testified credibly that he lost insurance because his employer was not paying the premium. He supported that testimony with documentary evidence. Further, Appellant testified that, when he realized his insurance had been cancelled, he attempted to reinstate it or to purchase it at his own expense. By the time he gave up on that effort and turned to the non-group market, he had missed the annual open enrollment period, which is the period under state law when plans can be purchased. He then sought a waiver from the state Office of Patient Protection, which is authorized to grant individual waivers of the open enrollment restriction. See Mass. Gen. Laws ch. 176J, § 4(a)(4). When he obtained that waiver, he immediately purchased insurance. Thus, I conclude that during the period of time when he was uninsured, he could not obtain insurance on the non-group market.

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

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

FINAL APPEAL DECISION: PA 22-1451

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

Hearing Issue: Appeal of the 2022 Tax Year Penalty

Hearing Date: February 27, 2024

Decision Date: March 4, 2024

AUTHORITY

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

JURISDICTION

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

HEARING RECORD

Appellants, who were a married couple, appeared at the hearing, which was held by telephone, on February 27, 2024. They will be referred to as Husband and Wife in this decision. The hearing record consists of the testimony of Appellants, 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 (14 pages)

FINDINGS OF FACT

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

1. Appellants were a married couple.
2. Husband and Wife were each 25 at the end of 2022. Exhibit 2.
3. Appellants lived in Suffolk County in 2022. Exhibit 2.
4. Appellants filed their 2022 taxes as married filing jointly 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 their 2022 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. Appellants' household income in 2022, as reported on their 2022 state income tax returns and confirmed at the hearing, equaled \$82,899.
6. Appellants reported in the Schedule HC that they filed with their 2022 state income taxes, and confirmed at the hearing, that Husband did not have health insurance meeting minimum creditable coverage standards at any point in 2022. Wife was covered in insurance for the entire year. Exhibit 2. As a result, Appellants were assessed a penalty because of the Husband's lack of coverage.
7. Appellants got married in September of 2022.
8. Before the marriage, Appellant was staying in the United States on a temporary visa. He did not have a Social Security number. Because of his visa status, he was unable to obtain full-time work. When he did work, he worked at a part-time job that did not offer him insurance as a benefit.
9. In 2022, Wife worked all year at a job that offered her health insurance. After the marriage, Wife attempted to add Husband to her insurance policy but was unable to do so because he did not have a Social Security number.
10. Husband eventually got a Social Security number in December of 2022. Wife was then able to add him to her insurance policy. Husband and Wife were both insured as of the date of the hearing.
11. Of the \$82,899 reported on Appellants' 2022 tax return, Wife earned over \$60,000. Husband had limited earning ability because he did not have permanent resident status during the year.

In addition to the foregoing, I take administrative notice of the 2022 Schedule HC Instructions and Worksheets, available at <https://www.mass.gov/doc/2022-schedule-hc-instructions/download>, which, as discussed below, include the Affordability Schedule and other financial information used in making 2022 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.

Because Husband did not have health insurance in 2022, he is subject to a penalty under M.G.L. c. 111M if he could have afforded to purchase such 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 2022 Schedule HC instructions at pages HC 7-9

During 2022, Husband was either unemployed or working at a part-time job that did not offer health insurance. As a result, he could not have obtained insurance through employment in 2022.

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 be eligible to receive advance premium tax credits, which are federal subsidies for the purchase of health insurance available under the Affordable Care Act. See 956 C.M.R. § 12.04 (Connector Care eligibility requirements.) However, under the Affordable Care Act, those advance premium tax credits are only available to U.S. citizens or legal permanent residents. This is so because the tax credits are only available to persons who purchase “qualified health plans.” 26 U.S.C. § 36B(b)(2)(A). In turn, “qualified health plan” is defined as, in pertinent part, a plan offered through a health insurance exchange. 26 U.S.C. § 36B(3)(C)(3)(A), incorporating the definition in 42 U.S.C. § 18021(a)(1)(A).) Further, under the Affordable Care Act, only citizens or legal permanent residents are eligible to obtain health insurance through an exchange. 42 U.S.C. § 18032(f)(3). In 2022, Husband had not yet obtained legal permanent resident status. Accordingly, he could not obtain insurance through a health insurance exchange and so would not have been eligible to receive advance premium tax credits or Connector Care. Thus, he did not have access to government-subsidized insurance in 2022.

For similar reasons, Husband would not have been eligible to obtain insurance on the private, non-group market. Such insurance is sold through the Health Connector, which is the health insurance exchange in Massachusetts. As stated above, under federal law, only citizens or legal permanent residents are eligible to obtain health insurance through an exchange. 42 U.S.C. § 18032(f)(3). Because Husband was not a legal permanent resident of the United States in 2022, he could not have obtained insurance in the non-group market.

Fortunately, Husband obtained a Social Security number at the end of 2022 and gained legal permanent resident status in 2023. As a result, he was able to get insurance in 2023. He was insured as of the date of the hearing.

Because Husband could not have obtained affordable insurance in 2022, 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 was not subject to the individual mandate penalty. Therefore, I am allowing this appeal and waiving 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 22-1453

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

Hearing Issue: Appeal of the 2022 Tax Year Penalty

Hearing Date: February 27, 2024

Decision Date: March 4, 2024

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, 2024. The hearing was conducted with the assistance of a Mandarin Chinese interpreter. 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: Request to vacate dismissal (w/ attachments) (63 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 31 at the end of 2022. Exhibit 2.
2. Appellant lived in Middlesex County in 2022. Exhibit 2.
3. Appellant filed her taxes as a single person with no dependents. Exhibit 2.
4. Appellant's household income in 2022, as reported on her 2022 state income tax returns and confirmed at the hearing, equaled \$32,938.

¹ Exhibit 2 is a computer printout containing information extracted from the Schedule HC that Appellant submitted as part of her 2022 Massachusetts tax return. The Schedule HC is the form on which Massachusetts taxpayers report information relevant to the individual mandate penalty, which is the subject of this appeal.

5. Appellant reported in the Schedule HC that she filed with her 2022 state income taxes, and confirmed at the hearing, that she did not have health insurance at any point in 2022. Exhibit 2.
6. In 2022, Appellant was living in the United States on a temporary visa that permitted her to work.
7. Appellant's employer offered health insurance at a cost of \$360 a month. She found that too expensive to afford.
8. She attempted to obtain insurance through the Health Connector, but she learned that she was unable to do so because she was not a legal permanent resident.

In addition to the foregoing, I take administrative notice of the 2022 Schedule HC Instructions and Worksheets, available at <https://www.mass.gov/doc/2022-schedule-hc-instructions/download>, which, as discussed below, include the Affordability Schedule and other financial information used in making 2022 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.

Because Appellant did not have health insurance in 2022, she is subject to a penalty under M.G.L.c. 111M if she could have afforded to purchase such insurance. In order to determine whether she had access to affordable health insurance, I must consider whether she could have obtained affordable insurance from any of the following three sources: (1) employment-based insurance; (2) government-subsidized insurance; or (3) unsubsidized insurance purchased on the non-group market. See 2022 Schedule HC instructions at pages HC 7-9

During the period that Appellant was uninsured in 2022, she was offered insurance at a cost of \$360 a month. This would not have been affordable under state affordability standards established by the Health Connector board in accordance with Mass. Gen. Laws ch. 111M. Under those standards, an individual like Appellant who was in a household of one person and had annual income of \$32,938 was deemed able to afford 5 percent of income on insurance. (I obtain that figure from Table 3 of the 2022 instructions for the Schedule HC.) In this case, that amounts to \$1,647 annually or \$137 a month. Thus, the premium of \$360 was unaffordable.

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 be eligible to receive advance premium tax credits, which are federal subsidies for the purchase of health insurance available under the Affordable Care Act. See 956 C.M.R. § 12.04 (Connector Care eligibility requirements.) However, under the Affordable Care Act, those advance premium tax credits are only available to U.S. citizens or legal permanent residents. This is so because the tax credits are only available to persons who purchase "qualified health plans." 26 U.S.C. § 36B(b)(2)(A). In turn, "qualified health plan" is defined as, in pertinent part, a plan offered through a health insurance exchange. 26

U.S.C. § 36B(3)(C)(3)(A), incorporating the definition in 42 U.S.C. § 18021(a)(1)(A).) Further, under the Affordable Care Act, only citizens or legal permanent residents are eligible to obtain health insurance through an exchange. 42 U.S.C. § 18032(f)(3). In 2022, Appellant did not have legal permanent resident status. Thus, she could not obtain insurance through a health insurance exchange and so would not have been eligible to receive advance premium tax credits or Connector Care. This is what she learned when she attempted to obtain insurance through the Health Connector. Thus, she did not have access to government-subsidized insurance in 2022.

Finally, Appellant could not have afforded to purchase insurance on the private, non-group market under state affordability standards established by the Health Connector Board under M.G.L. c. 111M. As stated above, under those standards, Appellant was deemed able to afford only \$137 a month in premium. During 2022, a person like Appellant who lived in Middlesex County and was 31 years of age would have had to pay at least \$290 a month in premium for insurance. (I obtain the premium figure from Table 4 to the instructions for the 2022 Schedule HC). Thus, under state standards, this amount would not have been affordable.

Because Appellant could not have obtained affordable insurance in 2022, she should not have been subject to the individual mandate penalty. Thus, I am not required to consider whether she has stated grounds sufficient to waive the penalty under Health Connector regulations. 956 C.M.R. § 6.08. Rather, I will waive the penalty in its entirety.

The appeal is allowed and the penalty is waived 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

Tax Penalty Appeal Decision—Docket No. PA22-1458

Appeal Decision: Appeal Approved -- 2022 tax penalty overturned.

Hearing Issue: Appeal of the 2022 Tax Year Penalty

Hearing Date: March 1, 2024

Decision Date: March 18, 2024

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 – 2022;
3. Health Connector’s Notice of Hearing (2 pages);
4. Appellant’s Letter in Support of Appeal (1 page);
5. Appellant’s Health Connector Enrollment Document (5/1/23 – 12/31/23); and
6. Appellant’s Massachusetts Driver’s License (issued 2/24/23).

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 6 month penalty for 2022. The basis for the penalty was that the Appellant was a part-year Massachusetts resident starting April 1, 2022, and was not insured for the remainder of 2022 (April – December). 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 2022 as a single person with no dependents. The Appellant's federal adjusted gross income (AGI) for 2022 was \$20,602. Exhibit 1.
3. The Appellant was 29 years old at the beginning of 2022 and resided in [name of city or town omitted] in Essex County, Massachusetts. Exhibit 1.
4. The Appellant's 2022 AGI (\$20,602) was less than 300% of the federal poverty level (\$38,640 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 2.90% of her income -- or \$50. per month -- for health insurance coverage in 2022. (The calculation is 2.90 % multiplied by \$20,602 AGI = \$597.45 per year divided by 12 months = \$ 49.78 per month.)
6. Based on DOR Table 4 (Region 2) the Appellant could obtain individual health insurance coverage at her age and location for \$277 per month in 2022.
7. In April 2022 the Appellant moved from New York to Massachusetts. The Appellant was not aware that health insurance is required in Massachusetts, as it was not required in New York. The Appellant learned of the individual mandate in early 2023 while she was preparing her 2022 state income tax return. Testimony and Exhibit 4.
8. The Appellant was employed in Massachusetts starting in July 2022 in a job that did not offer her health insurance as a job benefit. Testimony and Exhibit 4.

9. The Appellant's understanding is that she did not become a Massachusetts resident until February 2022. Testimony and Exhibit 4. See also Exhibit 6 (Massachusetts driver's license, issued 2/24/23).
10. The Appellant was insured through the Health Connector starting May 1, 2023, and for the remaining months in 2023.
11. 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 2022 Massachusetts income tax return.
12. I take administrative notice of the financial information set forth in Tables 1 through 6 of the DOR 2022 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 2022. (The DOR instructions are published online at <http://www.mass.gov/dor/2022ScheduleHCInstructions> 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 2022.)

ANALYSIS AND CONCLUSIONS OF LAW

The case is before me on the Appellant's appeal from the Massachusetts Department of Revenue's (DOR) assessment of a 6 month tax penalty because the Appellant did not have health insurance coverage in 2022 after she moved to Massachusetts in April 2022. 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 – 2022 that the Appellant signed and filed in this case. See Exhibit 2.

In this case, the Appellant promptly resolved her lack of health insurance through the Health Connector with coverage starting in May 2023 and continuing through the remainder of 2023. Until early 2023, when she prepared her state tax return for 2022, the Appellant was not aware that health insurance was required in Massachusetts, as it had not been required when she lived in New York. Under the objective affordability standards set forth in DOR Tables 3 and 4 the Appellant could not afford health insurance on her 2022 income: she could afford to pay only \$50 per month for health insurance that would cost her \$277 per month (without a government subsidy). See Findings of Fact, Nos. 4, 5 and 6, above.

After considering all the circumstances, I conclude that it is appropriate to waive the entire penalty assessed against the Appellant for 2022. See, e.g., 956 Code Mass. Regs. 6.08 (1) (e) (“[The Appellant] experienced financial circumstances such that the

expense of purchasing health insurance that met minimum creditable coverage standards would have caused [her] to experience a serious deprivation of food, shelter, clothing or other necessities.”).

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 2022 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 2022.

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. PA22-1459

Appeal Decision: Appeal Approved -- 2022 tax penalty overturned.

Hearing Issue: Appeal of the 2022 Tax Year Penalty

Hearing Date: March 1, 2024

Decision Date: March 22, 2024

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 – 2022;
3. Health Connector’s Notice of Hearing (2 pages); and
4. Appellant’s Letter in Support of Appeal (1 page).

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 2022. The basis for the penalty was that the Appellant was not insured at any time in 2022. 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 2022 as a single person with no dependents. The Appellant's federal adjusted gross income (AGI) for 2022 was \$45,651. Exhibit 1.
3. The Appellant was 46 years old at the beginning of 2022 and resided in [name of city or town omitted] in Barnstable County, Massachusetts. Exhibit 1.
4. The Appellant's 2022 AGI (\$45,651) was more than 300% of the federal poverty level (\$38,640 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 7.60 % of his income -- or \$ 289 per month -- for health insurance coverage in 2022. (The calculation is 7.60% multiplied by \$45,651 AGI = \$3,469.47 per year divided by 12 months = \$289.12 per month.)
6. Based on DOR Table 4 (Region 2) the Appellant could obtain individual health insurance coverage at his age and location for \$364 per month in 2022.
7. The Appellant has not enrolled in health insurance for years. In years prior to 2022 the Appellant has not appealed from the DOR's assessment of a tax penalty. In 2022, however, he decided to file an appeal, rather than simply pay the penalty. Testimony and Exhibits 1 and 2.
8. In the letter supporting his appeal the Appellant stated that he does "not believe in going to doctors," and he referred to Christian Scientists as a model. The Appellant concluded his letter, "The penalty violates my rights in many ways. That is why they stopped doing it as a federal way."
9. Dental care was significant among the Appellant's expenses: he has already incurred \$7,000 and anticipates an additional \$8,000.

10., 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 2022 Massachusetts income tax return.

11. I take administrative notice of the financial information set forth in Tables 1 through 6 of the DOR 2022 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 2022. (The DOR instructions are published online at <http://www.mass.gov/dor/2022ScheduleHCInstructions> 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 2022.)

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 2022. 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 – 2022 that the Appellant signed and filed in this case. See Exhibit 2.

Since the Appellant referred to Christian Scientists I also note that Massachusetts law recognizes “sincerely held religious beliefs” as a basis for refusing to obtain and maintain health insurance coverage. Mass. Gen. Law c. 111M, sec. 3. There is a qualification to this exemption that states: “[a]ny individual who claimed an exemption but received medical health care during the taxable year for which the [tax] return is filed shall be liable for providing or arranging for full payment for medical health care and be subject to the penalty assessed under section 2.” Mass. Gen. Law c. 111M, sec. 3. See also 2022 Massachusetts Schedule HC Health Care: Religious Exemption (line 8), which is available with Massachusetts tax return documents.

I add that my reference to the religious exemption is informative and is not the basis for my decision on the appeal. In the appeal hearing testimony the Appellant’s reference to religion was limited and perhaps in flux. There is an alternate basis to decide the 2022 appeal in the Appellant’s favor, leaving any possible religion claim to a later date when it can be addressed more carefully and thoroughly.

The objective affordability standards set forth in DOR Tables 3 and 4 show that in 2022 the Appellant could not afford health insurance. Under Table 3 the Appellant could afford to pay \$289 per month for health insurance, while under Table 4 health insurance would cost \$364 per month. See Findings of Fact, Nos. 5 and 6, above. See also Mass. Gen. Law c. 111M, sec. 2 (a), above (“deemed affordable”).

After considering all the circumstances, I conclude that it is appropriate to waive the entire penalty assessed against the Appellant for 2022. See, e.g., 956 Code Mass. Regs. 6.08 (1) (e). **SEE MY RECOMMENDATION 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 2022 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 2022.

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. Given your inexperience with health insurance in Massachusetts you might benefit from free advice that you can obtain from Health Care For All, a private, non-profit organization. You may call 1-800-272-4232 or use the website at www.hcfama.org.

Essential information about insurers is also available from Customer Service at the Health Connector at 1-877-623-6765 and on the website at www.mahealthconnector.org.

Massachusetts Health Connector Appeals Unit

Tax Penalty Appeal Decision—Docket No. PA22-1463

Appeal Decision: Appeal Approved -- 2022 tax penalty overturned.

Hearing Issue: Appeal of the 2022 Tax Year Penalty

Hearing Date: March 1, 2024

Decision Date: March 18, 2024

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 – 2022;
3. Health Connector’s Notice of Hearing (2 pages); and
4. Appellant’s Letter in Support of Appeal (1 page).

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 2022. The basis for the penalty was that the Appellant was not insured at any time in 2022. Exhibits 1 and 2. I will make further findings below concerning the Appellant's health insurance coverage in 2022.
2. The Appellant filed a Massachusetts personal income tax return for 2022 as a single person with no dependents. The Appellant's federal adjusted gross income (AGI) for 2022 was \$59,273. Exhibit 1.
3. The Appellant was 27 years old at the beginning of 2022 and resided in [name of city or town omitted] in Middlesex County, Massachusetts. Exhibit 1.
4. The Appellant's 2022 AGI (\$59,273) was more than 300% of the federal poverty level (\$38,640 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 \$395 per month -- for health insurance coverage in 2022. (The calculation is 8.00 % multiplied by \$59,273 AGI = \$4,741.84 per year divided by 12 months = \$ 395.15 per month.)
6. Based on DOR Table 4 (Region 2) the Appellant could obtain individual health insurance coverage at her age and location for \$277 per month in 2022.
7. The Appellant emigrated from her native land to Massachusetts where she enrolled in a university in Boston. Soon after her graduation the Appellant relocated to California in mid-2023. In the appeal hearing the Appellant stated that she intends to remain in California. Testimony and Exhibit 1 (Massachusetts address) and Exhibits 2, 3, and 4 (California address).
8. In her letter supporting her tax penalty appeal the Appellant asserted three reasons for her appeal: (1) she made a mistake filling out her tax return forms; (2) she had a financial hardship; and (3) she has a religious objection to certain medical procedures. See Exhibit 4. (I note that the Appellant submitted handwritten and typed letters in support of her appeal. The documents are identical, and I have marked them together as Exhibit 4.)

9. In 2022 the Appellant was enrolled in a Massachusetts university from the beginning of the year to her graduation in October 2022. The Appellant had health insurance coverage through the university while she was a student (January – October). The Appellant did not have health insurance coverage for the remainder of 2022 (November and December). Testimony.
10. Based on paragraph 9 I find that the Appellant misinformed the DOR on her state income tax form about her health insurance coverage in 2022. The Appellant had health insurance through the university for 10 months (perhaps without paying a separate premium), and the DOR’s three-month administrative grace period covers November and December 2022.
11. The Appellant worked as a contract worker who was not offered health insurance as a job benefit because she had not attained employee status. Her income was sufficient to purchase insurance under DOR Tables 3 and 4, above. The Appellant did, nevertheless, have substantial expenses. In addition to typical living expenses such as rent (\$1,700 per month), internet (\$300 per month), food (\$400 per month), and public transportation (\$500 per month), the Appellant had \$75,000 in student loans (\$800 per month) and \$2,000 credit card balance.
12. The Appellant presented herself as a “person of faith” who objected to “certain medical practices” or “specific medical procedures.” Testimony and Exhibit 4.
13. In addition to her student health insurance coverage the Appellant was enrolled in a health insurance plan through her employer in California after she left Massachusetts. 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 2022 Massachusetts income tax return.
15. I take administrative notice of the financial information set forth in Tables 1 through 6 of the DOR 2022 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 2022. (The DOR instructions are published online at <http://www.mass.gov/dor/2022ScheduleHCInstructions> 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 2022.)

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 2022. 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 – 2022 that the Appellant signed and filed in this case. See Exhibit 2.

Based on the evidence presented at her appeal hearing it appears that the Appellant mistakenly informed the Massachusetts Department of Revenue that she did not have health insurance in 2022. Assuming that the Appellant correctly stated the dates during the appeal hearing, the Appellant was enrolled in student health insurance in 2022 until her graduation in October. The three-month administrative grace period would then free the Appellant from any penalty assessment for November and December 2022. See Findings of Fact, Nos. 9 and 10, above.

The Appellant’s assertion of a financial hardship is a closer call. The Appellant referred to her “mounting debt,” and I recognize that a \$75,000 student loan debt for someone who just finished university is a substantial burden, along with \$2,000 credit card debt. The Appellant’s \$800 per month student loan payments is more than the \$118 gap between the \$395 amount that the Appellant could afford to pay for health insurance the \$277 per month that health insurance would cost her. See Findings of Fact, Nos. 5 and 6, above.

Massachusetts recognizes a religious objection to the health insurance mandate. See Mass. Gen. Law c. 111M, sec. 3. I will not, however, rest my decision on this ground. In the first place, a decision is not necessary because what I have already said is sufficient to resolve the appeal favorably to the Appellant. The Appellant’s objection also seems to be limited to “certain” medical practices (Exhibit 4), and she has enrolled in both a student health plan in Massachusetts and an employer’s health plan in California. Since the Appellant is no longer in Massachusetts it seems more appropriate to leave this decision to California law.

For the foregoing reasons, I waive the entire 12 month penalty that the DOR assessed against the Appellant for 2022.

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 2022 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 2022.

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. PA22-1464

Appeal Decision: Appeal Approved -- 2022 tax penalty overturned.

Hearing Issue: Appeal of the 2022 Tax Year Penalty

Hearing Date: March 5, 2024

Decision Date: March 6, 2024

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 – 2022; and
3. Health Connector’s Notice of Hearing (2 pages).

FINDINGS OF FACT

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

1. The Appellant appealed from the Department of Revenue’s assessment of a 12 month penalty for 2022. The basis for the penalty was that the Appellant was not insured at

any time in 2022. 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 stated the reasons for her appeal in a handwritten statement that she added to Exhibit 2: "Working a seasonal job. No insurance offered by employer."
3. The Appellant filed a Massachusetts personal income tax return for 2022 as a single person with no dependents. The Appellant's federal adjusted gross income (AGI) for 2022 was \$70,845. Exhibit 1.
4. The Appellant was 43 years old at the beginning of 2022 and resided in [name of city or town omitted] in Worcester County, Massachusetts. Exhibit 1.
5. The Appellant's 2022 AGI (\$ 70,845) was more than 300% of the federal poverty level (\$38,640 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.
6. Based on DOR Table 3 the Appellant could afford to pay 8.00% of her income -- or \$472 per month -- for health insurance coverage in 2022. (The calculation is 8.00 % multiplied by \$70,845 AGI = \$5,667.60 per year divided by 12 months = \$472.30 per month.)
7. Based on DOR Table 4 (Region 2) the Appellant could obtain individual health insurance coverage at her age and location for \$318 per month in 2022.
8. The Appellant was insured in 2021 when she worked at a job that provided health insurance as a job benefit. She lost her health insurance at the end of the year when her employment ended. Testimony.
9. The Appellant received unemployment insurance benefits for the first three months in 2022 while she was unemployed. The Appellant then obtained a seasonal job at a golf course that provided employment for eight months (March – November). The employer did not offer health insurance benefits to the Appellant. Testimony. See also Exhibit 2 (handwritten comments).

10. The Appellant sought to obtain health insurance benefits through the Health Connector, but her applications for 2022 and 2023 were denied, apparently on open enrollment grounds. The Appellant's application was approved in November 2023 for insurance coverage beginning January 2024. Testimony.
11. The Appellant's living expenses include: \$850 per month for rent, \$120 per month for electric heat, \$366 per month for car payments, and \$220 per month for car insurance. Testimony.
12. The Appellant fell behind on her electric utility payments and received notices that her service would be terminated due to her outstanding balance. The Appellant was able to avoid termination. Testimony.
13. The Appellant has an \$18,000 outstanding loan to cover unpaid credit card bills. Her credit cards were also terminated. 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 2022 Massachusetts income tax return.
15. I take administrative notice of the financial information set forth in Tables 1 through 6 of the DOR 2022 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 2022. (The DOR instructions are published online at <http://www.mass.gov/dor/2022ScheduleHCInstructions> 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 2022.)

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 2022. 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 – 2022 that the Appellant signed and filed in this case. See Exhibit 2.

The Appellant in this case was insured in 2021 and 2024. Her initial efforts to obtain insurance coverage for the two-year gap from the Health Connector were not successful until she was enrolled in health insurance coverage starting in January 2024.

The Appellant received unemployment insurance benefits for the first three months in 2022 while she was unemployed. She then obtained a seasonal job at a golf

course that provided employment for eight months a year (March – November). The employer did not offer health insurance to the Appellant as a job benefit.

The Appellant’s financial situation is illustrated by the termination notices that she received from her electric utility, though her service was never terminated. More telling, however, is the \$18,000 loan to cover the balances she owed on her credit cards, which were terminated. Until the Appellant got reemployed part-time in 2022 and reinsured starting in January 2024 the loan overshadows the fact that DOR Tables 3 and 4 indicate that the Appellant should ordinarily be able to afford health insurance.

After considering all the circumstances, I conclude that it is appropriate to waive the entire penalty assessed against the Appellant for 2022. See, e.g., 956 Code Mass. Regs. 6.08 (1) (e) (“[The Appellant] experienced financial circumstances such that the expense of purchasing health insurance that met minimum creditable coverage standards would have caused [her] to experience a serious deprivation of food, shelter, clothing or other necessities.”).

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 2022 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 2022.

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. PA22-1467

Appeal Decision: Appeal Approved -- 2022 tax penalty overturned.

Hearing Issue: Appeal of the 2022 Tax Year Penalty

Hearing Date: March 5, 2024

Decision Date: March 5, 2024

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 – 2022;
3. Health Connector’s Notice of Hearing (2 pages); and
4. Appellant’s Letter in Support of Appeal (1 page).

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 3 month penalty for 2022. The basis for the penalty was that the Appellant was not insured for the months of April – September (6 months), but was insured for the months of January – March (3 months) and for the months of October – December (3 months) in 2022. 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 6 months insured = 6 months uninsured minus 3-month administrative grace period = 3 penalty months.)
2. The Appellant filed a Massachusetts personal income tax return for 2022 as a single person with no dependents. The Appellant's federal adjusted gross income (AGI) for 2022 was \$112,312. Exhibit 1.
3. The Appellant is a member of the carpenters' union, and he participates in the union's health plan for its members. The union plan provides health insurance benefits for members who have worked a minimum number of hours specified in the union contract. Correspondingly, when a union member has not worked the specified number of hours the health insurance benefit is suspended. Testimony and Exhibit 4.
4. For the Appellant the application of the minimum number hours in 2022 under the union health plan resulted in the periods with coverage and without coverage set forth in paragraph 1, above.
5. 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 2022 Massachusetts income tax return.
6. I take administrative notice of the financial information set forth in Tables 1 through 6 of the DOR 2022 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 2022. (The DOR instructions are published online at <http://www.mass.gov/dor/2022ScheduleHCInstructions> 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 2022.)

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 3 month tax penalty because under the terms of the union health plan the Appellant did not have health insurance for a six-month period in 2022. 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 – 2022 that the Appellant signed and filed in this case. See Exhibit 2.

The decision in this appeal turns on the terms of the union health plan for the members of the carpenter’s union, including the Appellant. The health plan benefit is based on the number of hours the union member works. Thus, while the Appellant is enrolled in the union health plan his actual coverage vacillates based on the number of hours that he worked under the terms of the union contract. That is what happened to the Appellant in 2022, as set forth in Findings of Fact, No. 1, above. See, e.g., 956 Code Mass. Regs. 6.08 (2) (a), (b).

For the foregoing reasons, I waive the entire 3 month penalty that the DOR assessed for 2022.

PENALTY ASSESSED

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

The Connector has notified the Department of Revenue that, pursuant to its decision, you should be assessed a penalty for Tax Year 2022 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 2022.

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. PA22-1468

Appeal Decision: Appeal Approved -- 2022 tax penalty overturned.

Hearing Issue: Appeal of the 2022 Tax Year Penalty

Hearing Date: March 5, 2024

Decision Date: March 5, 2024

AUTHORITY

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

JURISDICTION

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

HEARING RECORD

The Appellant (Husband) appeared for the 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 on behalf of himself and his Wife 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 – 2022;
3. Health Connector’s Notice of Hearing (2 pages);
4. Appellant’s Letter in Support of Appeal (1 page; dated 8/14/23);
5. 2022 IRS Form 1095-C (1 page);
6. 2022 Form MA 1099-HC; and
7. Statement of Grounds (same as Exhibit 2).

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 (Husband) appealed from the Department of Revenue's assessment of a penalty for 2022: -0- months penalty for Husband and 12 months penalty for Wife. The basis for the penalty was that the Wife was not insured at any time in 2022. Exhibits 1 and 2.
2. The Appellants filed a Massachusetts personal income tax return for 2022 as a married couple filing jointly with no dependents. The Appellants' federal adjusted gross income (AGI) for 2022 was \$178,120. Exhibit 1.
3. I find that the Husband was insured for all 12 months in 2022 under a health insurance plan provided by his employer. This finding is supported by the Husband's testimony, by Exhibit 1 prepared by the DOR, and by the 2020 MA Form 1099-HC (Exhibit 6). See also Exhibit 5 (2022 IRS Form 1095-C).
4. I find that the Wife was not insured for any month in 2022. This finding is supported by Exhibit 1 (DOR) and by the fact that the Wife is not listed as an insured party on either by Exhibit 5 (2022 IRS 1095-C) or Exhibit 6 (2022 MA Form 1099-HC).
5. In 2020 the Wife lived in South Korea, where she was insured. Testimony.
6. On December 2, 2022, the Wife arrived in Massachusetts to reside with her Husband. The Wife did not have health insurance in Massachusetts during the month of December, but in 2023 she was insured as a dependent on her Husband's health insurance. 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 2022 Massachusetts income tax return.

8. I take administrative notice of the financial information set forth in Tables 1 through 6 of the DOR 2022 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 2022. (The DOR instructions are published online at <http://www.mass.gov/dor/2022ScheduleHCInstructions> 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 2022.)

ANALYSIS AND CONCLUSIONS OF LAW

The case is before me on the Appellants' appeal from the state Department of Revenue's (DOR) assessment of a 12 month tax penalty against the Wife because the Wife did not have health insurance coverage in Massachusetts in 2022. 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 – 2022 that the Appellant signed and filed in this case. See Exhibit 2.

The appeal is resolved favorably to the Appellants because the evidence establishes that the Wife did not live in Massachusetts before December 2, 2022. Accordingly, the Wife was not subject to the individual mandate which applies only to Massachusetts residents. See Mass. Gen. Laws, c. 111M, sec. 2 (a), above. See also 2022 Schedule HC Instructions, page HC-2 (a part-year resident is subject to the individual mandate starting on the “first day of the third month following the month you became a resident of Massachusetts”).

In sum, I waive the entire 12 month penalty that DOR assessed against the Wife because she was not subject to the individual mandate in 2022.. The DOR did not assess a penalty against the Husband because he was insured all 12 months in 2022. See Exhibit 1.

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 2022 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 2022.

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

Appeal Decision: The penalty is overturned in part.

Hearing Issue: Appeal of the 2022 Tax Year Penalty

Hearing Date: March 12, 2024

Decision Date: March 19, 2024

AUTHORITY

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

JURISDICTION

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

HEARING RECORD

The Appellant appeared at the hearing, which was held by telephone on March 12, 2024. The procedures to be followed during the hearing were reviewed with the Appellant who was then sworn in. Exhibits were marked and admitted in evidence with no objection from the Appellant. The Appellant testified.

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

Exhibit 1:	Appeal Case Information from Schedule HC.	(1 P).
Exhibit 2:	Appellant's Statement in Support of Appeal dated 9/15/2023.	(2 PP).
Exhibit 2(a):	2022 Federal Tax Return Filing Instructions submitted in Support of Appeal.	(1 P).
Exhibit 3:	Health Connector's Notice of Hearing dated 2/7/2024.	(2 PP).

The record shows, and I so find:

1. Appellant, single filing filed a 2022 Massachusetts tax return filed with a family size of 1, was age 27 a in 2022, lived in Barnstable County, and had zero (0) dependents. (Exhibit 1).
2. Appellants' Federal Adjusted Gross Income for 2022 was \$49,000 (Exhibit 1).
3. Appellant testified he had coverage through his parents until he turned 27 in 2021 but could not afford Connectorcare. (Appellant Testimony, Ex. 2).
4. Appellant testified that the Appellant's Employer did not offer and Employer Sponsored Insurance (ESI) insurance as there were a small number of employees. (Appellant Testimony, Exhibit 1).
5. Appellant testified that he investigated Connectarcare but could not afford the approximate \$400 per month premium. (Appellant Testimony, Exhibit 2).

6. According to Table 3 Appellant could have afforded \$310.33 per month for health insurance in 2022. According to Table 4 Appellant could have purchased an individual plan insurance for \$277.00 per month. (See Tables 3 and 4 of Schedule HC 2022).
7. The Appellant would not have been eligible for ConnectorCare coverage in 2022 because the Appellant's income was more than 300% of the poverty level, which was \$38,640.00 for a family of (1). (See Table 2 of Schedule HC 2022).
8. The Appellant testified that his weekly net pay was approximately \$700 a week, or \$2,800 a month. (Appellant's Testimony).
9. The Appellant's monthly living expenses in 2022 included: Utilities \$100, Car Payment: \$300, Car Insurance: \$125, Car Repairs/Maintenance: \$150, Cell Phone \$50, Food \$200, Gas \$200, Credit Cards \$200, College Loans: \$200, Health Fitness membership: \$50, totaling \$1,575. (Appellant's Testimony).
10. Appellant testified he was insured through ESI.
11. In addition to the foregoing, I take administrative notice of the 2022 Schedule HC Instructions and Worksheets, available at <http://www.mass.gov.dor/docs/dor/health-care/2022>, and in particular, Tables 1-6 which, as discussed below, include the Affordability Schedule and other financial information used in making 2022 individual mandate tax penalty determinations.

ANALYSIS AND CONCLUSIONS OF LAW

The issue on appeal is whether the tax penalty assessed by the Massachusetts Department of Revenue for 2022 should be waived, either in whole or in part. Appellant has been assessed a tax penalty for twelve (12) months in 2022. Appellant has appealed the penalty. (See Exhibits 1 and 2).

The Appellant adduced evidence at the hearing and submitted a statement of grounds for appeal (Ex. 2) with the appeal that during 2022 that the individual mandate did not apply to him because the expense of purchasing health insurance would have caused a serious deprivation of food, shelter, clothing, or other necessities. (Exhibit 2, and Appellant Testimony).

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

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

The evidence provided by the Appellant established that his income for 2022, \$49,000 was more than 300% of the federal poverty level, which for 2022 was \$38,640.00 for a family of one (1). According to Table 3 of Schedule HC for 2022, the Appellant could have afforded \$310.33 per month. According to Table 4, Appellant, age 27 in Barnstable County during the time he was being penalized for not having insurance, could have purchased an individual insurance plan for \$277 per month. Individual coverage was affordable through the individual market for the Appellant in 2022 (Schedule HC for 2022).

The next issue to consider is whether the Appellant had access to affordable employer health insurance (“ESI”) in 2022. The Appellant testified that he was not able to obtain ESI because his employer did not offer same. (Appellant Testimony, Exhibit 2). Pursuant to 26 IRC section 36B and 45 CFR section 155.305(f), applicants are eligible for an Advanced Premium Tax Credit (APTC) if they meet qualifying income levels and other eligibility requirements. Massachusetts residents may also be eligible for additional state premium assistance through the Health Connector’s ConnectorCare program if: a) their household income does not exceed 300 percent of the Federal Poverty Level (FPL) and b) they are eligible for an APTC. 956 CMR 12.09(1) An applicant who has access to other qualifying health insurance, including insurance through an employer, will be blocked from eligibility for an APTC if the coverage is affordable and meets minimum value standards, as those terms are defined by the law. See 26 CFR section 1.36B-2(c)(3). Coverage for plan year 2022 is considered to be affordable if the employee’s contribution for an individual plan is 9.61 percent or less of the employee’s projected household modified adjusted income (MAGI). The coverage is considered to meet minimum value standards if it has an actuarial value of at least 60 percent. In this case, as referenced above, the Appellant was not eligible for ESI (Appellant Testimony, Exhibits 2(a)).

Given that affordable private insurance was available to the Appellant, it must be determined if such insurance was not affordable to the Appellant because of a financial hardship as defined in 956 CMR 6.08.

The Appellant credibly testified he had expenses of \$1,575 and a net monthly income of approximate \$2,800.. I conclude that purchasing health insurance during 2022 in the amount of \$310.33 was affordable given the above. The Appellant credibly testified he had always had insurance through his parents and obtained ESI in 2023, so I find the mandate has not been lost on the Appellant. Thus, in order to mitigate the harshness of a full penalty, and based upon the facts summarized and on the totality of the evidence, I find the Appellant’s request for a waiver from the penalty is **approved in part** under 956 CMR 6.08 (1) (e) & (3).

Appellant should note that any waiver granted here is for 2022 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: 2

The Connector has notified the Department of Revenue that pursuant to its decision, you should be assessed a penalty for Tax Year 2022 for the amount equal to one half of the lowest cost health insurance plan available to you for each month you have been assessed the penalty, as listed above, plus applicable interest back to the due date of the return without regard to extension.

NOTIFICATION OF YOUR RIGHT TO APPEAL TO COURT

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

Cc: Connector Appeals Unit

Hearing Officer

ADDENDUM

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

Massachusetts Health Connector Appeals Unit

Tax Penalty Appeal Decision—Docket No. PA22-1498

Appeal Decision: Appeal Approved -- 2022 tax penalty overturned.

Hearing Issue: Appeal of the 2022 Tax Year Penalty

Hearing Date: March 13, 2024

Decision Date: March 15, 2024

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 – 2022;
3. Health Connector's Notice of Hearing (2 pages);
4. Appellant's Letter in Support of Appeal (1 page); and
5. Appellant's MA Form 1099-HC.

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 3 month penalty for 2022. The basis for the penalty was that the Appellant ** was insured for the months of January – June, but was not insured for the months of July – December 2022. 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 6 months insured = 6 months uninsured minus 3-month administrative grace period = 3 penalty months.)
2. The Appellant filed a Massachusetts personal income tax return for 2022 as a single person with no dependents. The Appellant's federal adjusted gross income (AGI) for 2022 was \$32,244. Exhibit 1.
3. The Appellant was 31 years old at the beginning of 2022 and resided in [name of city or town omitted] in Plymouth County, Massachusetts. Exhibit 1.
4. The Appellant's 2022 AGI (\$32,244) was less than 300% of the federal poverty level (\$38,640 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 her income -- or \$134 per month -- for health insurance coverage in 2022. (The calculation is 5.00 % multiplied by \$32,244 AGI = \$1,612.20 per year divided by 12 months = \$134.35 per month.)
6. Based on DOR Table 4 (Region 2) the Appellant could obtain individual health insurance coverage at her age and location for \$290 per month in 2022.
7. At the beginning of 2022 the Appellant was employed at a job that provided health insurance as a job benefit. She was insured for the months of January – June 2022, as verified by the MA Form 1099-HC that she submitted in support of her appeal. Exhibit 5. See also Exhibit 4 and Testimony.
8. In mid-2022 the Appellant changed jobs, and she was no longer insured for the months of July – December, as verified by MA Form 1099-HC. Exhibit 5. See also Exhibit 4 and Testimony.

9. The Appellant's understanding was that the open enrollment policies precluded her from obtaining health insurance during the remainder of 2022 despite her income. The Appellant enrolled in health insurance in November 2022 during the next open enrollment period, with insurance coverage beginning in January 2023. Testimony and Exhibit 4.
10. Except as set forth in the foregoing findings of fact, I adopt the facts set forth in Exhibit 1 as my own findings of fact. Exhibit 1 is a computer printout prepared by the Massachusetts Department of Revenue (DOR) that extracts information submitted by the Appellant on Schedule HC as part of the Appellant's 2022 Massachusetts income tax return.
11. I take administrative notice of the financial information set forth in Tables 1 through 6 of the DOR 2022 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 2022. (The DOR instructions are published online at <http://www.mass.gov/dor/2022ScheduleHCInstructions> 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 2022.)

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 3 month tax penalty because the Appellant did not have health insurance coverage in 2022 for the months of July through December. 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 – 2022 that the Appellant signed and filed in this case. See Exhibit 2.

In this case the Appellant shifted from a job that provided health insurance to a job that did not provide health insurance in mid-2022. DOR Tables 3 and 4 indicate that the Appellant could not afford health insurance in 2022: at her income the Appellant could afford to pay \$134 per month for health insurance coverage that would cost \$290 per month. See Findings of Fact, Nos. 4, 5 and 6, above. Nevertheless, the Appellant was not able to obtain health insurance until the next open enrollment period beginning in November 2022. At that point the Appellant enrolled in a new health insurance policy with coverage beginning in January 2023.

Based on the facts presented on appeal I conclude that it is appropriate to waive the entire three month penalty that the DOR assessed for 2022.

PENALTY ASSESSED

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

The Connector has notified the Department of Revenue that, pursuant to its decision, you should be assessed a penalty for Tax Year 2022 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 2022.

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. PA22-1501

Appeal Decision: Appeal Approved -- 2022 tax penalty overturned.

Hearing Issue: Appeal of the 2022 Tax Year Penalty

Hearing Date: March 13, 2024

Decision Date: March 23, 2024

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 – JF) 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 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 – 2022;
3. Appellant’s Request to Vacate Dismissal of Appeal [Granted];
4. PUA Hearings Appeal Results (3 pages, dated March 11, 2022);
5. Appellant’s Letter in Support of Appeal (2 pages; undated);
6. Final Appeal Decision – PA20-596 (6 pages, dated 11/10/21) (hereafter, 2020 Tax Penalty Appeal Decision); and
7. Health Connector’s Notice of Hearing (2 pages, dated 2/6/24).

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 (Wife) appealed from the Department of Revenue's assessment of a 12 month penalty against her for 2022. The basis for the penalty was that the Wife was not insured at any time in 2022. Exhibits 1 and 2. Based on Exhibit 1 and the Wife's hearing testimony, I find that the penalty assessment is accurate.
2. The DOR did not assess a penalty against the Husband for 2022. The Husband (a/k/a Primary Taxpayer) did not appeal, and he did not participate in the appeal hearing with his Wife (a/k/a Primary Taxpayer's Spouse).
3. The Husband was insured for all of 2022 through his Employer. The Employer did not offer a Family Plan, so the Wife and their two children were not insured as dependents on the Husband's health insurance. The identical health insurance status for all the members of the household existed in 2020 and 2021. See Exhibit 6 -- Final Appeal Decision: PA20-596 (dated 11/10/21) (hereafter, 2020 Tax Penalty Appeal Decision) and Testimony.
4. The Wife and her Husband filed a Massachusetts personal income tax return for 2022 as a married couple filing jointly with 2 dependents. The Taxpayers' federal adjusted gross income (AGI) for 2022 was \$103,155. Exhibit 1. By comparison, for 2020 the AGI was \$92,071. 2020 Final Tax Penalty Appeal Decision (Exhibit 6, par. 4).
5. The Wife was 43 years old (the Husband is younger) at the beginning of 2022 and resided in [name of city or town omitted] in Middlesex County, Massachusetts. Exhibit 1.
6. Based on DOR Table 3 (Married filing jointly with one or more dependents) the Wife and Husband could afford to pay 8.00% of their income -- or \$688 per month -- for health insurance coverage in 2022. (The calculation is 8.00 % multiplied by \$103,155 AGI = \$8,252.40 per year divided by 12 months = \$687.70 per month.)

7. Based on DOR Table 4 (Region 2) the Wife and Husband could obtain family health insurance coverage at their ages (40 – 44 years) and location in Massachusetts for \$798 per month in 2022.
8. I find that the advent of the coronavirus pandemic (COVID-19) in March 2020 had an adverse economic impact on the household. The Husband's work hours were decreased, resulting in lower annual income. The greater impact was on the Wife's small wedding planner business which was effectively shut-down, resulting in the loss of her income. Testimony and 2020 Final Appeal Decision. See also Exhibit 5.
9. The 2020 Final Tax Penalty Appeal Decision found that the Wife/Household was not able to afford health insurance coverage in 2022. Exhibit 6. For 2022 DOR Tables 3 and 4 likewise show that the Household could not afford health insurance. See Findings of Fact, Nos. 6 and 7, above.
10. In 2020 the Wife sought unemployment insurance benefits under the Coronavirus Aid, Relief, and Economic Security (CARES) Act of 2020. Relief was initially denied due to an identity issue, and the Wife filed an administrative appeal. After a lapse of approximately 13 months the Wife prevailed on her appeal. PUA Hearings Appeal Results (3 pages, dated March 11, 2022). Exhibit 4. See also Appellant's Letter Supporting Appeal (Exhibit 5), 2020 Final Tax Penalty Appeal Decision (Exhibit 6), and Testimony.
11. At some point after the March 11, 2022 PUA appeal decision (Exhibit 4), the Wife received approximately \$10,000 in PUA benefits from the Massachusetts Department of Unemployment Assistance. The Wife's receipt of the PUA benefits came too late in 2022 for the Wife to enroll in health insurance benefits due to the Health Connector's open enrollment period, which had expired in late January 2022. Testimony and Exhibit 5.
12. The Wife was not prepared to describe the household living expenses during the appeal hearing beyond a general statement about the financial loss to her wedding planner business due to the coronavirus pandemic and that she was not able to afford health insurance. I will adopt the itemized list of expenses in the 2020 Final Appeal Decision (paragraph 15) with two adjustments: (1) the six month bank forbearance on the home mortgage payments has expired; and (2) the \$4,000 underground power line repair was a one-time event. See Exhibit 6, paragraphs 15 and 16.

13. The Wife testified that she was able to obtain MassHealth coverage for her two children, but she had not obtained health insurance for herself. (There is no confirmation in the hearing record of the children's health insurance.)
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 2022 Massachusetts income tax return.
15. I take administrative notice of the financial information set forth in Tables 1 through 6 of the DOR 2022 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 2022. (The DOR instructions are published online at <http://www.mass.gov/dor/2022ScheduleHCInstructions> 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 2022.)

ANALYSIS AND CONCLUSIONS OF LAW

The case is before me on the Wife's appeal from the state Department of Revenue's (DOR) assessment of a 12 month tax penalty because the Wife did not have health insurance coverage in 2022. 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 – 2022 that the Appellant signed and filed in this case. See Exhibit 2.

The decision of this appeal for 2022 is not easy. Understanding the issue starts in early 2020 with the onset of the coronavirus pandemic (COVID-19). The hearing officer who decided the 2020 tax penalty appeal in the Wife’s favor observed the severe impact that COVID-19 had on the Wife’s small, wedding planner business. The hearing officer also noted that the Wife had an administrative appeal pending before the state Department of Unemployment Assistance for special COVID benefits.

Those two interrelated issues are still present in this appeal from the assessment of a tax penalty for 2022. By a decision dated March 11, 2022, the Wife finally prevailed in her PUA administrative appeal. Exhibit 4. Her success had the effect of releasing approximately \$10,000 in special unemployment benefits under the CARES act. Unfortunately, the financial infusion came too late under the Health Connector’s open enrollment policies, as the Appellant learned that she could not enroll in health insurance until the next open enrollment period began in November 2022 for coverage starting in January 2023. Exhibit 5 and Testimony.

The PUA decision also underscores the objective affordability analysis under DOR Tables 3 and 4. Under Table 4 the Taxpayers could afford to pay \$688 per month for health insurance in 2022, while family health insurance benefits would cost \$798 per month under Table 4. (The amount of the monthly premium that Husband is paying is unknown.) The household's earned income may also be equivalent. For 2020 the AGI was \$92,071 (Exhibit 6, paragraph 4) while AGI increased to \$103,155 for 2022 (Exhibit 1). But if the PUA \$10,000 award is deducted from the 2022 AGI the income for the two years is essentially identical (\$93,155).

After considering all the circumstances, I conclude that it is appropriate to waive the entire penalty assessed against the Appellant for 2022. See, e.g., 956 Code Mass. Regs. 6.08 (1) (e).

Looking ahead, the Wife should not assume that penalties that the DOR may assess for 2023 or later years will also be vacated or reduced. The coronavirus pandemic was an extraordinary event, but several years later it is important to start looking ahead. The prior hearing officer inserted this caution in the 2020 Tax Penalty Appeal Decision, and the Wife should take it seriously.

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 2022 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 2022.

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. PA22-1502

Appeal Decision: Appeal Approved -- 2022 tax penalty overturned.

Hearing Issue: Appeal of the 2022 Tax Year Penalty

Hearing Date: March 13, 2024

Decision Date: March 17, 2024

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 – 2022;
3. Health Connector’s Notice of Hearing (2 pages); and
4. Appellant’s Letter in Support of Appeal (1 page).

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 4 month penalty for 2022. The basis for the penalty was that the Appellant was not insured in 2022 after she relocated to Massachusetts on June 20, 2022 as a part-year resident. Exhibits 1 and 2. Based on Exhibits 1 and 2 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 2022 as a single person with no dependents. The Appellant's federal adjusted gross income (AGI) for 2022 was \$37,379. Exhibit 1.
3. The Appellant was 31 years old at the beginning of 2022 and resided in [name of city or town omitted] in Worcester County, Massachusetts. Exhibit 1.
4. The Appellant's 2022 AGI (\$37,379) was less than 300% of the federal poverty level (\$38,640 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 her income -- or \$156 per month -- for health insurance coverage in 2022. (The calculation is 5.00% multiplied by \$37,379 AGI = \$1,868.95 per year divided by 12 months = \$155.74 per month.)
6. Based on DOR Table 4 (Region 2) the Appellant could obtain individual health insurance coverage at her age and location in Massachusetts for \$290 per month in 2022.
7. The Appellant lived in Connecticut where she was homeless and lived in her car before she relocated temporarily to Massachusetts in June 2022. The Appellant returned to Connecticut in April 2023. Testimony and Exhibit 4. See also Exhibits 1, 2 and 3 (Connecticut address).
8. The Appellant was not aware that health insurance is required in in Massachusetts under the individual mandate (see above). She learned of this requirement in early 2023 when she prepared her 2022 Massachusetts state income tax return. Testimony and Exhibit 4.

9. In Massachusetts the Appellant worked for a temporary service agency that did not offer her health insurance as a job benefit. Testimony and Exhibit 4.
10. The Appellant had a medical issue in November 2022, and she submitted an application for MassHealth. It is not clear what happened to this application. Testimony and Exhibit 4.
11. 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 2022 Massachusetts income tax return.
12. I take administrative notice of the financial information set forth in Tables 1 through 6 of the DOR 2022 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 2022. (The DOR instructions are published online at <http://www.mass.gov/dor/2022ScheduleHCInstructions> 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 2022.)

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 4 month tax penalty as a part-year Massachusetts resident who was not insured for the months of July through December 2022. 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 – 2022 that the Appellant signed and filed in this case. See Exhibit 2.

The Appellant In this case temporarily relocated to Massachusetts from Connecticut, where she had been homeless and lived in her car for six months. The Appellant was not aware that she was required to have health insurance under Massachusetts law (see above), and she learned of this requirement only in early 2023 when she prepared her 2022 Massachusetts state income tax return. The Appellant returned to Connecticut in early 2023. Testimony and Exhibit 4.

The Appellant was employed while she was in Massachusetts, but her employer did not offer her health insurance as a job benefit. The objective affordability standards set forth in DOR Tables 3 and 4 show that the Appellant could not afford health insurance: on her income the Appellant could afford to pay only \$156 per month but health insurance would cost \$296 per month. See Findings of Fact, Nos. 4, 5, and 6, above.

After considering all the circumstances, I conclude that it is appropriate to waive the entire penalty assessed against the Appellant for 2022. See, e.g., 956 Code Mass. Regs. 6.08 (1) (a) and (e).

PENALTY ASSESSED

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

The Connector has notified the Department of Revenue that, pursuant to its decision, you should be assessed a penalty for Tax Year 2022 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 2022.

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: PA 22-1503

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

Hearing Issue: Appeal of the 2022 Tax Year Penalty

Hearing Date: March 13, 2024

Decision Date: March 19, 2024

AUTHORITY

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

JURISDICTION

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

HEARING RECORD

Appellant appeared at the hearing, which was held by telephone, on March 13, 2024. 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: Request to vacate dismissal (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 38 at the end of 2022. Exhibit 2.
2. Appellant lived in Hampden County in 2022. Exhibit 2.
3. Appellant filed her taxes as a single person with no dependents. Exhibit 2. However, Appellant lived with and provided support to her minor child. She filed her taxes as having no dependents because the child's father, who contributed to support, took the child as a dependent.

¹ Exhibit 2 is a computer printout containing information extracted from the Schedule HC that Appellant submitted as part of her 2022 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's household income in 2022, as reported on her 2022 state income tax returns and confirmed at the hearing, equaled \$34,928.
5. Appellant reported in the Schedule HC that she filed with her 2022 state income taxes, and confirmed at the hearing, that she did not have health insurance at any point in 2022. Exhibit 2.
6. During 2022, Appellant worked as a paralegal. She was an independent contractor and was not offered health insurance as a benefit.
7. Appellant did not apply for health insurance through the Connector Care program because she did not think she could afford it even though the premium would be relatively low.
8. In February 2023, after receiving notices that she was subject to a tax penalty under the individual mandate statute for not having health insurance in 2021 and 2022, Appellant applied for Connector Care. She was insured as of the date of the hearing.

In addition to the foregoing, I take administrative notice of the 2022 Schedule HC Instructions and Worksheets, available at <https://www.mass.gov/doc/2022-schedule-hc-instructions/download>, which include the Affordability Schedule and other financial information used in making 2022 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.

Because Appellant did not have health insurance in 2022, she is subject to a penalty under M.G.L. c. 111M if she could have afforded to purchase such insurance. In order to determine whether she had access to affordable health insurance, I must consider whether she could have obtained affordable insurance from any of the following three sources: (1) employment-based insurance; (2) government-subsidized insurance; or (3) unsubsidized insurance purchased on the non-group market. See 2022 Schedule HC instructions at pages HC 7-9.

During 2021, Appellant worked as an independent contractor and was not offered health insurance as a benefit. Thus, she could not have obtained employment-based insurance.

Further, Appellant could not have afforded to purchase unsubsidized insurance on the non-group market under state affordability standards established by the Health Connector board in accordance with Mass. Gen. Laws c. 111M. Under those standards, an individual like Appellant who was in a household of one person and had annual income of \$34,928 was deemed able to afford 5 percent of income on insurance. (I obtain that figure from Table 3 of the instructions for the 2022 Schedule HC.) In this case, that amounts to \$5,746 annually or \$145 a month. During 2022, a person like Appellant who lived in Hampden County and was 38 years of age would have had to pay \$319 a month to obtain insurance on the non-group market. (I obtain the premium figure from Table 4 to the instructions for the 2022 Schedule HC). Thus, under state standards, this amount would not have been affordable.

However, Appellant would 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 income below 300 percent of the federal poverty level and meet the other eligibility requirements, such as citizenship or legal permanent resident status, and lack of access to employer-subsidized insurance. See 956 C.M.R. § 12.04 (Connector Care eligibility requirements.) In 2022, 300 percent of the federal poverty level for a person like Appellant who was in a one-person household was \$38,640. (I obtain this figure from Table 2 of the 2022 instructions to the Schedule HC.) Appellant's income of \$34,928 was below that amount and thus she was income-eligible for Connector Care. I conclude that she met the other eligibility standards based on her testimony about her employment and on the fact that she was determined eligible for Connector Care when she applied in 2023.

Because Appellant could have obtained affordable insurance in 2022, but didn't, I must consider whether she has stated grounds sufficient to waive the penalty under Health Connector regulations. 956 C.M.R. § 6.08. I conclude that she has. Appellant's financial circumstances in 2022 were strained. The Connector Care premium that she would have been charged would have been determined based on her status as being in a tax household of one person. But effectively Appellant was in a household of two persons, because she contributed to the support of her minor son. Thus, the Connector Care premium, while significantly below the market rate because of the government subsidies, would still have seemed to be a financial strain. Further, Appellant did apply for and receive Connector Care in 2023 and was insured as of the date of the hearing.

Based on the foregoing, I will exercise my discretion to allow the appeal and waive the penalty in 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: PA221100

Appeal Decision: The penalty is overturned.

Hearing Issue: Appeal of the 2022 Tax Year Penalty

Hearing Date: December 22, 2023

Decision Date: March 1, 2024

AUTHORITY

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

JURISDICTION

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

HEARING RECORD

One of the appellants appeared at the hearing which was held by telephone on December 22, 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 2022 unsigned and undated by Appellants with letter and insurance card in support attached

Exhibit 2: Appeal Case Information from Schedule HC 2022

Exhibit 3: Notice of Hearing sent to Appellant dated November 17, 2023 for December 22, 2023 hearing

FINDINGS OF FACT

The record shows, and I so find:

1. Appellants, who filed a 2022 Massachusetts tax return jointly with no dependents claimed, were 37 and 28 years old in 2022. One of the appellants is now deceased. She passed away in February, 2023 (Exhibit 2, Testimony of Appellant).
2. Appellants resided in Norfolk County in 2022 (Testimony of Appellant, Exhibit 2).
3. Appellants had a Federal Adjusted Income of \$99,176 in 2022 (Testimony of Appellant, Exhibit 2).
4. One of the appellants was unemployed all year. She was ill and undergoing medical treatment at a Boston hospital. This appellant had health insurance all year. Because of an error in completing the appellants' 2022 Massachusetts tax return, the coverage was not listed on the return (Testimony of Appellant).
5. The other appellant was employed until the beginning of August, 2022 when he was laid off. The appellant was unemployed the rest of the year. He had health insurance through his job from January through July. The coverage met the Commonwealth's minimum creditable coverage standards (Testimony of the Appellant, Exhibit 2).

6. Appellant now has health insurance (Testimony of Appellant).

7. Appellant has been assessed a penalty for two months, November and December, 2022. His deceased spouse was assessed a penalty for the entire year (Testimony of Appellant, Exhibit 2).

8. I take administrative notice of the financial information set forth in Tables 1 through 6 in the DOR 2022 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 2022. Table 2 sets forth income at 300% of the Federal poverty level and Tables 5 and 6 set forth tax penalties in effect for 2022.

9. According to Table 3 of Schedule HC for 2022, the appellants with no dependents claimed with an adjusted gross income of \$99,176 could afford to pay \$661 per month for health insurance. According to Table 4, Appellants, 37 and 28 years old and living in Norfolk County, could have purchased insurance for \$910 per month for a plan for a married couple. Insurance on the individual market was unaffordable for the appellants (Schedule HC for 2022 Tables 3 and 4, Exhibit 2).

10. According to Table 2 of Schedule HC for 2022, Appellants who earned more than \$52,260 per year, would have been ineligible for the ConnectorCare program based upon income (Table 2 of Schedule HC-2022, and Exhibit 2).

ANALYSIS AND CONCLUSIONS OF LAW

The issue on appeal is whether the tax penalty assessed by the Massachusetts Department of Revenue for 2022 should be waived, either in whole or in part.

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

One of the appellants had health insurance which met the Commonwealth’s minimum creditable coverage standards from January through July, 2022. Because this appellant is entitled to a three-month grace period after he lost his coverage, he has only been assessed a tax penalty for November and December, 2022. See Massachusetts General Laws Chapter 111M, Section 2. The other appellant has been assessed a penalty for the entire year. This appellant passed away in February, 2023. Her spouse claims, and I find it to be true, that she actually had health insurance all year and that an error was made in filling out their tax return. Because of this error it appears that this appellant had no coverage. The appellants have appealed the assessments. 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 appellants through employment, through the individual market, or through a government-sponsored program during the months for which Appellants have been assessed a penalty. If affordable insurance was available, we must determine if such insurance was, in fact, not affordable for the appellants because Appellants experienced a financial hardship as defined in 956 CMR 6.08.

According to Table 3 of Schedule HC for 2022, the appellants with no dependents claimed with an adjusted gross income of \$99,176 could afford to pay \$661 per month for health insurance. According to Table 4, Appellants, 37 and 28 years old and living in Norfolk County, could have purchased insurance for \$991 per month for a plan for a married couple. Insurance on the individual market was unaffordable for the appellants. See Schedule HC for 2022 Tables 3 and 4, Exhibit 2.

In 2022, one of the appellants was unemployed all year. The other appellant had health insurance which met the Commonwealth's standards through work from January through July when he was laid off. He was unemployed the rest of the year and had no access to insurance through employment during November and December, the months for which he as been assessed a penalty. There is no evidence in the record as to whether the spouse could have been covered by her husband's insurance from January through July. The husband testified that his wife had coverage from another source. See the testimony of the Appellant which I find credible; and Exhibit 2.

Appellants were ineligible for coverage through the ConnectorCare program. The appellants' annual Federal Adjusted Income was \$99,176, more than the income limit for two persons (\$52,260). See 956 CMR 12.00 et. seq., Exhibit 2, and Table 2 of Schedule HC 2022. There is no evidence that the appellants had access to any other government-sponsored coverage. See the testimony of the appellant which I find to be credible.

The appellant who was employed until the beginning of August and who has been assessed a penalty for November and December had no access to affordable insurance once he lost his coverage. See discussion above. His penalty is waived since pursuant to Massachusetts General Laws Chapter 111M, Section 2, if an individual has no access to affordable health insurance, the individual should not be assessed a tax penalty.

The other appellant, who was assessed a penalty for the entire year, actually had coverage and there was no reason for her to seek coverage through her husband's plan. The husband testified at length about the intensive medical treatment his wife, now deceased, was receiving at a hospital in Boston and about her having insurance. Since she had coverage, her penalty must be waived. See the testimony of the appellant and Exhibit 1 attachment.

Appellant should note that any waiver granted here is for 2022 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: 14 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 2022.

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: PA221099

Appeal Decision: The penalty is overturned in full.

Hearing Issue: Appeal of the 2022 Tax Year Penalty

Hearing Date: December 22, 2023

Decision Date: March 11, 2024

AUTHORITY

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

JURISDICTION

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

HEARING RECORD

The appellant appeared at the hearing which was held by telephone on December 22, 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 26, 2023 with letter attached

Exhibit 2: Appeal Case Information from Schedule HC 2022

Exhibit 3: Notice of Hearing sent to Appellant dated November 17, 2023 for December 22, 2023 hearing

FINDINGS OF FACT

The record shows, and I so find:

1. Appellant, who filed a 2022 Massachusetts tax return as a single person with no dependents claimed, was 27 years old in 2022 (Exhibit 2, Testimony of Appellant).
2. Appellant resided in Worcester County in 2022. For the first few months of the year, Appellant lived with her mother. She then lived with her partner from March through June. From July through December, Appellant lived by herself in the apartment she had previously shared with her partner (Testimony of Appellant, Exhibit 2).
3. Appellant had a Federal Adjusted Income of \$49,845 in 2022 (Testimony of Appellant, Exhibit 2).
4. The appellant worked as a server in a restaurant all of 2022. Appellant earned an hourly wage and tips. Appellant's income varied from month to month; she earned significantly less during summer months. Appellant's take home pay varied from \$600 to \$800 a week (Testimony of Appellant).
5. Appellant was not offered health insurance through her job. The appellant tried to get health insurance, but could not because she missed the open enrollment period. Appellant had no health insurance all year (Testimony of Appellant).

6. Appellant has been assessed a penalty for all of 2022. The appellant has appealed the assessment (Testimony of Appellant, Exhibits 1 and 2).

7. I take administrative notice of the financial information set forth in Tables 1 through 6 in the DOR 2022 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 2022. Table 2 sets forth income at 300% of the Federal poverty level and Tables 5 and 6 set forth tax penalties in effect for 2022.

8. According to Table 3 of Schedule HC for 2022, the appellant with no dependents claimed with an adjusted gross income of \$49,845 could afford to pay \$315 per month for health insurance. According to Table 4, Appellant, 27 years old and living in Worcester County, could have purchased insurance for \$277 per month for a plan for an individual. Insurance on the individual market was affordable for the appellant (Schedule HC for 2022 Tables 3 and 4, Exhibit 2).

9. According to Table 2 of Schedule HC for 2022, Appellant, who earned more than \$38,640 per year, would have been ineligible for the ConnectorCare program based upon income (Table 2 of Schedule HC-2022, and Exhibit 2).

10. Appellant did not incur significant and unexpected increases in essential expenses as a result of domestic violence; the death of a spouse, family member, or partner who shared household expenses; the sudden responsibility for providing full care for an aging parent or other family member, or a natural or human-caused event which caused substantial personal damage in 2022 (Testimony of Appellant).

11. Appellant did not fall more than thirty days behind in rent payments in 2022 (Testimony of Appellant).

12. Appellant did not receive shut-off notices for most of her basic utilities in 2022. She did receive a shut-off notice for her cellphone in August, 2022 (Testimony of Appellant).

13. Appellant had the following monthly expenses for basic necessities in 2022: rent-\$600 in January and February, \$500 from March through June, and \$1,000 for the rest of the year; electricity and heat-\$175 on average in January and February, \$50 from March through June, and \$300 on average for the rest of the year; telephone-\$75 in January and February, \$120 the rest of the year; internet-\$35; food, household items, personal care-\$800 on average; clothing-\$50; car payment-\$245; insurance-\$150; gas-\$365; car repairs-\$2,000. In addition, Appellant paid \$1,500 for security deposit, and last month's rent. Appellant paid \$500 in medical expenses during the year (Testimony of Appellant).

14. Appellant obtained health insurance through the Connector as of January 1, 2023 (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 2022 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 cover-

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

Appellant had no health insurance in 2022. She 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 2022, the appellant with no dependents claimed with an adjusted gross income of \$49,845 could afford to pay \$315 per month for health insurance. According to Table 4, Appellant, 27 years old and living in Worcester County, could have purchased insurance for \$277 per month for a plan for an individual. Insurance on the individual market was affordable for the appellant. See Schedule HC for 2022 Tables 3, 4, and Exhibit 2.

Appellant was ineligible for enrollment in the ConnectorCare program. The appellant's annual Federal Adjusted Income was \$49,845 more than the income limit for one person (\$38,640). See 956 CMR 12.00 et. seq., Exhibit 2, and Table 2 of Schedule HC 2022. There is no evidence in the record that Appellant was eligible for any other government sponsored program.

Appellant had the same job all year working in a restaurant. The appellant was not offered health insurance through the job. See the testimony of the appellant which I find to be credible.

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

Appellant had the following expenses for basic necessities in 2022: : rent-\$600 in January and February, \$500 from March through June, and \$1,000 for the rest of the year; electricity and heat-\$175 on average in January and February, \$50 from March through June, and \$300 on average for the rest of the year; telephone-\$75 in January and February, \$120 the rest of the year; internet-\$35; food, household items, personal care-\$800 on average; clothing-\$50; car payment-\$245; insurance-\$150; gas-\$365. In addition, Appellant paid \$1,500 for security deposit, and last month's rent. Appellant paid \$500 for medical expenses and \$2,000 for car repairs during the year. See the testimony of the appellant which I find to be credible.

Appellant's Federal Adjusted Gross Income in 2022 was \$49,845, or about \$4,000 each month. However, Appellant's income varied from month to month since the amount of tips she received was inconsistent. During some months, especially in the summer, her take-home pay was about \$2,400. Her expenses also varied in 2022. Appellant moved in March in with her partner. In July, her living situation changed after her partner moved out and her expenses increased significantly. Especially during the summer months, her expenses of about \$3,000 a month were considerably more than take home pay. Shortly after her partner moved out, Appellant received a shut-off notice for her cellphone. See Exhibit 2 and the testimony of the appellant which I find credible.

Based upon the facts summarized above, 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 in 2022. This constitutes financial hardship, making health insurance unaffordable for the appellant. See also 956 CMR 6.08(3) which allows the consideration of financial issues raised by the appellant at hearing. I also note that Appellant received a shut-off notice for her cellphone service in 2022. Pursuant to 956 CMR 6.08 (1)(b), this also constitutes financial hardship. I also note that Appellant enrolled through the Connector during the next open enrollment period and had coverage as of January 1, 2023.

Appellant's penalty is waived in its entirety.

Appellant should note that any waiver granted here is for 2022 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 2022.

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: PA221101

Appeal Decision: The penalty is overturned in full.

Hearing Issue: Appeal of the 2022 Tax Year Penalty

Hearing Date: December 22, 2023

Decision Date: February 29, 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 December 22, 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 2, 2023

Exhibit 2: Appeal Case Information from Schedule HC 2022

Exhibit 3: Notice of Hearing sent to Appellant dated November 17, 2023 for December 22, 2023 hearing

FINDINGS OF FACT

The record shows, and I so find:

1. Appellant, who filed a 2022 Massachusetts tax return as a single person with no dependents claimed, was 62 years old in 2022 (Exhibit 2, Testimony of Appellant).
2. Appellant resided in Middlesex County in 2022 (Testimony of Appellant, Exhibit 2).
3. Appellant had a Federal Adjusted Income of \$37,766 in 2022 (Testimony of Appellant, Exhibit 2).
4. Appellant had the same full-time job all year. The appellant worked as a cook in a nursing home. She was paid by the hour. In 2022, she was offered health insurance through her job, but she missed the open enrollment period (Testimony of Appellant).
5. Appellant had health insurance which met the Commonwealth's minimum creditable coverage standards in 2021. Appellant felt she could no longer afford the premium payments, so she dropped the coverage (Testimony of Appellant).
6. Appellant has been assessed a penalty for all of 2022. She has appealed the assessment (Testimony of Appellant, Exhibits 1 and 2).

7. I take administrative notice of the financial information set forth in Tables 1 through 6 in the DOR 2022 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 2022. Table 2 sets forth income at 300% of the Federal poverty level and Tables 5 and 6 set forth tax penalties in effect for 2022.

8. According to Table 3 of Schedule HC for 2022, the appellant with no dependents claimed with an adjusted gross income of \$37,766 could afford to pay \$157 per month for health insurance. According to Table 4, Appellant, 62 years old and living in Middlesex County, could have purchased insurance for \$435 per month for a plan for an individual. Insurance on the individual market was unaffordable for the appellant (Schedule HC for 2022 Tables 3 and 4, Exhibit 2).

9. According to Table 2 of Schedule HC for 2022, Appellant, who earned less than \$38,640 per year, would have been eligible for the ConnectorCare program based upon income (Table 2 of Schedule HC-2022, and Exhibit 2).

10. Appellant did not incur significant and unexpected increases in essential expenses as a result of domestic violence; the death of a spouse, family member, or partner who shared household expenses; the sudden responsibility for providing full care for an aging parent or other family member, or a natural or human-caused event which caused substantial personal damage in 2022 (Testimony of Appellant).

11. Appellant did not receive any shut-off notices for basic utilities in 2022 (Testimony of Appellant).

12. Appellant did not fall more than thirty days behind in rent payments in 2022 (Testimony of Appellant).

13. Appellant had the following monthly expenses for basic necessities in 2022: rent-\$1,800; electricity-on average \$80; heat-\$80; telephone-\$150; food-SNAP benefit; household items, and personal care items-\$100; clothing-\$25; public transportation-\$100; medications-\$50. Appellant had no car and was entirely dependent upon public transportation. The only food she purchased was bought with SNAP benefits (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 2022 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 had no health insurance which met the Commonwealth’s standards in 2022. Appellant has been assessed a penalty for the entire year. 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 2022, the appellant with no dependents claimed with an adjusted gross income of \$37,766 could afford to pay \$157 per month for health insurance. According to Table 4, Appellant, 62 years old and living in Middlesex County, could have purchased insurance for \$435 per month for a plan for an individual. Insurance on the individual market was unaffordable for the appellant. See Schedule HC for 2022 Tables 3 and 4, and Exhibit 2.

Appellant was eligible for enrollment in the ConnectorCare program. The appellant's annual Federal Adjusted Income was \$37,766, less than the income limit for one person (\$38,640). See 956 CMR 12.00 et. seq., Exhibit 2, and Table 2 of Schedule HC 2022. There is no evidence in the record that Appellant was eligible for any other government sponsored program.

Appellant was offered health insurance through employment, but she missed the open enrollment period. The coverage was then unavailable to the appellant. See also the testimony of the appellant which I find to be credible.

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 2022: rent-\$1,800; electricity-on average \$80; heat-\$80; telephone-\$150; food-SNAP benefit; household items, and personal care items-\$100; clothing-\$25; public transportation-\$100; medications-\$50. Appellant had no car and was entirely dependent upon public transportation. The only food she purchased was bought with SNAP benefits. See the testimony of the appellant which I find to be credible.

Appellant's Federal Adjusted Gross Income in 2022 was \$37,766. Her monthly pay, before taxes and other deductions, came to about \$3,100 per month. Appellant, who was a cook in a nursing home, had expenses, not including food, of about \$2,400 a month. Any food she purchased was paid for by her SNAP benefits. She did not own a car; Appellant depended upon public transportation. More than half of her gross pay went to pay for rent and utilities. See Exhibit 2 and the testimony of the appellant which I find credible.

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.

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 2022 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 2022.

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: PA22-1397

Appeal Decision Appeal Allowed

Hearing Issue: Appeal of the 2022 Tax Year Penalty

Hearing Date: February 14, 2024

Decision Date: March 26, 2024

AUTHORITY

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

JURISDICTION

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

HEARING RECORD

The Appellant appeared at the hearing, which was held by telephone, on February 14, 2024. The procedures to be followed during the hearing were reviewed with the Appellant who was then sworn in. Exhibits were marked and admitted into evidence with no objection from the Appellant.

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

- Exhibit 1: Notice of Hearing dated January 9, 2024
- Exhibit 2: Appeal Case Information from form Schedule HC
- Exhibit 3: Statement of Grounds for Appeal Dated May 8, 2023
- Exhibit 4: Written Statement of Appeal Dated May 8, 2024
- Exhibit 4: Open Record Request Documents

FINDINGS OF FACT

The record shows, and I so find:

1. The appellant is sixty-one years old and is single. He lives in Barnstable County, Massachusetts. Appellant worked in the IT business.
2. Appellant filled out an application for the Health Connector in 2022 but there was some confusion in his application, as he was then currently insured through the State of Colorado. Appellant decided to stay with his Colorado health insurance because he thought it met all standards for health insurance. Appellant was later informed that his health insurance did not meet the deductible standard for Massachusetts. Appellant paid all deductibles and other costs of his health insurance in 2022. Appellant has provided the necessary information to prove that he had health insurance in 2022.
3. Appellant did have health insurance in 2023 and does have health insurance in 2024.
4. The Appellant did submit a Statement of Grounds for Appeal-2022 under “During 2022, you purchased health insurance that didn’t meet minimum creditable coverage standards because that is what your employer offered, and you felt that your circumstances prevented you from buying other insurance that met the requirements”.
5. I take administrative notice of the information set forth in tables 1 through 6 in the Department of Revenue Schedule HC Health Care Instructions and Worksheets (Schedule HC Instructions). Tables 3 & 4 incorporate the affordability schedules adopted by the board of directors of the Commonwealth Health Insurance Connector Authority for 2022. Table 1 sets forth the income eligibility standards for various family sizes at 150% of the federal poverty level and Table 2 sets forth the income eligibility standards for various family sizes at 300 per cent of the federal poverty level, which is the income eligibility standard for the government-subsidized health insurance program. See Mass. G.L. c. 118H, s.3(a)(1). Tables 5 and 6 set forth the tax penalties for 2022.
6. Based on the appellant’s federal adjusted gross income and the above referenced tables, I find the appellant would not have been eligible for subsidized health insurance, since Appellant’s income of \$68,730.00 was more than \$38,640.00. The monthly premium for health insurance available on the private market in Barnstable County for a 60 year old single person with one dependent was \$435.00. The tables reflect that Appellant could afford \$458.20 This is less than what the appellant is deemed to afford. (Tables 2, 3 & 4 of the Schedule HC Instructions)

ANALYSIS AND CONCLUSIONS OF LAW

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

Appellant filled out an application for the Health Connector in 2022 but there was some confusion in his application, as he was then currently insured through the State of Colorado. Appellant decided to stay with his Colorado health insurance because he thought it met all standards for health insurance. Appellant was later informed that his health insurance did not meet the deductible standard for Massachusetts. Appellant paid all deductibles and other costs of his health insurance in 2022. Appellant has provided the necessary information to prove that he had health insurance in 2022.

The Appellant did submit a Statement of Grounds for Appeal-2022 under “During 2022, you purchased health insurance that didn’t meet minimum creditable coverage standards because that is what your employer offered, and you felt that your circumstances prevented you from buying other insurance that met the requirements”.

The Health Care Reform Act of 2006 requires every adult resident of Massachusetts to obtain and maintain creditable insurance coverage “so long as it is deemed affordable” under the schedule established by the board of the Connector. Mass. Gen. Laws ch. 111M, § 2(a). Massachusetts residents who fail to indicate on their state tax returns that they obtained the mandated creditable coverage are subject to a tax penalty for each month in which that the individual did not have creditable health insurance. *Id.* at § 2(b). However, individuals with incomes up to 150 percent of the Federal Poverty Level (“FPL”) are not subject to any penalty for non-compliance with the individual mandate. See Massachusetts Department of Revenue Technical Information Release (“TIR”) 13-1, available at <http://www.mass.gov/dor/businesses/help-and-resources/legal-library/tirs/tirs-by-years/2013-releases/tir-13-1.html>. For 2022, 150 percent of the FPL was \$19,320.00 for a single person with one dependent. *Id.* In addition, a lapse in coverage of 63 days or less is not subject to the section 2(b) penalty. See Administrative Bulletin 03-10 (Dec. 7, 2010), available at <https://www.mahealthconnector.org/portal/binary/com.epicentric.contentmanagement.servlet.ContentDeliveryServlet/Health%2520Care%2520Reform/Regulations/documents/Administrative%20Information%20Bulletin%2003-10.pdf>; see also 830 Mass. Code Regs. 111M.2.1(5)(c) (2008). Thus, no penalty is imposed for lapses in coverage consisting of three or fewer consecutive calendar months. *Id.*

Since Appellant’s 2022 income was more than 150 percent of the FPL, making him potentially subject to an individual mandate penalty, the threshold issue to be addressed is whether creditable health insurance coverage was affordable to him in 2022. In determining affordability, consideration is given first to the amount Appellant is deemed able to afford for health insurance premiums under the Affordability Schedule and second to the cost of health insurance that was available through employer-sponsored plans, government-subsidized programs or on the private insurance market. See 2022 Schedule HC Instructions and Worksheets, *supra*.

Appellants are subject to the tax penalty unless appellants demonstrate a hardship. 956 Mass. Code Regs. 6.07(1) (2008). To prevail on a hardship appeal, an appellant must establish that “based on all his circumstances, minimum creditable coverage was not affordable to him[er] because [s]he experienced a hardship.” Id. at 6.08(1). Appellant had health insurance coverage in 2022 that was essentially equivalent to the coverage required in Massachusetts.

On these facts, I find that Appellant has shown that he was precluded from purchasing affordable health insurance during 2022. 956 Mass. Code Regs. 6.08(3) (2008). Accordingly, I conclude that he is exempt from a tax penalty for his non-compliance with the individual mandate.

Accordingly, Appellant’s appeal is **ALLOWED**, and the 2022 penalty assessed is **OVERTURNED**.

PENALTY ASSESSED

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

The Connector has notified the Department of Revenue that, pursuant to its decision, you should be assessed a penalty for Tax Year 2022 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 2022.

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: PA22-1471

Appeal Decision Appeal Allowed

Hearing Issue: Appeal of the 2022 Tax Year Penalty

Hearing Date: March 4, 2024

Decision Date: March 25, 2024

AUTHORITY

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

JURISDICTION

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

HEARING RECORD

The Appellant appeared at the hearing, which was held by telephone, on March 4, 2024. The procedures to be followed during the hearing were reviewed with the Appellant who was then sworn in. Exhibits were marked and admitted into evidence with no objection from the Appellant.

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

- Exhibit 1: Notice of Hearing dated February 2, 2024
- Exhibit 2: Appeal Case Information from form Schedule HC
- Exhibit 3: Statement of Grounds for Appeal Dated August 15, 2023
- Exhibit 4: Open Record Request

FINDINGS OF FACT

The record shows, and I so find:

1. The appellant is fifty-five years old and is single. She lives in Middlesex County, Massachusetts. Appellant worked in the health care business.
2. Appellant had health insurance in 2022. She provided proof of insurance with her open record documents. (open record documents).
3. Appellant did have health insurance in 2023 and does have health insurance in 2024.
4. The Appellant did submit a Statement of Grounds for Appeal-2022 under “Other. During 2022 other circumstances, such as applying the Affordability Tables in Schedule HC to you is inequitable” .
5. I take administrative notice of the information set forth in tables 1 through 6 in the Department of Revenue Schedule HC Health Care Instructions and Worksheets (Schedule HC Instructions). Tables 3 & 4 incorporate the affordability schedules adopted by the board of directors of the Commonwealth Health Insurance Connector Authority for 2022. Table 1 sets forth the income eligibility standards for various family sizes at 150% of the federal poverty level and Table 2 sets forth the income eligibility standards for various family sizes at 300 per cent of the federal poverty level, which is the income eligibility standard for the government-subsidized health insurance program. See Mass. G.L. c. 118H, s.3(a)(1). Tables 5 and 6 set forth the tax penalties for 2022.

ANALYSIS AND CONCLUSIONS OF LAW

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

Appellant had health insurance in 2022. She provided proof of insurance with her open record documents. (open record documents).

The Appellant did submit a Statement of Grounds for Appeal-2022 under under “Other. During 2022 other circumstances, such as applying the Affordability Tables in Schedule HC to you is inequitable” .

The Health Care Reform Act of 2006 requires every adult resident of Massachusetts to obtain and maintain creditable insurance coverage “so long as it is deemed affordable” under the schedule established by the board of the Connector. Mass. Gen. Laws ch. 111M, § 2(a). Massachusetts residents who fail to indicate on their state tax returns that they obtained the mandated creditable coverage are subject to a tax penalty for each month in which that the individual did not have creditable health

insurance. *Id.* at § 2(b). However, individuals with incomes up to 150 percent of the Federal Poverty Level (“FPL”) are not subject to any penalty for non-compliance with the individual mandate. See Massachusetts Department of Revenue Technical Information Release (“TIR”) 13-1, available at <http://www.mass.gov/dor/businesses/help-and-resources/legal-library/tirs/tirs-by-years/2013-releases/tir-13-1.html>. For 2022, 150 percent of the FPL was \$26,130.00 for a single person with one dependent. *Id.* In addition, a lapse in coverage of 63 days or less is not subject to the section 2(b) penalty. See Administrative Bulletin 03-10 (Dec. 7, 2010), available at <https://www.mahealthconnector.org/portal/binary/com.epicentric.contentmanagement.servlet.ContentDeliveryServlet/Health%2520Care%2520Reform/Regulations/documents/Administrative%20Information%20Bulletin%2003-10.pdf>; see also 830 Mass. Code Regs. 111M.2.1(5)(c) (2008). Thus, no penalty is imposed for lapses in coverage consisting of three or fewer consecutive calendar months. *Id.*

Since Appellant’s 2022 income was more than 150 percent of the FPL, making her potentially subject to an individual mandate penalty, the threshold issue to be addressed is whether creditable health insurance coverage was affordable to her in 2022. In determining affordability, consideration is given first to the amount Appellant is deemed able to afford for health insurance premiums under the Affordability Schedule and second to the cost of health insurance that was available through employer-sponsored plans, government-subsidized programs or on the private insurance market. See 2022 Schedule HC Instructions and Worksheets, *supra*.

Appellant had insurance for 2022.

Accordingly, I conclude that she is exempt from a tax penalty for her non-compliance with the individual mandate.

Accordingly, Appellant’s appeal is **ALLOWED**, and the 2022 penalty assessed is **OVERTURNED**.

PENALTY ASSESSED

Number of Months Appealed: 9 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 2022 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 2022.

NOTIFICATION OF YOUR RIGHT TO APPEAL TO COURT

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

Hearing Officer

Cc: Connector Appeals Unit

Massachusetts Health Connector Appeals Unit

FINAL APPEAL DECISION: PA21-2114

Appeal Decision Appeal Allowed in Part

Hearing Issue: Appeal of the 2021 Tax Year Penalty

Hearing Date: March 4, 2024

Decision Date: March 26, 2024

AUTHORITY

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

JURISDICTION

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

HEARING RECORD

The Appellant appeared at the hearing, which was held by telephone, on March 4, 2024. The procedures to be followed during the hearing were reviewed with the Appellant who was then sworn in. Exhibits were marked and admitted into evidence with no objection from the Appellant.

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

Exhibit 1: Notice of Hearing dated February 2, 2024

Exhibit 2: Appeal Case Information from form Schedule HC

Exhibit 3: Statement of Grounds for Appeal

FINDINGS OF FACT

The record shows, and I so find:

1. The appellant is twenty-eight years old and is single but lives with his significant other and child. He lives in Suffolk County, Massachusetts.
2. Appellant worked in the restaurant business and continues to do so. He also helps support his child and significant other.
3. Appellant did have health insurance in 2023 for five months and has health insurance in 2024..
4. The Appellant's monthly expenses totaled \$3,235.00, consisting of rent \$1,400.00, internet & cable \$50.00, cell phone \$230.00 , transportation \$90.00 food \$700.00, credit card \$500.00, toiletries \$5.00, entertainment \$100.00, student loan \$65.00.
5. The Appellant did submit a Statement of Grounds for Appeal-2021 under the grounds for Appeal "During 2021, the expense of purchasing health insurance would have caused a serious deprivation of food, shelter, clothing or other necessities".
6. I take administrative notice of the information set forth in tables 1 through 6 in the Department of Revenue Schedule HC Health Care Instructions and Worksheets (Schedule HC Instructions). Tables 3 & 4 incorporate the affordability schedules adopted by the board of directors of the Commonwealth Health Insurance Connector Authority for 2021. Table 1 sets forth the income eligibility standards for various family sizes at 150% of the federal poverty level and Table 2 sets forth the income eligibility standards for various family sizes at 300 per cent of the federal poverty level, which is the income eligibility standard for the government-subsidized health insurance program. See Mass. G.L. c. 118H, s.3(a)(1). Tables 5 and 6 set forth the tax penalties for 2021.
7. Based on the appellant's federal adjusted gross income and the above referenced tables, I find the appellant may have been eligible for subsidized health insurance, because Appellant's income of \$55,233.00 was more than \$38,280.00. The monthly premium for health insurance available on the private market in Suffolk County for a 26 year old single person was \$263.00. The tables reflect that Appellant could afford \$368.22 This is less than what the appellant is deemed to afford. (Tables 2, 3 & 4 of the Schedule HC Instructions)

ANALYSIS AND CONCLUSIONS OF LAW

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

Appellant worked in the restaurant business and continues to do so. He also helps support his child and significant other.

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

The Health Care Reform Act of 2006 requires every adult resident of Massachusetts to obtain and maintain creditable insurance coverage “so long as it is deemed affordable” under the schedule established by the board of the Connector. Mass. Gen. Laws ch. 111M, § 2(a). Massachusetts residents who fail to indicate on their state tax returns that they obtained the mandated creditable coverage are subject to a tax penalty for each month in which that the individual did not have creditable health insurance. *Id.* at § 2(b). However, individuals with incomes up to 150 percent of the Federal Poverty Level (“FPL”) are not subject to any penalty for non-compliance with the individual mandate. See Massachusetts Department of Revenue Technical Information Release (“TIR”) 13-1, available at <http://www.mass.gov/dor/businesses/help-and-resources/legal-library/tirs/tirs-by-years/2013-releases/tir-13-1.html>. For 2021, 150 percent of the FPL was \$19,240.00 for a single person. In addition a lapse in coverage of 63 days or less is not subject to the section 2(b) penalty. See Administrative Bulletin 03-10 (Dec. 7, 2010), available at <https://www.mahealthconnector.org/portal/binary/com.epicentric.contentmanagement.servlet.ContentDeliveryServlet/Health%2520Care%2520Reform/Regulations/documents/Administrative%20Information%20Bulletin%2003-10.pdf>; see also 830 Mass. Code Regs. 111M.2.1(5)(c) (2008). Thus, no penalty is imposed for lapses in coverage consisting of three or fewer consecutive calendar months. *Id.*

Since Appellant’s 2021 income was more than 150 percent of the FPL, making him potentially subject to an individual mandate penalty, the threshold issue to be addressed is whether creditable health insurance coverage was affordable to him in 2021. In determining affordability, consideration is given first to the amount Appellant is deemed able to afford for health insurance premiums under the Affordability Schedule and second to the cost of health insurance that was available through employer-sponsored plans, government-subsidized programs or on the private insurance market. See 2021 Schedule HC Instructions and Worksheets, *supra*.

Appellant reported a federal AGI of \$55,233.00 in 2021, and Appellant’s filing status was single. EX 2. According to the Affordability Schedule established by the Connector’s board and included in the Instructions and Worksheets of the 2021 Massachusetts Schedule HC, Appellant could afford to pay \$368.22 monthly for health insurance. See 2021 Schedule HC Instructions and Worksheets, *supra* at Table 3. Private insurance would have been available to him from the Premium Tables, at a cost of \$263.00 monthly for coverage. *Id.* at Table 4.

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

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

Accordingly, Appellant’s appeal is **PARTIALLY APPROVED**, and the 2021 penalty assessed is **PARTIALLY OVERTURNED**.

PENALTY ASSESSED

Number of Months Appealed: ____12____ Number of Months Assessed: ____4____

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

OR

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

NOTIFICATION OF YOUR RIGHT TO APPEAL TO COURT

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

Hearing Officer

Cc: Connector Appeals Unit

Massachusetts Health Connector Appeals Unit

FINAL APPEAL DECISION: PA22-1285

Appeal Decision Appeal Allowed

Hearing Issue: Appeal of the 2022 Tax Year Penalty

Hearing Date: January 24, 2024

Decision Date: January 30, 2024

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 24, 2024. The procedures to be followed during the hearing were reviewed with the Appellant who was then sworn in. Exhibits were marked and admitted into evidence with no objection from the Appellant.

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

- Exhibit 1: Notice of Hearing dated December 14, 2023
- Exhibit 2: Appeal Case Information from form Schedule HC
- Exhibit 3: Statement of Grounds for Appeal Dated May 17, 2023
- Exhibit 4: Written Statement of Appeal

FINDINGS OF FACT

The record shows, and I so find:

1. The appellant is thirty-six years old and is single. He lives in Norfolk County, Massachusetts.
2. Appellant works in the nursing business. Appellant applied for health insurance through his employer, a nursing home. He was informed by his Human Resources representative that his health insurance application was processed. The HR representative was fired. Appellant spoke to the Administrator of the nursing home and was informed that the application was sent in. The administrator was taken out of the building. This occurred during the pandemic and the Appellant was working multiple shifts and a lot of overtime to deal with the health pandemic. When the Appellant received his W-2, he realized that the nursing home had the wrong address for his residence.
3. Appellant did have health insurance in 2023 from October 2023 and has health insurance in 2024.
4. The Appellant did submit a Statement of Grounds for Appeal-2022 under the grounds for Appeal " During 2022 other circumstances, such as applying the Affordability Tables in Schedule HC to you is inequitable".
5. I take administrative notice of the information set forth in tables 1 through 6 in the Department of Revenue Schedule HC Health Care Instructions and Worksheets (Schedule HC Instructions). Tables 3 & 4 incorporate the affordability schedules adopted by the board of directors of the Commonwealth Health Insurance Connector Authority for 2022. Table 1 sets forth the income eligibility standards for various family sizes at 150% of the federal poverty level and Table 2 sets forth the income eligibility standards for various family sizes at 300 per cent of the federal poverty level, which is the income eligibility standard for the government-subsidized health insurance program. See Mass. G.L. c. 118H, s.3(a)(1). Tables 5 and 6 set forth the tax penalties for 2022.
6. Based on the appellant's federal adjusted gross income and the above referenced tables, I find the appellant would not have been eligible for subsidized health insurance, because Appellant's income of \$110,135.00 was more than \$38,640.00. The monthly premium for health insurance available on the private market in Norfolk County for a 36 year old single person was \$298.00. The tables reflect that Appellant could afford \$733.33 This is less than what the appellant is deemed to afford. (Tables 2, 3 & 4 of the Schedule HC Instructions)

ANALYSIS AND CONCLUSIONS OF LAW

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

Appellant works in the nursing business. Appellant applied for health insurance through his employer, a nursing home. He was informed by his Human Resources representative that his health insurance application was processed. The HR representative was fired. Appellant spoke to the Administrator of the nursing home and was informed that the application was sent in. The administrator was taken out of the building. This occurred during the pandemic and the Appellant was working multiple shifts and a lot of overtime to deal with the health pandemic. When the Appellant received his W-2, he realized that the nursing home had the wrong address for his residence.

The Appellant did submit a Statement of Grounds for Appeal-2022 under the grounds for Appeal “ During 2022 other circumstances, such as applying the Affordability Tables in Schedule HC to you is inequitable”.

The Health Care Reform Act of 2006 requires every adult resident of Massachusetts to obtain and maintain creditable insurance coverage “so long as it is deemed affordable” under the schedule established by the board of the Connector. Mass. Gen. Laws ch. 111M, § 2(a). Massachusetts residents who fail to indicate on their state tax returns that they obtained the mandated creditable coverage are subject to a tax penalty for each month in which that the individual did not have creditable health insurance. *Id.* at § 2(b). However, individuals with incomes up to 150 percent of the Federal Poverty Level (“FPL”) are not subject to any penalty for non-compliance with the individual mandate. See Massachusetts Department of Revenue Technical Information Release (“TIR”) 13-1, available at <http://www.mass.gov/dor/businesses/help-and-resources/legal-library/tirs/tirs-by-years/2013-releases/tir-13-1.html>. For 2022, 150 percent of the FPL was \$19,320.00 for a single person. In addition a lapse in coverage of 63 days or less is not subject to the section 2(b) penalty. See Administrative Bulletin 03-10 (Dec. 7, 2010), available at <https://www.mahealthconnector.org/portal/binary/com.epicentric.contentmanagement.servlet.ContentDeliveryServlet/Health%2520Care%2520Reform/Regulations/documents/Administrative%20Information%20Bulletin%2003-10.pdf>; see also 830 Mass. Code Regs. 111M.2.1(5)(c) (2008). Thus, no penalty is imposed for lapses in coverage consisting of three or fewer consecutive calendar months. *Id.*

Since Appellant’s 2022 income was more than 150 percent of the FPL, making him potentially subject to an individual mandate penalty, the threshold issue to be addressed is whether creditable health insurance coverage was affordable to him in 2022. In determining affordability, consideration is given first to the amount Appellant is deemed able to afford for health insurance premiums under the Affordability Schedule and second to the cost of health insurance that was

available through employer-sponsored plans, government-subsidized programs or on the private insurance market. See 2022 Schedule HC Instructions and Worksheets, *supra*.

Appellant reported a federal AGI of \$110,135.00 in 2021, and Appellant’s filing status was single. EX 2. According to the Affordability Schedule established by the Connector’s board and included in the Instructions and Worksheets of the 2021 Massachusetts Schedule HC, Appellant could afford to pay 733.33 monthly for health insurance. See 2021 Schedule HC Instructions and Worksheets, *supra* at Table 3. Private insurance would have been available to him from the Premium Tables, at a cost of \$298.00 monthly for coverage *Id.* at Table 4.

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

On these facts, I find that Appellant has shown that he was precluded from purchasing affordable health insurance during 2022. 956 Mass. Code Regs. 6.08(3) (2008). Accordingly, I conclude that he is exempt from a tax penalty for his non-compliance with the individual mandate.

Accordingly, Appellant’s appeal is **APPROVED**, and the 2022 penalty assessed is **OVERTURNED**.

PENALTY ASSESSED

Number of Months Appealed: ____12 ____ Number of Months Assessed: ____0____

The Connector has notified the Department of Revenue that, pursuant to its decision, you should be assessed a penalty for Tax Year 2022 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 2022.

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: PA22-1461

Appeal Decision Appeal Allowed in Part

Hearing Issue: Appeal of the 2022 Tax Year Penalty

Hearing Date: March 4, 2024

Decision Date: March 25, 2024

AUTHORITY

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

JURISDICTION

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

HEARING RECORD

The Appellant appeared at the hearing, which was held by telephone, on March 4, 2024. The procedures to be followed during the hearing were reviewed with the Appellant who was then sworn in. Exhibits were marked and admitted into evidence with no objection from the Appellant.

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

Exhibit 1: Notice of Hearing dated February 2, 2024

Exhibit 2: Appeal Case Information from form Schedule HC

Exhibit 3: Statement of Grounds for Appeal Dated August 4, 2023

FINDINGS OF FACT

The record shows, and I so find:

1. The appellant is twenty-eight years old and is single but lives with his significant other and child. He lives in Suffolk County, Massachusetts.
2. Appellant worked in the restaurant business and continues to do so. He also helps support his child and significant other.
3. Appellant did
4. have health insurance in 2023 for five months and has health insurance in 2024..
5. The Appellant's monthly expenses totaled \$4,288.00, consisting of rent \$1,600.00, heat & electricity \$100.00, internet & cable \$70.00, cell phone \$330.00 car payment \$300.00, car insurance \$200.00, car gas \$80.00, food \$600.00, credit card \$600.00, clothing \$50.00, toiletries \$5.00, entertainment \$350.00.
6. The Appellant did submit a Statement of Grounds for Appeal-2022 under the grounds for Appeal "During 2022, the expense of purchasing health insurance would have caused a serious deprivation of food, shelter, clothing or other necessities".
7. I take administrative notice of the information set forth in tables 1 through 6 in the Department of Revenue Schedule HC Health Care Instructions and Worksheets (Schedule HC Instructions). Tables 3 & 4 incorporate the affordability schedules adopted by the board of directors of the Commonwealth Health Insurance Connector Authority for 2022. Table 1 sets forth the income eligibility standards for various family sizes at 150% of the federal poverty level and Table 2 sets forth the income eligibility standards for various family sizes at 300 per cent of the federal poverty level, which is the income eligibility standard for the government-subsidized health insurance program. See Mass. G.L. c. 118H, s.3(a)(1). Tables 5 and 6 set forth the tax penalties for 2022.
8. Based on the appellant's federal adjusted gross income and the above referenced tables, I find the appellant may have been eligible for subsidized health insurance, because Appellant's income of \$66,872.00 was more than \$38,640.00. The monthly premium for health insurance available on the private market in Suffolk County for a 27 year old single person was \$277.00. The tables reflect that Appellant could afford \$445.81 This is less than what the appellant is deemed to afford. (Tables 2, 3 & 4 of the Schedule HC Instructions)

ANALYSIS AND CONCLUSIONS OF LAW

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

Appellant worked in the restaurant business and continues to do so. He also helps support his child and significant other.

The Appellant did submit a Statement of Grounds for Appeal-2022 under the grounds for Appeal “During 2022, the expense of purchasing health insurance would have caused a serious deprivation of food, shelter, clothing or other necessities”.

The Health Care Reform Act of 2006 requires every adult resident of Massachusetts to obtain and maintain creditable insurance coverage “so long as it is deemed affordable” under the schedule established by the board of the Connector. Mass. Gen. Laws ch. 111M, § 2(a). Massachusetts residents who fail to indicate on their state tax returns that they obtained the mandated creditable coverage are subject to a tax penalty for each month in which that the individual did not have creditable health insurance. *Id.* at § 2(b). However, individuals with incomes up to 150 percent of the Federal Poverty Level (“FPL”) are not subject to any penalty for non-compliance with the individual mandate. See Massachusetts Department of Revenue Technical Information Release (“TIR”) 13-1, available at <http://www.mass.gov/dor/businesses/help-and-resources/legal-library/tirs/tirs-by-years/2013-releases/tir-13-1.html>. For 2022, 150 percent of the FPL was \$19,320.00 for a single person. In addition a lapse in coverage of 63 days or less is not subject to the section 2(b) penalty. See Administrative Bulletin 03-10 (Dec. 7, 2010), available at <https://www.mahealthconnector.org/portal/binary/com.epicentric.contentmanagement.servlet.ContentDeliveryServlet/Health%2520Care%2520Reform/Regulations/documents/Administrative%20Information%20Bulletin%2003-10.pdf>; see also 830 Mass. Code Regs. 111M.2.1(5)(c) (2008). Thus, no penalty is imposed for lapses in coverage consisting of three or fewer consecutive calendar months. *Id.*

Since Appellant’s 2022 income was more than 150 percent of the FPL, making him potentially subject to an individual mandate penalty, the threshold issue to be addressed is whether creditable health insurance coverage was affordable to him in 2022. In determining affordability, consideration is given first to the amount Appellant is deemed able to afford for health insurance premiums under the Affordability Schedule and second to the cost of health insurance that was available through employer-sponsored plans, government-subsidized programs or on the private insurance market. See 2022 Schedule HC Instructions and Worksheets, *supra*.

Appellant reported a federal AGI of \$66,872.00 in 2022, and Appellant’s filing status was single. EX 2. According to the Affordability Schedule established by the Connector’s board and included in the Instructions and Worksheets of the 2022 Massachusetts Schedule HC, Appellant could afford to pay \$445.81.00 monthly for health insurance. See 2022 Schedule HC Instructions and Worksheets, *supra* at

Table 3. Private insurance would have been available to him from the Premium Tables, at a cost of \$277.00 monthly for coverage *Id.* at Table 4.

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

On these facts, I find that Appellant has shown that he was partially precluded from purchasing affordable health insurance during 2022. 956 Mass. Code Regs. 6.08(3) (2008). Accordingly, I conclude that he is partially exempt from a tax penalty for his non-compliance with the individual mandate.

Accordingly, Appellant’s appeal is **PARTIALLY APPROVED**, and the 2022 penalty assessed is **PARTIALLY OVERTURNED**.

PENALTY ASSESSED

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

The Connector has notified the Department of Revenue that, pursuant to its decision, you should be assessed a penalty for Tax Year 2022 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 2022.

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: PA22-1478

Appeal Decision Appeal Allowed In Part

Hearing Issue: Appeal of the 2022 Tax Year Penalty

Hearing Date: March 7, 2024

Decision Date: March 28, 2024

AUTHORITY

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

JURISDICTION

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

HEARING RECORD

The Appellant appeared at the hearing, which was held by telephone, on March 7, 2024. The procedures to be followed during the hearing were reviewed with the Appellant who was then sworn in. Exhibits were marked and admitted into evidence with no objection from the Appellant.

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

Exhibit 1: Notice of Hearing dated February 2, 2024

Exhibit 2: Appeal Case Information from form Schedule HC

Exhibit 3: Statement of Grounds for Appeal Dated September 11, 2023

FINDINGS OF FACT

The record shows, and I so find:

1. The appellant is thirty-seven years old and is single. He lives in Bristol County, Massachusetts.
2. Appellant worked in the lumber business. Appellant indicated that the business he worked for was bought out somewhere around the end of 2021 and in the process of the sale, he inadvertently forgot to sign up for health insurance with the new company.
3. Appellant did have health insurance in 2023 and does not have health insurance in 2024.
4. The Appellant's monthly expenses totaled \$4,200.00, consisting of rent \$1,000.00, heat & electricity \$200.00, internet & cable \$100.00, cell phone \$100.00, car insurance \$120.00, car gas \$400.00, food \$520.00, credit card \$2,000.00, clothing \$120.00.
5. The Appellant did submit a Statement of Grounds for Appeal-2022 under the grounds for Appeal "During 2022, the expense of purchasing health insurance would have caused a serious deprivation of food, shelter, clothing or other necessities".
6. I take administrative notice of the information set forth in tables 1 through 6 in the Department of Revenue Schedule HC Health Care Instructions and Worksheets (Schedule HC Instructions). Tables 3 & 4 incorporate the affordability schedules adopted by the board of directors of the Commonwealth Health Insurance Connector Authority for 2022. Table 1 sets forth the income eligibility standards for various family sizes at 150% of the federal poverty level and Table 2 sets forth the income eligibility standards for various family sizes at 300 per cent of the federal poverty level, which is the income eligibility standard for the government-subsidized health insurance program. See Mass. G.L. c. 118H, s.3(a)(1). Tables 5 and 6 set forth the tax penalties for 2022.
7. Based on the appellant's federal adjusted gross income and the above referenced tables, I find the appellant would not have been eligible for subsidized health insurance, because Appellant's income of \$50,681.00 was more than \$38,640.00. The monthly premium for health insurance available on the private market in Bristol County for a 36 year old single person was \$298.00. The tables reflect that Appellant could afford \$320.97 This is less than what the appellant is deemed to afford. (Tables 2, 3 & 4 of the Schedule HC Instructions)

ANALYSIS AND CONCLUSIONS OF LAW

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

Appellant worked in the lumber business. Appellant indicated that the business he worked for was bought out somewhere around the end of 2021 and in the process of the sale, he inadvertently forgot to sign up for health insurance with the new company.

The Appellant did submit a Statement of Grounds for Appeal-2022 under the grounds for Appeal “During 2022, the expense of purchasing health insurance would have caused a serious deprivation of food, shelter, clothing or other necessities”.

The Health Care Reform Act of 2006 requires every adult resident of Massachusetts to obtain and maintain creditable insurance coverage “so long as it is deemed affordable” under the schedule established by the board of the Connector. Mass. Gen. Laws ch. 111M, § 2(a). Massachusetts residents who fail to indicate on their state tax returns that they obtained the mandated creditable coverage are subject to a tax penalty for each month in which that the individual did not have creditable health insurance. *Id.* at § 2(b). However, individuals with incomes up to 150 percent of the Federal Poverty Level (“FPL”) are not subject to any penalty for non-compliance with the individual mandate. See Massachusetts Department of Revenue Technical Information Release (“TIR”) 13-1, available at <http://www.mass.gov/dor/businesses/help-and-resources/legal-library/tirs/tirs-by-years/2013-releases/tir-13-1.html>. For 2022, 150 percent of the FPL was \$19,320.00 for a single person. In addition a lapse in coverage of 63 days or less is not subject to the section 2(b) penalty. See Administrative Bulletin 03-10 (Dec. 7, 2010), available at <https://www.mahealthconnector.org/portal/binary/com.epicentric.contentmanagement.servlet.ContentDeliveryServlet/Health%2520Care%2520Reform/Regulations/documents/Administrative%20Information%20Bulletin%2003-10.pdf>; see also 830 Mass. Code Regs. 111M.2.1(5)(c) (2008). Thus, no penalty is imposed for lapses in coverage consisting of three or fewer consecutive calendar months. *Id.*

Since Appellant’s 2022 income was more than 150 percent of the FPL, making him potentially subject to an individual mandate penalty, the threshold issue to be addressed is whether creditable health insurance coverage was affordable to him in 2022. In determining affordability, consideration is given first to the amount Appellant is deemed able to afford for health insurance premiums under the Affordability Schedule and second to the cost of health insurance that was available through employer-sponsored plans, government-subsidized programs or on the private insurance market. See 2022 Schedule HC Instructions and Worksheets, *supra*.

Appellant reported a federal AGI of \$50,681.00 in 2022, and Appellant’s filing status was single. EX 2. According to the Affordability Schedule established by the Connector’s board and included in the Instructions and Worksheets of the 2022 Massachusetts Schedule HC, Appellant could afford to pay \$320.97 monthly for health insurance. See 2022 Schedule HC Instructions and Worksheets, *supra* at

Table 3. Private insurance would have been available to him from the Premium Tables, at a cost of \$298.00 monthly for coverage *Id.* at Table 4.

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

On these facts, I find that Appellant has shown that he was partially precluded from purchasing affordable health insurance during 2022. 956 Mass. Code Regs. 6.08(3) (2008). Accordingly, I conclude that he is partially exempt from a tax penalty for his non-compliance with the individual mandate.

Accordingly, Appellant’s appeal is **PARTIALLY APPROVED**, and the 2022 penalty assessed is **PARTIALLY OVERTURNED**.

PENALTY ASSESSED

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

The Connector has notified the Department of Revenue that, pursuant to its decision, you should be assessed a penalty for Tax Year 2022 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 2022.

NOTIFICATION OF YOUR RIGHT TO APPEAL TO COURT

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

Hearing Officer

Cc: Connector Appeals Unit

Massachusetts Health Connector Appeals Unit

FINAL APPEAL DECISION: PA18-1189

Appeal Decision: Appeal Approved.

Hearing Issue: Appeal of the 2018 Tax Year Penalty

Hearing Date: March 15, 2024

Decision Date: March 21, 2024

AUTHORITY

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

JURISDICTION

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

HEARING RECORD

The Appellant appeared at the hearing, which was held by telephone, on March 15, 2024¹. The procedures to be followed during the hearing were reviewed with the Appellant who was then sworn in. Exhibits were marked and admitted into evidence with no objection from the Appellant. The hearing record consists of the Appellant's testimony and the following documents which were admitted into evidence:

- Exhibit 1: Health Connector Appeals Unit Notice of Hearing dated February 5, 2024.
- Exhibit 2: Appeal Case Information from Schedule HC- 2018.
- Exhibit 3: Statement of Grounds for Appeal dated June 7, 2022.
- Exhibit 4: Appellant's letter in support of the appeal.
- Exhibit 5: Health Connector Appeals Unit Record Open Form dated March 15, 2024.
- Exhibit 6: Additional information submitted by the Appellant on March 18, 2024.

FINDINGS OF FACT

The record shows, and I so find:

1. The Appellant, age 39 in November 2018 filed their 2018 Federal Income Tax return as a single person with no dependents claimed (Exhibit 2).
2. The Appellant was a part year resident for the period of April 1, 2018 through December 31, 2018 living in Suffolk County (Exhibit 2).
3. The Appellant's Federal Adjusted Gross Income for 2018 was \$257,100 (Exhibit 2).

¹ This appeal was heard with case numbers PA19-1207 and PA20-1277. Since three separate tax years were appealed, three separate decisions will be issued.

4. According to the Appellant’s Schedule HC-2018, the Appellant did not have health insurance for any months of tax year 2018. The Appellant, as a part year resident, was assessed a six month penalty (Exhibit 2).
5. The Appellant filed an appeal of the assessment in June 2022 alleging that they were enrolled in employee sponsored health insurance in tax year 2018 (Exhibits 3, 4).
6. The Appellant testified that they did obtain a copy of their Form 1099-HC for tax year 2018 (Appellant Testimony).
7. The record was left open to allow the Appellant to submit additional evidence (Exhibit 5).
8. On March 18, 2024 the Appellant contacted the Health Connector Appeals Unit via Email and submitted a copy of their Form 1099-HC 2018 verifying that the Appellant had health insurance that met Massachusetts standards for all of tax year 2018 (Exhibit 6).

ANALYSIS AND CONCLUSIONS OF LAW

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

The Appellant filed their 2018 income tax return as a single person with no dependents. The Appellant reported being a part year resident for the nine-month period of April 1, 2018 through December 31, 2018. According to the information in the Appellant’s Schedule HC 2018, the Appellant did not have health insurance in tax year 2018 and consequently was assessed a six-month penalty. The Appellant filed an appeal of the assessment.

The Appellant testified that they had health insurance coverage through their employer. The Appellant submitted a copy of their Form 1099-HC for tax year 2018 verifying that the Appellant had health insurance that met Massachusetts standards for all of tax year 2018. The Appellant should not be subject to a tax penalty for tax year 2018.

The Appellant should note that the waiver of their penalty is based upon the facts that I have determined to be true in 2018. The Appellant should not assume that a similar determination will be made for subsequent tax years should they again be assessed a penalty for failure to have health insurance.

PENALTY ASSESSED

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

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

NOTIFICATION OF YOUR RIGHT TO APPEAL TO COURT

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

Cc: Connector Appeals Unit

Massachusetts Health Connector Appeals Unit

FINAL APPEAL DECISION: PA19-1207

Appeal Decision: Appeal Approved.

Hearing Issue: Appeal of the 2019 Tax Year Penalty

Hearing Date: March 15, 2024

Decision Date: March 21, 2024

AUTHORITY

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

JURISDICTION

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

HEARING RECORD

The Appellant appeared at the hearing, which was held by telephone, on March 15, 2024¹. The procedures to be followed during the hearing were reviewed with the Appellant who was then sworn in. Exhibits were marked and admitted into evidence with no objection from the Appellant. The hearing record consists of the Appellant's testimony and the following documents which were admitted into evidence:

- Exhibit 1: Health Connector Appeals Unit Notice of Hearing dated February 5, 2024.
- Exhibit 2: Appeal Case Information from Schedule HC- 2019.
- Exhibit 3: Statement of Grounds for Appeal dated May 8, 2023.
- Exhibit 4: Appellant's letter in support of the appeal.
- Exhibit 5: Health Connector Appeals Unit Record Open Form dated March 15, 2024.
- Exhibit 6: Additional information submitted by the Appellant on March 18, 2024.

FINDINGS OF FACT

The record shows, and I so find:

1. The Appellant, age 40 in November 2019 filed their 2019 Federal Income Tax return as a single person with no dependents claimed (Exhibit 2).
2. The Appellant was a full year resident living in Suffolk County in 2019 (Exhibit 2).
3. The Appellant's Federal Adjusted Gross Income for 2019 was \$305,513 (Exhibit 2).
4. According to the Appellant's Schedule HC-2019, the Appellant did not have health insurance for any months of tax year 2019 and consequently was assessed a twelve-month penalty (Exhibit 2).

¹ This appeal was heard with case numbers PA18-1189 and PA20-1277. Since three separate tax years were appealed, three separate decisions will be issued.

5. The Appellant filed an appeal of the assessment in May 2023 alleging that they were enrolled in employee sponsored health insurance in tax year 2019 (Exhibits 3, 4).
6. The Appellant testified that they did obtain a copy of their Form 1099-HC for tax year 2019 (Appellant Testimony).
7. The record was left open to allow the Appellant to submit additional evidence (Exhibit 5).
8. On March 18, 2024 the Appellant contacted the Health Connector Appeals Unit via Email and submitted a copy of their Form 1099-HC 2019 verifying that the Appellant had health insurance that met Massachusetts standards for all of tax year 2019 (Exhibit 6).

ANALYSIS AND CONCLUSIONS OF LAW

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

The Appellant filed their 2019 income tax return as a single person with no dependents. The Appellant reported being a full year resident living in Suffolk County. According to the information in the Appellant’s Schedule HC 2019, the Appellant did not have health insurance for any months in tax year 2019 and consequently was assessed a twelve-month penalty. The Appellant filed an appeal of the assessment in May 2023.

The Appellant testified that they had health insurance coverage through their employer. The Appellant submitted a copy of their Form 1099-HC for tax year 2019 verifying that the Appellant had health insurance that met Massachusetts standards for all of tax year 2019. The Appellant should not be subject to a tax penalty for tax year 2019.

The Appellant should note that the waiver of their penalty is based upon the facts that I have determined to be true in 2019. The Appellant should not assume that a similar determination will be made for subsequent tax years should they again be assessed a penalty for failure to have health insurance.

PENALTY ASSESSED

Appellant: Number of Months Appealed: ____12____ Number of Months Assessed: __0____

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

NOTIFICATION OF YOUR RIGHT TO APPEAL TO COURT

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

Cc: Connector Appeals Unit

Massachusetts Health Connector Appeals Unit

FINAL APPEAL DECISION: PA20-1277

Appeal Decision: Appeal Approved.

Hearing Issue: Appeal of the 2020 Tax Year Penalty

Hearing Date: March 15, 2024

Decision Date: March 21, 2024

AUTHORITY

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

JURISDICTION

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

HEARING RECORD

The Appellant appeared at the hearing, which was held by telephone, on March 15, 2024¹. The procedures to be followed during the hearing were reviewed with the Appellant who was then sworn in. Exhibits were marked and admitted into evidence with no objection from the Appellant. The hearing record consists of the Appellant's testimony and the following documents which were admitted into evidence:

- Exhibit 1: Health Connector Appeals Unit Notice of Hearing dated February 5, 2024.
- Exhibit 2: Appeal Case Information from Schedule HC- 2019.
- Exhibit 3: Statement of Grounds for Appeal dated May 8, 2023.
- Exhibit 4: Appellant's letter in support of the appeal.
- Exhibit 5: Health Connector Appeals Unit Record Open Form dated March 15, 2024.
- Exhibit 6: Additional information submitted by the Appellant on March 18, 2024.

FINDINGS OF FACT

The record shows, and I so find:

1. The Appellant, age 41 in November 2020 filed their 2019 Federal Income Tax return as a single person with no dependents claimed (Exhibit 2).
2. The Appellant was a part year resident living in Suffolk County during the period of January 1, 2020 through August 8, 2020 (Exhibit 2).
3. The Appellant's Federal Adjusted Gross Income for 2020 was \$304,593 (Exhibit 2).

¹ This appeal was heard with case numbers PA18-1189 and PA20-1277. Since three separate tax years were appealed, three separate decisions will be issued.

4. According to the Appellant’s Schedule HC-2020, the Appellant did not have health insurance for any months of tax year 2020 while a resident of Massachusetts and consequently was assessed a four-month penalty (Exhibit 2).
5. The Appellant filed an appeal of the assessment in May 2023 alleging that they were enrolled in employee sponsored health insurance in tax year 2019 (Exhibits 3, 4).
6. The Appellant testified that they did obtain a copy of their Form 1099-HC for tax year 2020 (Appellant Testimony).
7. The record was left open to allow the Appellant to submit additional evidence (Exhibit 5).
8. On March 18, 2024 the Appellant contacted the Health Connector Appeals Unit via Email and submitted a copy of their Form 1099-HC 2020 verifying that the Appellant had health insurance that met Massachusetts standards for all of tax year 2020 (Exhibit 6).

ANALYSIS AND CONCLUSIONS OF LAW

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

The Appellant filed their 2020 income tax return as a single person with no dependents. The Appellant reported being a part year resident living in Suffolk County during the period of January 1, 2020 through August 1, 2020. According to the information in the Appellant’s Schedule HC 2020, the Appellant did not have health insurance for any months in tax year 2020 and consequently was assessed a four-month penalty. The Appellant filed an appeal of the assessment in May 2023.

The Appellant testified that they had health insurance coverage through their employer. The Appellant submitted a copy of their Form 1099-HC for tax year 2020 verifying that the Appellant had health insurance that met Massachusetts standards for all of tax year 2020. The Appellant should not be subject to a tax penalty for tax year 2020.

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

PENALTY ASSESSED

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

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

NOTIFICATION OF YOUR RIGHT TO APPEAL TO COURT

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

Cc: Connector Appeals Unit

Massachusetts Health Connector Appeals Unit

FINAL APPEAL DECISION: PA21-2528

Appeal Decision: The tax penalty is overturned.

Hearing Issue: Appeal of the 2021 Tax Year Penalty

Hearing Date: March 15, 2024

Decision Date: March 26, 2024

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 Massachusetts General Laws Chapter 111M, Section 4 and 956 CMR 6.07.

HEARING RECORD

The Appellant appeared at the hearing, which was held by telephone, on March 15, 2024. The procedures to be followed during the hearing were reviewed with the Appellant, who was then sworn in. Exhibits were marked and admitted into evidence with no objection from the Appellant. The hearing record consists of the Appellant's testimony and the following documents that were admitted into evidence:

- Exhibit 1: Appeal Case Information from Schedule HC 2021 (1 page).
- Exhibit 2: Appellant's request to vacate dismissal of appeal (1 page).
- Exhibit 3: Statement of Grounds for Appeal form (5 pages).
- Exhibit 4: Typewritten statement of grounds for appeal (1 page).
- Exhibit 5: Notice of March 15, 2024 hearing (2 pages).
- Exhibit 6: Health Connector appeals case information showing appeal dismissed because of Appellant's failure to appear at June 9, 2023 hearing (1 page).
- Exhibit 7: Health Connector appeals case information showing appeal requested (1 page).
- Exhibit 8: Health Connector attendance sheet for June 9, 2023 hearing (1 page).
- Exhibit 9: Notice of June 9, 2023 hearing (1 page).

FINDINGS OF FACT

The record shows, and I so find:

1. The Appellant, who turned age 55 in July 2021, filed their federal income tax return as a single person with no dependents claimed. (Exhibit 1).
2. The Appellant lived in Middlesex County in 2021. (Exhibit 1) and Appellant Testimony.
3. The Appellant's federal Adjusted Gross Income ("AGI") for 2021 was \$34,906. (Exhibit 1).
4. The Appellant did not have health insurance that met Massachusetts minimum creditable coverage (MCC) requirements for any month in 2021. The Appellant was assessed a twelve-month tax penalty for 2021. (Exhibit 1).
5. The Appellant filed an appeal of the twelve-month penalty assessment in May 2022. The Appellant checked off the following box on their Statement of Grounds for Appeal: "During 2021, the expense of purchasing health insurance would have caused a serious deprivation of food, shelter, clothing or other necessities." (Exhibit 3).
6. The Appellant also submitted a letter to the Health Connector stating that their monthly income in 2021 was \$2508 and that their monthly expenses were \$1443 for rent, \$125 for electricity, \$600 for food, \$160 for work commute, and \$100 for car insurance. The Appellant further stated that the Health Connector offered them health insurance for \$120 per month but that they could not afford it. The Appellant further stated that at the peak of covid, they were unable to work 40 hours per week. (Exhibit 4).
7. A hearing on the Appellant's appeal was scheduled to take place on June 9, 2023, but the Appellant failed to appear at the hearing. (Exhibits 8 and 9). The Appellant subsequently requested that the dismissal of their appeal for failure to appear at the June 9, 2023 hearing be vacated. (Exhibit 2).
8. A hearing on the Appellant's appeal took place telephonically on March 15, 2024. (Exhibit 5). The Appellant appeared at the hearing.
9. I take administrative notice of the financial information set forth in Tables 1 through 6 in the Department of Revenue ("DOR") 2021 Massachusetts Schedule HC Health Care Instruction 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. The Appellant's AGI of \$34,906 was less than 300% of the Federal Poverty Level, which was \$38,280 for a single person in 2021. (See Table 2 of Schedule HC-2021 and 956 CMR 12.04).
11. According to Table 3 of Schedule HC for 2021, the Appellant, who filed their federal tax return as single person with no dependents and claimed an adjusted gross income of \$34,906, could have afforded to pay \$145 per month for health insurance. The calculation is as follows: Table 3 states

that a single person with no dependents whose 2021 AGI was between \$31,901 and \$38,280 could have spent 5% of their earnings on health insurance; 5% of \$34,906 is \$1745 and one-twelfth of \$1745 is \$145.

12. According to Table 4 of Schedule HC for 2021, the least expensive health insurance plan meeting Massachusetts' minimum creditable coverage requirements that a single person with no dependents living in Middlesex County and who was 54 in January 2021 could have purchased cost \$390 per month.
13. The Appellant testified that they worked as a grill cook in 2021 but did not have full-time hours because of the pandemic.
14. The Appellant testified that their employer offered health insurance but that it cost approximately \$250 per month and that they could not afford it.
15. The Appellant testified that their entire income in 2021 was from employment and that they did not receive any unemployment compensation.
16. The Appellant testified that they were removed from MassHealth in 2020 and told that they could purchase health insurance for \$120 per month. The Appellant testified that they could not have afforded to pay \$120 per month for health insurance.
17. The Appellant testified that they estimated they had the following monthly expenses in 2021: \$1443 for rent; \$125 for electricity; \$45 for internet; \$160 for gas; \$100 for car insurance; \$600 for food; \$30 for cellphone; and \$60 for household supplies and toiletries. These expenses total \$2563 per month, or \$30,756 per year. In addition, the Appellant testified that they estimated that they spent over \$1,000 in car repairs for their 2004 vehicle.
18. The Appellant testified that they have health insurance now and that their financial situation has improved.

ANALYSIS AND CONCLUSIONS OF LAW

The case is before me on the Appellant's appeal from the DOR's assessment of a twelve-month tax penalty because the Appellant's tax forms indicated that they did not have health insurance that met minimum creditable coverage ("MCC") standards during any month in 2021. The issue to be decided is whether the tax penalty should be waived in whole or in part.

I begin by summarizing the legal rules underlying this appeal. The tax penalty was enacted by the Massachusetts Legislature to encourage compliance with G.L. c. 111M, § 2, also called the "individual mandate." The mandate requires every adult resident of Massachusetts to obtain health insurance coverage "[s]o long as it is deemed affordable" under the schedule set by the board of directors for the Commonwealth Health Insurance Connector Authority ("Connector"). G.L. c. 111M, § 2(a). Any health insurance policy must also satisfy the Massachusetts MCC standards for a taxpayer to avoid the penalty.

If these requirements are not met, a tax penalty is assessed for each of the months that the individual did not have health insurance as required by the individual mandate. There is, however, 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, § 2(b) and Administrative Information Bulletin 03-10: Guidance Regarding M.G.L. c. 111M and M.G.L. c. 176Q, as implemented by 956 CMR 6.00 (clarifying that for purposes of penalty calculation, taxpayers will not be subject to penalty if they had lapses in coverage consisting of three or fewer consecutive calendar months). The Connector's regulations also provide for a waiver of the tax penalty in cases of hardship. See 956 CMR 6.07-08.

To determine if the penalty should be waived in whole or in part, there must be a determination as to whether affordable insurance that met MCC standards was available to the Appellant through employment, through the private insurance market, or through a government-subsidized program. If affordable insurance was available, it must be determined whether such insurance was not in fact affordable to the Appellant because the Appellant experienced a hardship as defined in 956 CMR 6.08. These issues are all addressed below.

The first question is whether the Appellant had access to affordable health insurance meeting MCC requirements through their employer. The Appellant credibly testified that their employer offered health insurance that cost approximately \$250 per month. Finding of Fact No. 14. According to Table 3 of the Schedule HC, the Appellant could only have afforded to pay up to \$145 per month for insurance. Finding of Fact No. 11. As such, I find that employer-sponsored health insurance was not affordable to the Appellant.

The second question is whether the Appellant could have purchased affordable health insurance meeting MCC requirements on the private market. According to Table 4 of the Schedule HC, the least expensive plan available to the Appellant would have cost \$390 per month. Finding of Fact No. 12. Because, according to Table 3 of the Schedule HC, the Appellant could only have afforded to pay up to \$145 per month for health insurance (Finding of Fact No. 11), I find that the Appellant did not have access to affordable health insurance meeting MCC requirements on the private market.

The third question is whether the Appellant could have obtained affordable health insurance meeting MCC requirements through a government-subsidized program. Since the Appellant's income was less than 300% of the Federal Poverty Level, the Appellant qualified for subsidized health insurance. Finding of Fact No. 10. However, I find that subsidized insurance was not in fact affordable to the Appellant because the Appellant suffered a hardship. The Appellant credibly testified that their monthly expenses totaled \$2563 and that they additionally spent more than \$1,000 on car repairs in 2021. Finding of Fact No. 17. I find that the Appellant suffered a hardship and that if the Appellant had purchased health insurance, even on a subsidized basis, they likely would have experienced a serious deprivation of food, shelter, clothing or other necessities.

Reviewing the totality of the evidence, I conclude that the Appellant's twelve-month penalty should be waived in its entirety. See G.L. c. 111M, § 2 and 956 CMR 6.07(8) and 6.08(1)(e).

The Appellant should note that the waiver of their penalty is based upon the facts that I have determined to be true in 2021. The Appellant should not assume that a similar determination will be made for subsequent tax years should they again be assessed a penalty for failure to have health insurance.

PENALTY ASSESSED

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

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

NOTIFICATION OF YOUR RIGHT TO APPEAL TO COURT

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

Hearing Officer

cc: Connector Appeals Unit

Massachusetts Health Connector Appeals Unit

FINAL APPEAL DECISION: PA221103

Appeal Decision: The penalty is overturned in full.

Hearing Issue: Appeal of the 2022 Tax Year Penalty

Hearing Date: December 22, 2023

Decision Date: March 7, 2024

AUTHORITY

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

JURISDICTION

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

HEARING RECORD

The appellant appeared at the hearing which was held by telephone on December 22, 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 1, 2023 with attachments

Exhibit 2: Appeal Case Information from Schedule HC 2022

Exhibit 3: Notice of Hearing sent to Appellant dated November 17, 2023 for December 22, 2023 hearing

FINDINGS OF FACT

The record shows, and I so find:

1. Appellant, who filed a 2022 Massachusetts tax return as a single person with no dependents claimed, was 29 years old in 2022 (Exhibit 2, Testimony of Appellant).
2. Appellant resided in Suffolk County beginning in August, 2022 when the appellant moved to the Commonwealth (Testimony of Appellant, Exhibit 2).
3. Appellant had a Federal Adjusted Income of \$50,521 in 2022 (Testimony of Appellant, Exhibit 2).
4. After Appellant moved to Massachusetts, he was unemployed for over a month. The appellant then got a job as a bartender. A few weeks later, he took on a second job. As of mid-October, Appellant was earning about \$1,000 a week, or \$2,000 a month at each job (Testimony of Appellant).
5. Appellant did not know when he moved to the Commonwealth that he was required to have health insurance. Only one of the jobs he started in October offered health insurance. He did not enroll until 2023 when he learned that he had to have insurance (Testimony of Appellant).

6. Appellant has been assessed a penalty for November and December, 2022. He has appealed the assessment (Testimony of Appellant, Exhibits 1 and 2).

7. I take administrative notice of the financial information set forth in Tables 1 through 6 in the DOR 2022 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 2022. Table 2 sets forth income at 300% of the Federal poverty level and Tables 5 and 6 set forth tax penalties in effect for 2022.

8. According to Table 3 of Schedule HC for 2022, the appellant with no dependents claimed with an adjusted gross income of \$50,521 could afford to pay \$319 per month for health insurance. According to Table 4, Appellant, 29 years old and living in Suffolk County, could have purchased insurance for \$277 per month for a plan for an individual. Insurance on the individual market was affordable for the appellant (Schedule HC for 2022 Tables 3 and 4, Exhibit 2).

9. According to Table 2 of Schedule HC for 2022, Appellant, who earned more than \$38,640 per year, would have been ineligible for the ConnectorCare program based upon income (Table 2 of Schedule HC-2022, and Exhibit 2).

10. Appellant did not incur significant and unexpected increases in essential expenses as a result of domestic violence; the death of a spouse, family member, or partner who shared household expenses; the sudden responsibility for providing full care for an aging parent or other family member, or a natural or human-caused event which caused substantial personal damage in 2022 (Testimony of Appellant).

11. Appellant did not receive any shut-off notices for basic utilities in 2022 (Testimony of Appellant).

12. Appellant did not fall more than thirty days behind in rent payments in 2022 (Testimony of Appellant).

13. Appellant had the following monthly expenses for basic necessities in 2022: rent-\$975; electricity and heat-\$0.00; telephone-\$75; internet-\$30; food-310; clothing-\$0.00; car payment-\$188; insurance-\$163; gas-\$90; clothing-\$45. In addition, Appellant had \$3,000 in moving expenses and \$3,000 for broker fees, security deposit, and first and last month's rent. He paid \$80 a month for a laptop which he needed for work (Testimony of Appellant).

ANALYSIS AND CONCLUSIONS OF LAW

The issue on appeal is whether the tax penalty assessed by the Massachusetts Department of Revenue for 2022 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 has been assessed a penalty for November 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 2022, the appellant with no dependents claimed with an adjusted gross income of \$50,521 could afford to pay \$319 per month for health insurance. According to Table 4, Appellant, 29 years old and living in Suffolk County, could have purchased insurance for \$277 per month for a plan for an individual. Insurance on the individual market was affordable for the appellant. See Schedule HC for 2022 Tables 3, 4, and Exhibit 2.

Appellant was ineligible for enrollment in the ConnectorCare program. The appellant's annual Federal Adjusted Income was \$50,521, more than the income limit for one person (\$38,640). See 956 CMR 12.00 et. seq., Exhibit 2, and Table 2 of Schedule HC 2022. There is no evidence in the record that Appellant was eligible for any other government sponsored program.

Appellant was offered health insurance through one of his jobs. Having moved here from another state, the appellant did not realize that he was required to have insurance, so did not enroll. In 2023, when he learned of the requirement, he enrolled in the plan offered by his employer. See the testimony of the appellant which I find to be credible.

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

Appellant had the following expenses for basic necessities in 2022: rent-\$975; electricity and heat-\$0.00; telephone-\$75; internet-\$30; food-\$310; clothing-\$0.00; car payment-\$188; insurance-\$163; gas-\$90; clothing-\$45. In addition, Appellant had \$3,000 in moving expenses and \$3,000 for broker fees, security deposit, and first and last month's rent. He paid \$80 a month for a laptop which he needed for work. See the testimony of the appellant which I find to be credible.

Appellant's Federal Adjusted Gross Income in 2022 was \$50,521. Most of this was earned before the appellant moved to Massachusetts in August. Once he moved to the Commonwealth, he was unemployed for over a month. He then obtained one job at which he earned about \$2,000 a month gross. Several weeks later, Appellant obtained another job at which he also earned about \$2,000 a month. Appellant's expenses came to about \$2,000. It would appear that Appellant could have afforded the cost of purchasing health insurance. However, Appellant had no income in August and part of September. In addition, he had \$3,000 of moving expenses, and had to pay \$3,000 for security deposit, first month and last month's rent, and broker's fees. See Exhibit 2 and the testimony of the appellant which I find credible.

Given the period of unemployment, moving expenses, and rental expenses, 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 during November and December, 2022. This constitutes financial hardship, making health insurance unaffordable for the appellant. See also 956 CMR 6.08(3) which allows the consideration of financial issues raised by the appellant at hearing. I also note that Appellant when he moved to Massachusetts was unaware of the health insurance requirement. As soon as he learned of it, early in 2023, Appellant enrolled in a plan.

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 2022 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: 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 2022.

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: PA221157

Appeal Decision: Penalty Overturned in Full
Hearing Issue: Appeal of the 2022 Tax Year Penalty
Hearing Date: December 27, 2023
Decision Date: March 8, 2024

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 December 27, 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. The hearing record consists of the Testimony of Appellant, and the following documents which were admitted in evidence:

- Exhibit 1: Schedule HC for Healthcare from DOR
- Exhibit 2: Notice of Appeal and supporting documents dated June 7, 2023
- Exhibit 3: Correspondence from Health Connector dated November 24, 2023

FINDINGS OF FACT

The record shows, and I so find:

1. Appellant was 24 years old in 2022. Appellant filed a Massachusetts 2022 tax return as single with no dependents claimed (Exhibit 1).
2. Appellant lived and worked in Utah and in Minnesota from January through August 2022 (Exhibit 2 and Testimony of Appellant).
3. Appellant moved to Middlesex County Massachusetts in September 2022 (Exhibit 2 and Testimony of Appellant).
4. Appellant began working in Massachusetts in September 2022 (Testimony of Appellant).
5. Appellant had a ninety-day waiting period to become eligible for employer sponsored health insurance (Testimony of Appellant).
6. Appellant began coverage under employer sponsored health insurance that met Massachusetts Creditable Coverage standards in December 2022 (Exhibit 1 and Testimony of Appellant).
7. Appellant has been assessed a penalty for eight months for 2022 (Exhibit 1).
8. Appellant filed an appeal on June 7, 2023 (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 2022, 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 moved to Massachusetts in September 2023 and began health insurance that met Massachusetts Creditable Coverage standards in December 2023. Appellant began coverage immediately after the three-month grace period. See Exhibit 1, 2 and Testimony of Appellant, which I find to be credible.

I find the penalty assessed against Appellant for 2022 should be waived in its entirety.

PENALTY ASSESSED

Number of Months Appealed: 8

Number of Months Assessed: 0

The Connector has notified the Department of Revenue that, pursuant to its decision, you should be assessed a penalty for Tax Year 2022 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 2022.

NOTIFICATION OF YOUR RIGHT TO APPEAL TO COURT

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

Massachusetts Health Connector Appeals Unit

FINAL APPEAL DECISION: PA221159

Appeal Decision: Penalty Overturned in Full
Hearing Issue: Appeal of the 2022 Tax Year Penalty
Hearing Date: December 27, 2023
Decision Date: March 13, 2024

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 December 27, 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. 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 20, 2023
- Exhibit 3: Correspondence from Health Connector dated November 24, 2023

FINDINGS OF FACT

The record shows, and I so find:

1. Appellant was 30 years old in 2022. Appellant filed a Massachusetts 2022 tax return as single with no dependents claimed (Exhibit 1).
2. Appellant resided in Suffolk County, MA in 2022 (Exhibit 1).
3. Appellant had an Adjusted gross income of \$26,893 for 2022 (Testimony of Appellant and Exhibit 1).
4. During January through June, Appellant had money deducted from Appellant's paycheck and was covered by employer sponsored health insurance (Exhibit 2 and Testimony of Appellant).
5. Appellant's employer assured Appellant that the insurance was good coverage even though it did not meet the Massachusetts minimum creditable coverage requirements (Testimony of Appellant).
6. When Appellant became sick with Covid 19 and pneumonia, Appellant learned that Appellant had very limited coverage and Appellant incurred many medical expenses (Testimony of Appellant).
7. Appellant's employer sponsored insurance during January through June had a deductible of \$7,000, and Out-of-Pocket limits of \$8,700 (Exhibit 2).
8. Appellant's employer sponsored insurance during January through June had limited days of hospital coverage during the coverage year and only covered a certain amount per day (Exhibit 2).
9. Appellant struggled to pay for necessary expenses and for medical expenses in 2022 (Testimony of Appellant).

10. Appellant left the job in June and located a new job (Testimony of Appellant)
11. Appellant's new employer offered health insurance that met Massachusetts Creditable Coverage standards and Appellant was covered from October through December 2022(Exhibit 1 and Testimony of Appellant).
12. Appellant's Appeal Case Information from Schedule HC 2022 shows that Appellant was uninsured for nine months in 2022 (Exhibit 1).
13. Appellant has been assessed a penalty for six months for 2022 (Exhibit 1).
14. Appellant filed an appeal on April 2, 2023 (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. 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 six months. From January through June, Appellant was covered by employer sponsored health insurance and money was deducted from Appellant's paycheck. The coverage did not meet Massachusetts Creditable Coverage standards due to a deductible that was higher than permitted; caps on benefits for the year; and coverage of only a fixed dollar amount per day or stay in the hospital. The coverage did not substantially meet the Massachusetts Creditable Coverage standards. Appellant struggled financially and struggled to pay the medical bills. Appellant found another job with employer sponsored health insurance that met the Massachusetts standards and began coverage in October 2022. See 956 CMR 6, 2022 Massachusetts Schedule HC Healthcare, Exhibit 2 and Testimony of Appellant, which I find to be credible. Given these circumstances, I find the penalty assessed against Appellant for 2022 should be waived in its entirety.

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.

Massachusetts Health Connector Appeals Unit

FINAL APPEAL DECISION: PA22-1179

Appeal Decision: The tax penalty is upheld.

Hearing Issue: Appeal of the 2022 Tax Year Penalty

Hearing Date: January 11, 2024

Decision Date: January 29, 2024

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 Massachusetts General Laws Chapter 111M, Section 4 and 956 CMR 6.07.

HEARING RECORD

The Appellant was a married person filing jointly with no dependents claimed in 2022. The Appellant appeared at the hearing, which was held by telephone on January 11, 2024. The procedures to be followed during the hearing were reviewed with the Appellant, who was then sworn in. Exhibits were marked and admitted into evidence with no objection from the Appellant. I left the record open for the Appellant to provide additional evidence, which the Appellant so provided. The hearing record consists of the Appellant's testimony and the following documents that were admitted into evidence:

- Exhibit 1: Appeal Case Information from Schedule HC 2022 (1 page).
- Exhibit 2: The Statement of Grounds for Appeal and supporting documentation submitted by the Appellant (4 pages).
- Exhibit 3: Health Connector Appeals Unit Notice of Hearing on January 11, 2024 (2 pages).
- Exhibit 4: Open Record Request
- Exhibit 5: Appellant's Response to Open Record Request, received by the Health Connector on January 24, 2024 (6 pages)

FINDINGS OF FACT

The record shows, and I so find:

1. The Appellant filed their federal income tax return as a married person filing jointly with no dependents claimed. (Exhibit 1).

2. The Appellant turned 28 in March 2022, and the Appellant's spouse turned 26 in September 2022. (Exhibit 1).
3. The Appellant lived in Essex County in 2022. (Exhibit 1).
4. According to the Appellant's Schedule HC, the Appellant's federal Adjusted Gross Income ("AGI") for 2022 was \$112,256. (Exhibit 1).
5. According to the Appellant's Schedule HC, the Appellant did not have health insurance that met Massachusetts' minimum creditable coverage (MCC) requirements from January through September 2022. The Appellant was assessed a 6-month tax penalty. (Exhibit 1). Also according to the Appellant's Schedule HC, the Appellant's spouse had health insurance that met MCC standards and was not assessed a tax penalty in 2022. (Exhibit 1).
6. The Appellant checked off the following box on their Statement of Grounds for Appeal, "During 2022, the expense of purchasing health insurance would have caused a serious deprivation of food, shelter, clothing, or other necessities." (Exhibit 2).
7. I take administrative notice of the financial information set forth in Tables 1 through 6 in the Department of Revenue ("DOR") 2022 Massachusetts Schedule HC Health Care Instruction 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 2022. Table 2 sets forth income at 300% of the federal poverty level, and Tables 5 and 6 set forth tax penalties in effect for 2022.
8. The Appellant's AGI of \$112,256 was more than 300% of the Federal Poverty Level, which was \$52,260 for a family of two in 2022. (See Table 2 of Schedule HC-2022 and 956 CMR 12.04).
9. According to Table 3 of Schedule HC for 2022, the Appellant, who filed their federal tax return as a married person filing jointly with no dependents and claimed an adjusted gross income of \$112,256, could have afforded to pay \$748 per month for health insurance. The calculation is as follows: Table 3 states that a married person filing jointly with no dependents claimed whose 2022 AGI was \$69,681 and above could have spent 8% of their earnings on health insurance; 8% of \$112,256 is \$8,980, and one-twelfth of \$8,980 is \$748.
10. According to Table 4 of Schedule HC for 2022, the least expensive health insurance plan available on the private market to the Appellant, an individual age 27 living in Essex County in January 2022, cost \$554 for per month for a married couple whose older spouse was 27 and \$277 for an individual.
11. The Appellant testified that they did not have insurance from January to September 2022 because their employer, a small restaurant, did not offer health insurance, and they could not afford to pay for the plans that were available to them through the Health Connector.

12. The Appellant testified that their spouse had health insurance from January to September 2022 because they had not yet turned 26 and were covered by their parents' plan.
13. The Appellant testified that they and their spouse had health insurance in October through December 2022 through their spouse's employer. The Appellant testified that their spouse's employer began offering health insurance on a trial basis in October 2022.
14. The Appellant testified that they were a salaried employee throughout 2022 and earned \$65,000 per year. The Appellant testified that their spouse was an hourly retail employee and earned the balance of the couple's income.
15. The Appellant testified that in 2022, their monthly take-home pay was \$4,000, and their spouse's monthly take-home pay was around \$2,000. This is a combined take-home pay of approximately \$6,000.
16. The Appellant testified that they estimated that they and their spouse had the following monthly expenses in 2022: \$2,050 for rent; \$250-\$350 for utilities; \$130 for Internet; \$355 for car payment; \$100-200 for gas; \$200 for cellphone; \$300-\$350 for food; \$80-\$100 for household supplies and toiletries; and \$200 for clothing. Using the higher amount for each of these expenses, the Appellant's total estimated monthly expenses in 2022 were \$3,935.
17. The Appellant testified that they did not know whether their spouse contributed financially to the health insurance in which they were enrolled through their parents in the January to September 2022 time period.
18. The Appellant testified that they had credit card debt in 2022 and that the credit card debt made it difficult for them to afford health insurance. The Appellant testified that they and their spouse had a joint credit card that had a balance of approximately \$4,000 to \$5,000, most of which was incurred for veterinary bills for their cats in 2021.
19. The Appellant testified that they also had a personal credit card with a balance of approximately \$10,000. The Appellant testified that they incurred this debt when they were living in California and had to use a credit card for living expenses and for travel expenses in connection with their mother's death.
20. The Appellant testified that they and their spouse currently have health insurance through the Health Connector.
21. I left the record open for the Appellant to provide copies of their credit card statements from January 2022 through December 2022. I told the Appellant that the credit card statements would help me understand how much the Appellant charged to and paid on their credit cards in 2022. (Exhibit 4).

22. In response to my open record request, the Appellant submitted a year-end summary of one credit card showing that they charged \$5,586.02 to it in 2022. The summary does not show the Appellant's total credit card debt or the amount of monthly payments the Appellant made on the credit card. (Exhibit 5).

ANALYSIS AND CONCLUSIONS OF LAW

The case is before me on the Appellant's appeal from the DOR's assessment of a 6-month tax penalty because the Appellant's tax forms indicated that they did not have health insurance that met Massachusetts' minimum creditable coverage ("MCC") standards for the months of January through September 2022. The issue to be decided is whether the tax penalty should be waived in whole or in part.

I begin by summarizing the legal rules underlying this appeal. The tax penalty was enacted by the Massachusetts Legislature to encourage compliance with G.L. c. 111M, § 2, also called the "individual mandate." The mandate requires every adult resident of Massachusetts to obtain health insurance coverage "[s]o long as it is deemed affordable" under the schedule set by the board of directors for the Commonwealth Health Insurance Connector Authority ("Connector"). G.L. c. 111M, § 2(a). Any health insurance policy must also satisfy the Massachusetts MCC standards for a taxpayer to avoid the penalty.

If these requirements are not met, a tax penalty is assessed for each of the months that the individual did not have health insurance as required by the individual mandate. There is, however, 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, § 2(b) and Administrative Information Bulletin 03-10: Guidance Regarding M.G.L. c. 111M and M.G.L. c. 176Q, as implemented by 956 CMR 6.00 (clarifying that for purposes of penalty calculation, taxpayers will not be subject to penalty if they had lapses in coverage consisting of three or fewer consecutive calendar months). The Connector's regulations also provide for a waiver of the tax penalty in cases of hardship. See 956 CMR 6.07-08.

To determine if the penalty should be waived in whole or in part, there must be a determination as to whether affordable insurance that met MCC standards was available to the Appellant through a government-subsidized program, through employment, or through the private market. If affordable insurance was available, it must be determined whether such insurance was not in fact affordable to the Appellant because the Appellant experienced a hardship as defined in 956 CMR 6.08. Each of these issues is addressed in turn.

First, I conclude that the Appellant could not have obtained affordable health insurance meeting MCC standards through a government-subsidized program because the Appellant's income exceeded 300% of the Federal Poverty Level. Finding of Fact No. 8.

Second, I conclude that the Appellant did not have access to health insurance through employment because they credibly testified that neither their employer nor their spouse's employer offered health insurance. Findings of Fact Nos. 11 and 13.

Third, I conclude that the Appellant had access to affordable health insurance meeting MCC standards through the private market. According to Table 3 of the Schedule HC, the Appellant could have afforded to spend \$748 per month on health insurance, and according to Table 4 of the Schedule HC, the Appellant could have purchased a plan for the Appellant and their spouse for \$554 per month or for the Appellant individually for \$277 per month. Findings of Fact Nos. 9 and 10. The Appellant testified that they could not afford to pay for health insurance, in part because of their credit card debt, but I find that the Appellant did not establish that they suffered a financial hardship. The Appellant testified that they and their spouse took home approximately \$6,000 per month and that their estimated monthly expenses were \$3,935. Findings of Fact Nos. 15 and 16. The Appellant did not submit evidence in response to my open record request that showed how much they paid on their credit card debt per month in 2022. (Exhibit 5). As a result, I cannot conclude that the Appellant could not afford health insurance on the private market in 2022. Rather, the record shows that after basic expenses were deducted from the Appellant's earnings, they had sufficient funds to pay for health insurance on the private market.

Reviewing the totality of the evidence, I find that it is appropriate to uphold the Appellant's 6-month tax penalty in its entirety because the Appellant had access to affordable health insurance meeting MCC standards through the private market. See G.L. c. 111M, § 2 and 956 CMR 6.07(8).

PENALTY ASSESSED

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

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 2022.

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: PA22-1278

Appeal Decision: Appeal Denied.

Hearing Issue: Appeal of the 2022 Tax Year Penalty

Hearing Date: January 22, 2024

Decision Date: February 27, 2024

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 22, 2024. The procedures to be followed during the hearing were reviewed with the Appellant who was then sworn in. Exhibits were marked and admitted into evidence with no objection from the Appellant. The hearing record consists of the Appellant's testimony and the following documents which were admitted into evidence:

- Exhibit 1: Health Connector Appeals Unit Notice of Hearing dated December 14, 2023.
- Exhibit 2: Appeal Case Information from Schedule HC-2022.
- Exhibit 3: Statement of Grounds for Appeal signed on May 17, 2023.
- Exhibit 4: Appellant's letter in support of the Appeal, with attachments.
- Exhibit 5: Health Connector Record Open Form dated January 22, 2024.
- Exhibit 6: Health Connector additional documentation submitted on January 31, 2024.
- Exhibit 7: The Appellant's E-mail submitted on February 20, 2024.

FINDINGS OF FACT

The record shows, and I so find:

1. The Appellant, age 26 in October 2022 filed their 2022 Federal Income Tax return as a single person with no dependents claimed (Exhibit 2).
2. The Appellant lived in Franklin County, MA in 2022 (Exhibit 2).
3. The Appellant's Federal Adjusted Gross Income for 2022 was \$33,160 (Exhibit 2).
4. The Appellant had health insurance for the period of January and February but did not have insurance for the period of March through December in tax year 2022 (Exhibit 2).

5. The Appellant has been assessed a seven-month tax penalty for 2022. The Appellant filed an appeal of the assessment in May 2023 (Exhibits 2, 3, 4).
6. I take administrative notice of the financial information set forth in Tables 1 through 6 in the DOR 2022 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 2022. Table 2 sets forth income at 300% of the Federal poverty level and Tables 5 and 6 set forth tax penalties in effect for 2022.
7. In accordance with Table 3 of Schedule HC for 2022, the Appellant filing the Federal tax return as a single person with no dependents claimed, with an annual adjusted gross income of \$33,160 could afford to pay \$138 per month for health insurance. In accordance with Table 4, the Appellant, age 26, living in Franklin County, could have purchased private insurance for \$295 per month for a plan (Schedule HC for 2022). Private insurance was not affordable for the Appellants in 2022.
8. The Appellant would have been eligible for ConnectorCare coverage in 2022 because the Appellant's income of \$33,160 was less than 300% of the federal poverty level, which was \$38,640 for a household of one in 2022 (See Table 2 of Schedule HC-2022 and 956 CMR 12.04).
9. The Appellant submitted their appeal and wrote that Health Connector did not process their application correctly and the Appellant did not know that they were uninsured until December 2022. The Appellant also indicated that they got multiple notices with conflicting information. The Appellant did not allege financial hardship as a reason for their failure to have health insurance (Exhibits 3, 4).
10. The Appellant testified that they applied for insurance with their domestic partner. The partner was eligible for MassHealth. The Appellant said that they thought they were all set too. The Appellant did not offer any evidence or testimony regarding financial hardship (Exhibits 3, 4, 7 and Appellant Testimony).
11. The record was left open until February 5, 2024 to obtain additional information from Health Connector regarding the Appellant's application and eligibility for tax year 2022 since the Appellant was in fact insured for the months of January and February 2022 (Exhibits 2, 5).
12. Health Connector submitted fifty-eight pages of information on January 31, 2022 (Exhibit 6).
13. On October 18, 2021 the Appellant filed an application for health insurance for tax year 2022. The Appellant reported that they lived with a partner and the two persons applied as separate households. The Appellant's partner was determined eligible for MassHealth. The Appellant was determined eligible for ConnectorCare, and the Appellant enrolled in a plan (Exhibit 6, pp. 11-23).
14. On January 30, 2022 Health Connector issued a Warning Notice to the Appellant informing the Appellant that their premium payment of \$131.74 was overdue (Exhibit 6, pp. 25-27).
15. On February 21, 2022 Health Connector issued a Final Termination Notice advising the Appellant that their ConnectorCare would be terminated if they failed to pay their overdue balance by February 23, 2022 (Exhibit 6, pp. 29-31).

16. The Appellant's Payment History verifies that the Appellant submitted payments for dental coverage beginning in March 2022, but the Appellant did not pay a ConnectorCare premium (Exhibit 6, p. 55).
17. The Appellant's Enrollment History verifies that Applications were updated on February 21, 2022, March 1, 2022, March 3, 2022, March 24, 2022, and April 14, 2022. All Applications were cancelled, and the Appellant did not enroll (Exhibit 6, p. 53).

ANALYSIS AND CONCLUSIONS OF LAW

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

The Appellant filed their 2022 income tax return as a single person with no dependents. The Appellant had ConnectorCare health insurance in January and February but did not have health insurance for the period of March through December in tax year 2022 and consequently has been assessed a seven-month penalty. The Appellant filed an appeal in May 2023 and listed "other" as the basis for the appeal on the Statement of Grounds for Appeal.

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

In accordance with Table 3 of Schedule HC for 2022, the Appellant filing the Federal tax return as a single person with no dependents claimed with an adjusted gross income of \$33,160 could afford to pay \$138 per month for health insurance. According to Table 4, the Appellant, age 26, living in Franklin County, could have purchased a private insurance plan for \$295 month. See Schedule HC for 2022. Private insurance was not affordable for the Appellants in tax year 2022.

On October 18, 2021 the Appellant was determined eligible for ConnectorCare for the period beginning January 1, 2022 because the Appellant's income of \$33,160 was less than 300% of the federal poverty level for a household of one, which was \$38,640 in tax year 2022. The Appellant enrolled in a plan with a monthly premium of \$131.74. (See Table 2 of Schedule HC 2022 and 956 CMR 12.04 for eligibility criteria. Since affordable insurance was available to the Appellant in 2022, it must be determined whether the Appellant experienced a financial hardship pursuant to 956 CMR 6.08 (1).

The Appellant did not allege financial hardship on their Statement of Grounds for Appeal. The Appellant alleged that Health Connector failed to process their application correctly and that they were unaware until late in tax year 2022 that they were uninsured. Documentation provided by the Health Connector during the record open period contradicts this testimony. As noted above, the Appellant enrolled in a ConnectorCare plan effective

January 1, 2022. The Appellant failed to pay their monthly premiums despite receiving a Warning Notice on January 30, 2022 and a Final Termination notice on February 21, 2022. Massachusetts residents are required to obtain and maintain creditable coverage so long as it is deemed affordable. See Massachusetts General Laws, Chapter 111M, Section 2. The Appellant obtained coverage but failed to maintain the coverage by paying their monthly premiums. There is nothing in this administrative record to indicate that the Appellant experienced significant financial hardship as the reason for failing to maintain their ConnectorCare coverage. 956 CMR 6.08. The Appellant's seven-month penalty is upheld. See 956 CMR 6.08.

PENALTY ASSESSED

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

The Connector has notified the Department of Revenue that, pursuant to its decision, you should be assessed a penalty for Tax Year 2022 for the amount equal to one half of the lowest cost health insurance plan available to you for each month you have been assessed the penalty, as listed above, plus applicable interest back to the due date of the return without regard to extension.

NOTIFICATION OF YOUR RIGHT TO APPEAL TO COURT

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

Cc: Connector Appeals Unit

Massachusetts Health Connector Appeals Unit

FINAL APPEAL DECISION: PA22-1481

Appeal Decision: The tax penalty is overturned.

Hearing Issue: Appeal of the 2022 Tax Year Penalty

Hearing Date: March 12, 2024

Decision Date: March 21, 2024

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 Massachusetts General Laws Chapter 111M, Section 4 and 956 CMR 6.07.

HEARING RECORD

The Appellant was a single person with no dependents in 2022. The Appellant appeared at the hearing, which was held by telephone on March 12, 2024. The procedures to be followed during the hearing were reviewed with the Appellant, who was then sworn in. Exhibits were marked and admitted into evidence with no objection from the Appellant. The hearing record consists of the testimony of the Appellant and the following documents that were admitted into evidence:

- Exhibit 1: Appeal Case Information from Schedule HC 2022 (1 page).
- Exhibit 2: Letter from Appellant (4 pages).
- Exhibit 3: Health Connector Appeals Unit Notice of Hearing on March 12, 2024 (2 pages).
- Exhibit 4: Final Appeal Decision PA 19-884 (4 pages)
- Exhibit 5: Final Appeal Decision PA 21-2489 (4 pages)

FINDINGS OF FACT

The record shows, and I so find:

1. The Appellant filed their federal income tax return as a single person with no dependents claimed. (Exhibit 1).
2. The Appellant turned 35 in August 2022. (Exhibit 1).
3. The Appellant lived in Essex County in 2022. (Exhibit 1).

4. According to the Appellant's Schedule HC, the Appellant's federal Adjusted Gross Income ("AGI") for 2022 was \$27,815. (Exhibit 1).
5. According to the Appellant's Schedule HC, the Appellant did not have health insurance that met Massachusetts' minimum creditable coverage (MCC) requirements for the months of January to October 2022. The Appellant was assessed a 7-month tax penalty. (Exhibit 1).
6. The Appellant submitted a letter stating that they did not have health insurance in 2022 because they were employed by a delivery service that did not offer insurance, and they could not afford health insurance from their income. (Exhibit 2).
7. I take administrative notice of the financial information set forth in Tables 1 through 6 in the Department of Revenue ("DOR") 2022 Massachusetts Schedule HC Health Care Instruction 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 2022. Table 2 sets forth income at 300% of the federal poverty level, and Tables 5 and 6 set forth tax penalties in effect for 2022.
8. The Appellant's AGI of \$27,815 was less than 300% of the Federal Poverty Level, which was \$38,640 for a single person in 2022. (See Table 2 of Schedule HC-2022 and 956 CMR 12.04).
9. According to Table 3 of Schedule HC for 2022, the Appellant, who filed their federal tax return as a single person with no dependents and claimed an adjusted gross income of \$27,815, could have afforded to pay \$97 per month for health insurance. The calculation is as follows: Table 3 states that a single person with no dependents whose 2022 AGI was between \$25,761 and \$32,200 could have spent 4.2% of their earnings on health insurance; 4.2% of \$27,815 is \$1,168, and one-twelfth of \$1,168 is \$97.
10. According to Table 4 of Schedule HC for 2022, the least expensive health insurance plan available on the private market to the Appellant, a single person age 34 living in Essex County in January 2022, cost \$290 per month.
11. The Appellant successfully appealed tax penalties for failing to have health insurance in 2019 and 2021. Exhibits 4 and 5.
12. The Appellant testified that from January to July or August 2022, they worked as a delivery person and that their income fluctuated, ranging from \$100 to \$600 per week. The Appellant testified that their employer did not offer insurance.
13. The Appellant testified that in July or August, they began working at a retail job from which they obtained health insurance as soon as they were able to enroll in it.
14. The Appellant testified that they estimated that they had the following monthly expenses in 2022: \$875 for rent; \$350 for utilities, including heat, phone, and Internet; \$100 for car

insurance; \$650 on food (based on an average of \$600 to \$700 per month); and \$100 for household supplies and toiletries. These expenses total \$2,075. The Appellant testified that they have a hyperactive metabolism and need to eat approximately 5,000 to 6,000 calories per day to maintain body weight.

15. The Appellant testified that they did not think of getting subsidized health insurance in 2022 because they could not have afforded it. The Appellant testified that during 2022, they needed to borrow money from family.

16. The Appellant testified that they have health insurance now and had it throughout 2023.

ANALYSIS AND CONCLUSIONS OF LAW

The case is before me on the Appellant's appeal from the DOR's assessment of a seven-month tax penalty because the Appellant's tax forms indicated that they did not have health insurance that met Massachusetts' minimum creditable coverage ("MCC") standards during the months of January through October 2022. The issue to be decided is whether the tax penalty should be waived in whole or in part.

I begin by summarizing the legal rules underlying this appeal. The tax penalty was enacted by the Massachusetts Legislature to encourage compliance with G.L. c. 111M, § 2, also called the "individual mandate." The mandate requires every adult resident of Massachusetts to obtain health insurance coverage "[s]o long as it is deemed affordable" under the schedule set by the board of directors for the Commonwealth Health Insurance Connector Authority ("Connector"). G.L. c. 111M, § 2(a). Any health insurance policy must also satisfy the Massachusetts MCC standards for a taxpayer to avoid the penalty.

If these requirements are not met, a tax penalty is assessed for each of the months that the individual did not have health insurance as required by the individual mandate. There is, however, 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, § 2(b) and Administrative Information Bulletin 03-10: Guidance Regarding M.G.L. c. 111M and M.G.L. c. 176Q, as implemented by 956 CMR 6.00 (clarifying that for purposes of penalty calculation, taxpayers will not be subject to penalty if they had lapses in coverage consisting of three or fewer consecutive calendar months). The Connector's regulations also provide for a waiver of the tax penalty in cases of hardship. See 956 CMR 6.07-08.

To determine if the penalty should be waived in whole or in part, there must be a determination as to whether affordable insurance that met MCC standards was available to the Appellant through the private market, through employment, or through a government-subsidized program. If affordable insurance was available, it must be determined whether such insurance was not in fact affordable to the Appellant because the Appellant experienced a hardship as defined in 956 CMR 6.08. Each of these issues is addressed below.

First, I conclude that the Appellant did not have access to affordable health insurance meeting MCC standards on the private market. According to Table 3 of the Schedule HC, the Appellant could have

afforded to spend \$97 per month on health insurance, but according to Table 4 of the Schedule HC, the least expensive health insurance plan meeting MCC standards available to the Appellant would have cost \$290 per month and was therefore unaffordable to them. Findings of Fact Nos. 9 and 10.

Second, I conclude that the Appellant did not have access to affordable health insurance meeting MCC standards through employment. The Appellant credibly testified that their first employer did not offer health insurance and that they enrolled in health insurance with their second employer as soon as they were able to do so. Findings of Fact Nos. 12 and 13.

Third, I conclude that the Appellant theoretically had access to affordable health insurance meeting MCC standards through a government-subsidized program because their income was less than 300% of the FPL. Finding of Fact No. 8. The Appellant testified that they did not think of purchasing government-subsidized health insurance because they could not have afforded it. Finding of Fact No. 15. I find the Appellant's testimony to be credible because they testified that their average monthly expenses were \$2,075 and that their income fluctuated between \$100 to \$600 per week. Findings of Fact Nos. 12 and 14. I find that the Appellant did not have effective access to government-sponsored health insurance meeting MCC standards because had the Appellant purchased such insurance, it seems likely that in months when their income was low, they would have suffered a serious deprivation of food, shelter, clothing, or other necessities.

Reviewing the totality of the evidence, I find that it is appropriate to waive the Appellant's 7-month tax penalty because they did not have effective access to affordable health insurance meeting MCC standards through employment, the private market, or a government-subsidized program. See G.L. c. 111M, § 2 and 956 CMR 6.07(8) and 6.08(1)(e).

PENALTY ASSESSED

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

If the number of months assessed is zero (0) because your penalty has been overturned, the Connector has notified the Department of Revenue that you should NOT be assessed a penalty for Tax Year 2022.

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: PA22-1482

Appeal Decision: The tax penalty is overturned.

Hearing Issue: Appeal of the 2022 Tax Year Penalty

Hearing Date: March 12, 2024

Decision Date: March 25, 2024

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 Massachusetts General Laws Chapter 111M, Section 4 and 956 CMR 6.07.

HEARING RECORD

The Appellant was a single person with one dependent in 2022. The Appellant appeared at the hearing, which was held by telephone on March 12, 2024. The procedures to be followed during the hearing were reviewed with the Appellant, who was then sworn in. Exhibits were marked and admitted into evidence with no objection from the Appellant. The hearing record consists of the testimony of the Appellant and the following documents that were admitted into evidence:

- Exhibit 1: Appeal Case Information from Schedule HC 2022 (1 page).
- Exhibit 2: Letter from Appellant seeking reopening of appeal (1 page).
- Exhibit 3: Health Connector Appeals Unit Notice of Hearing on March 12, 2024 (2 pages).
- Exhibit 4: Final Appeal Decision PA 20-1039 (7 pages)

FINDINGS OF FACT

The record shows, and I so find:

1. The Appellant filed their federal income tax return as a single person with one dependent claimed. (Exhibit 1).
2. The Appellant turned 39 in May 2022. (Exhibit 1).
3. The Appellant lived in Norfolk County in 2022. (Exhibit 1).

4. According to the Appellant's Schedule HC, the Appellant's federal Adjusted Gross Income ("AGI") for 2022 was \$76,665. (Exhibit 1).
5. According to the Appellant's Schedule HC, the Appellant did not have health insurance that met Massachusetts' minimum creditable coverage (MCC) requirements for any month in 2022. The Appellant was assessed a 12-month tax penalty. (Exhibit 1).
6. The Appellant submitted a letter to the Health Connector on September 8, 2023 asking that their appeal, which had been dismissed for failure to submit a statement of grounds, be reopened. (Exhibit 2).
7. I take administrative notice of the financial information set forth in Tables 1 through 6 in the Department of Revenue ("DOR") 2022 Massachusetts Schedule HC Health Care Instruction 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 2022. Table 2 sets forth income at 300% of the federal poverty level, and Tables 5 and 6 set forth tax penalties in effect for 2022.
8. The Appellant's AGI of \$76,665 was more than 300% of the Federal Poverty Level, which was \$52,260 for a family of two in 2022. (See Table 2 of Schedule HC-2022 and 956 CMR 12.04).
9. According to Table 3 of Schedule HC for 2022, the Appellant, who filed their federal tax return as a single person with one dependent and claimed an adjusted gross income of \$76,665, could have afforded to pay \$511 per month for health insurance. The calculation is as follows: Table 3 states that a head of household with one dependent whose 2022 AGI was \$69,681 or more could have spent 8% of their earnings on health insurance; 8% of \$76,665 is \$6,133, and one-twelfth of \$6,133 is \$511.
10. According to Table 4 of Schedule HC for 2022, the least expensive health insurance plan available on the private market to the Appellant, a single person age 38 with one dependent living in Norfolk County in January 2022, cost \$756 per month for a family plan and \$298 for an individual plan.
11. The Appellant successfully appealed a 2020 tax penalty. Exhibit 4.
12. The Appellant testified that at the beginning of 2022, they worked for a headhunter and that the headhunter offered health insurance, but the insurance did not meet MCC requirements. The Appellant testified that they paid \$400 per month for this insurance, but they still had to pay \$9,000 for emergency surgery and barely had enough money to buy food. The Appellant testified that this substandard health insurance prompted them to leave the job with the headhunter.
13. The Appellant testified that they left their job with the headhunter and began working as a union laborer in March 2022 or thereabouts. The Appellant testified that they were not eligible to receive health insurance through the union until they had worked 800 hours. The Appellant

testified that they become eligible to enroll and did enroll in health insurance through their union in February 2023 and are still enrolled in that health insurance.

14. The Appellant testified that they have two children and that they pay court-ordered child support of \$150 per week for one child and \$50 in child support (not court-ordered) for the other child. This amounts to \$866 in child support payments each month.
15. The Appellant testified that they have an agreement with the mother of one of their two children to alternate the years in which they claim the child as a dependent on their tax returns. The Appellant testified that in 2022, it was their year to claim that child on their tax returns.
16. The Appellant testified that they estimated they had the following monthly expenses in 2022, in addition to the aforementioned child support: \$1400 for rent; \$100 for electricity (based on an estimate of \$50 to \$150 per month); \$350 for cable and Internet; \$250 for a car payment; \$250 for gas (based on an estimate of \$100 to \$400 per month); \$200 for car insurance (based on an estimate of \$150 to \$250 per month); \$433 for food (based on an estimate of \$100 per week); \$125 per month for work clothes; and \$100 for household supplies and toiletries. These expenses total \$3,208 per month.
17. The Appellant testified that in 2022, they were also paying down the \$9,000 debt for their emergency surgery and that they still owe approximately \$2,500 on that debt.
18. The Appellant testified that their work as a union laborer was inconsistent in 2022 and continues to be inconsistent. The Appellant testified that they typically work at a construction job for three to four months and are then laid off. The Appellant testified that it can be two weeks to three months or more before they get their next job.

ANALYSIS AND CONCLUSIONS OF LAW

The case is before me on the Appellant's appeal from the DOR's assessment of a 12-month tax penalty because the Appellant's tax forms indicated that they did not have health insurance that met Massachusetts' minimum creditable coverage ("MCC") standards during any month in 2022. The issue to be decided is whether the tax penalty should be waived in whole or in part.

I begin by summarizing the legal rules underlying this appeal. The tax penalty was enacted by the Massachusetts Legislature to encourage compliance with G.L. c. 111M, § 2, also called the "individual mandate." The mandate requires every adult resident of Massachusetts to obtain health insurance coverage "[s]o long as it is deemed affordable" under the schedule set by the board of directors for the Commonwealth Health Insurance Connector Authority ("Connector"). G.L. c. 111M, § 2(a). Any health insurance policy must also satisfy the Massachusetts MCC standards for a taxpayer to avoid the penalty.

If these requirements are not met, a tax penalty is assessed for each of the months that the individual did not have health insurance as required by the individual mandate. There is, however, 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, § 2(b) and Administrative Information Bulletin 03-10: Guidance Regarding M.G.L. c. 111M and M.G.L. c. 176Q, as implemented by 956 CMR 6.00 (clarifying that for purposes of penalty calculation, taxpayers will not be subject to penalty if they had lapses in coverage consisting of three or fewer consecutive calendar months). The Connector's regulations also provide for a waiver of the tax penalty in cases of hardship. See 956 CMR 6.07-08.

To determine if the penalty should be waived in whole or in part, there must be a determination as to whether affordable insurance that met MCC standards was available to the Appellant through employment, through a government-subsidized program, or through the private market. If affordable insurance was available, it must be determined whether such insurance was not in fact affordable to the Appellant because the Appellant experienced a hardship as defined in 956 CMR 6.08. Each of these issues is addressed below.

First, I conclude that the Appellant did not have access to affordable health insurance meeting MCC standards through employment. The Appellant credibly testified that the insurance offered by their headhunter employer at the beginning of 2022 did not meet MCC standards and that they were not eligible to enroll in health insurance through their union job until February 2023, after they had worked 800 hours. Findings of Fact Nos. 12 and 13.

Second, I conclude that the Appellant did not have access to affordable health insurance meeting MCC standards through a government-subsidized program because their AGI exceeded 300% of the Federal Poverty Level. Finding of Fact No. 8.

Third, I conclude that the Appellant did not have effective access to affordable health insurance meeting MCC standards on the private market. According to Table 3 of the Schedule HC, the Appellant could have afforded to spend \$511 per month on health insurance, but according to Table 4 of the Schedule HC, the least expensive family health insurance plan meeting MCC standards available to the Appellant would have cost \$756 per month and was therefore unaffordable to them. Findings of Fact Nos. 9 and 10. According to Table 4 of the Schedule HC, the Appellant theoretically could have afforded to purchase an individual health insurance plan for \$298 per month, but I find that in reality, this plan also would not have been affordable to the Appellant because the Appellant suffered a hardship. Although the Appellant filed taxes as a single person with one dependent, they credibly testified that they have two children and that they pay a total of \$866 per month in child support. Finding of Fact No 14. I find that the Appellant's child support obligations, plus their inconsistent income, rendered an individual plan unaffordable to the Appellant during the months in which they worked as a union laborer. Finding of Fact No. 18. Had the Appellant purchased an individual plan in the weeks or months that they were between union jobs, they likely would have experienced a serious deprivation of food, shelter, clothing, or other necessities. I further note that during the early months of 2022, when the Appellant worked as a headhunter, they were already paying \$400 for employer-sponsored health insurance that did not meet MCC standards, and paying an additional \$298 for an individual health insurance plan on the private market would not have been affordable for them.

Reviewing the totality of the evidence, I find that it is appropriate to waive the Appellant's 12-month tax penalty because they did not have effective access to affordable health insurance meeting MCC standards through employment, the private market, or a government-subsidized program. See G.L. c. 111M, § 2 and 956 CMR 6.07(8) and 6.08(1)(e).

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 2022.

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: PA22-1484

Appeal Decision: The tax penalty is upheld.

Hearing Issue: Appeal of the 2022 Tax Year Penalty

Hearing Date: March 12, 2024

Decision Date: March 25, 2024

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 Massachusetts General Laws Chapter 111M, Section 4 and 956 CMR 6.07.

HEARING RECORD

The Appellant was a single person with no dependents in 2022. The Appellant appeared at the hearing, which was held by telephone on March 12, 2024. The procedures to be followed during the hearing were reviewed with the Appellant, who was then sworn in. Exhibits were marked and admitted into evidence with no objection from the Appellant. The hearing record consists of the testimony of the Appellant and the following documents that were admitted into evidence:

- Exhibit 1: Appeal Case Information from Schedule HC 2022 (1 page).
- Exhibit 2: Statement of grounds for appeal and supporting documentation (78 pages).
- Exhibit 3: Health Connector Appeals Unit Notice of Hearing on March 12, 2024 (2 pages).
- Exhibit 4: Final Appeal Decision PA 19-882 (3 pages)
- Exhibit 5: Final Appeal Decision PA 18-936 (4 pages)
- Exhibit 6: Final Appeal Decision PA 20-1140 (3 pages)

FINDINGS OF FACT

The record shows, and I so find:

1. The Appellant filed their federal income tax return as a single person with no dependents claimed. (Exhibit 1).
2. The Appellant turned 59 in October 2022. (Exhibit 1).
3. The Appellant lived in Middlesex County in 2022. (Exhibit 1).

4. According to the Appellant's Schedule HC, the Appellant's federal Adjusted Gross Income ("AGI") for 2022 was \$119,600. (Exhibit 1).
5. According to the Appellant's Schedule HC, the Appellant did not have health insurance that met Massachusetts' minimum creditable coverage (MCC) requirements for any month in 2022. The Appellant was assessed a 12-month tax penalty. (Exhibit 1).
6. The Appellant submitted a letter to the Health Connector that was received on September 18, 2023. In the letter, the Appellant stated that their employer offered a health insurance plan that did not meet MCC requirements and that the Appellant decided to enroll in this health insurance because it was less expensive than anything they could find privately or through the Health Connector. The Appellant further stated that they had significant expenses for their daughter's wedding in 2022. The Appellant listed \$8,121 in monthly expenses in their letter, including \$2984 for rent; \$150 for cable and wifi; \$800 for food and supplies; \$160 for utilities; \$220 for cellphones; \$160 for gas; \$300 for clothing and miscellaneous; and \$3347 for alimony. The Appellant stated that the \$3347 in monthly alimony expenses derived from a 2016 divorce Agreement and that alimony payments were excluded from their taxable income. (Exhibit 2).
7. The Appellant submitted documentation of a monthly lease obligation of \$2984, beginning on September 29, 2022, and of their obligation their pay former spouse \$3,347 in monthly alimony. (Exhibit 2).
8. The Appellant submitted a pay statement showing that, as of December 25, 2022, they had earned \$166,008.27 from their employer and had had \$933.44 deducted from their pre-tax income for a Basic Advantage 2 plan. (Exhibit 2).
9. The Appellant submitted documents showing expenses for their daughter's wedding, including flight, equipment, and food expenses. (Exhibit 2).
10. The Appellant submitted a Summary Plan Description ("SPD") for the BasicAdvantage Plan in which they were enrolled. The SPD states in several places, "The health plans alone do not meet the Massachusetts Minimum Creditable Coverage Standards and will not satisfy the State of Massachusetts requirement to purchase health insurance." (Exhibit 2).
11. The Appellant successfully appealed tax penalties in 2018, 2019, and 2020; in each of those years, the Appellant had a dependent. Exhibits 4-6.
12. I take administrative notice of the financial information set forth in Tables 1 through 6 in the Department of Revenue ("DOR") 2022 Massachusetts Schedule HC Health Care Instruction 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 2022. Table 2 sets forth income at 300% of the federal poverty level, and Tables 5 and 6 set forth tax penalties in effect for 2022.

13. The Appellant's AGI of \$119,600 was more than 300% of the Federal Poverty Level, which was \$38,640 for a single person in 2022. (See Table 2 of Schedule HC-2022 and 956 CMR 12.04).
14. According to Table 3 of Schedule HC for 2022, the Appellant, who filed their federal tax return as a single person no dependents and claimed an adjusted gross income of \$119,600, could have afforded to pay \$797 per month for health insurance. The calculation is as follows: Table 3 states that a single person whose 2022 AGI was \$51,521 or more could have spent 8% of their earnings on health insurance; 8% of \$119,600 is \$9,568, and one-twelfth of \$9,568 is \$797.
15. According to Table 4 of Schedule HC for 2022, the least expensive health insurance plan available on the private market to the Appellant, a single person age 58 living in Middlesex County in January 2022, cost \$435 per month.
16. The Appellant testified that they earned more money in 2022 than in previous years but decided to appeal their tax penalty because they had some expenses in 2022, including for their daughter's wedding. The Appellant also testified that they appealed because they hoped they might be given credit for having some sort of health insurance.
17. The Appellant confirmed that the expenses listed in their letter to the Health Connector (Exhibit 2) were correct and added that they paid approximately \$85 per month for car insurance and \$1000 per month toward credit card debt that they and their former spouse had incurred. The Appellant testified that their former spouse is bipolar and had engaged in spending sprees of which the Appellant had been unaware when they were married.
18. The Appellant testified that their employer did not offer health insurance that met MCC requirements in 2022 and that they looked into obtaining health insurance through the Health Connector but that they opted to enroll in the less expensive health insurance offered by their employer.
19. The Appellant testified that they currently have the same health insurance they had in 2022 but that they enrolled in a health insurance plan through the Health Connector for a period in 2023 when they needed surgery.

ANALYSIS AND CONCLUSIONS OF LAW

The case is before me on the Appellant's appeal from the DOR's assessment of a 12-month tax penalty because the Appellant's tax forms indicated that they did not have health insurance that met Massachusetts' minimum creditable coverage ("MCC") standards during any month in 2022. The issue to be decided is whether the tax penalty should be waived in whole or in part.

I begin by summarizing the legal rules underlying this appeal. The tax penalty was enacted by the Massachusetts Legislature to encourage compliance with G.L. c. 111M, § 2, also called the "individual

mandate.” The mandate requires every adult resident of Massachusetts to obtain health insurance coverage “[s]o long as it is deemed affordable” under the schedule set by the board of directors for the Commonwealth Health Insurance Connector Authority (“Connector”). G.L. c. 111M, § 2(a). Any health insurance policy must also satisfy the Massachusetts MCC standards for a taxpayer to avoid the penalty.

If these requirements are not met, a tax penalty is assessed for each of the months that the individual did not have health insurance as required by the individual mandate. There is, however, 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, § 2(b) and Administrative Information Bulletin 03-10: Guidance Regarding M.G.L. c. 111M and M.G.L. c. 176Q, as implemented by 956 CMR 6.00 (clarifying that for purposes of penalty calculation, taxpayers will not be subject to penalty if they had lapses in coverage consisting of three or fewer consecutive calendar months). The Connector’s regulations also provide for a waiver of the tax penalty in cases of hardship. See 956 CMR 6.07-08.

To determine if the penalty should be waived in whole or in part, there must be a determination as to whether affordable insurance that met MCC standards was available to the Appellant through employment, through a government-subsidized program, or through the private market. If affordable insurance was available, it must be determined whether such insurance was not in fact affordable to the Appellant because the Appellant experienced a hardship as defined in 956 CMR 6.08. Each of these issues is addressed below.

First, I conclude that the Appellant did not have access to affordable health insurance meeting MCC standards through employment. The Appellant credibly testified that the insurance offered by their employer in 2022 did not meet MCC standards. Finding of Fact No. 18.

Second, I conclude that the Appellant did not have access to affordable health insurance meeting MCC standards through a government-subsidized program because their AGI exceeded 300% of the Federal Poverty Level. Finding of Fact No. 13.

Third, I conclude that the Appellant access to affordable health insurance meeting MCC standards on the private market. According to Table 3 of the Schedule HC, the Appellant could have afforded to spend \$797 per month on health insurance, and according to Table 4 of the Schedule HC, the least expensive family health insurance plan meeting MCC standards available to the Appellant would have cost \$435 and was therefore affordable to them. Findings of Fact Nos. 14 and 15. I find that the Appellant did not submit sufficient information to show that they suffered a hardship, such that they could not have actually afforded to purchase health insurance meeting MCC requirements on the private market. Although the Appellant listed \$8,121 in monthly expenses, this amount included the Appellant’s alimony payments of \$3,347, which were already deducted from their taxable income. Finding of Fact No. 6. Thus, Appellant’s monthly expenses excluding alimony were \$4,774, which totals \$57,288 annually. Given that Appellant’s AGI was \$119,600, it would appear that the Appellant could have afforded to purchase health insurance meeting MCC standards on the private market.

The Appellant cited their daughter's wedding expenses as a reason they did not purchase health insurance on the private market, but such expenses are not necessities that would justify the foregoing of health insurance. Finding of Fact No. 16 and 956 C.M.R. 6.08(1)(e).

The Appellant also expressed hope that they might be given credit for having had some sort of health insurance in 2022. Finding of Fact No. 16. However, the SPD for the Appellant's health insurance clearly states that it does not meet Massachusetts' MCC requirements, and the Appellant testified that they chose to enroll in their employer's health insurance plan because it was less expensive than a health insurance plan available through the Health Connector. Findings of Fact Nos. 10 and 18. Further, the Appellant submitted evidence showing that they paid a total of \$933.44 for this health insurance through December 25, 2022, or approximately \$77.75 per month. Finding of Fact No. 8. Taken together, these facts show that the Appellant was aware that their employer-sponsored health insurance did not meet MCC standards and made a deliberate decision to pay substantially less for health insurance than they would have had to pay on the private market. Stated another way, the Appellant was not a person who mistakenly believed their health insurance met MCC requirements and unknowingly spent a substantial amount of money on substandard insurance, such that a waiver of the tax penalty would be justified.

Reviewing the totality of the evidence, I find that it is appropriate to uphold the Appellant's 12-month tax penalty in its entirety because the Appellant had access to health insurance meeting MCC requirements through employment and did not provide sufficient evidence that they suffered a hardship such that the tax penalty should be waived. See G.L. c. 111M, § 2 and 956 CMR 6.07(8) and 6.08(1)(e) and (2).

PENALTY ASSESSED

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

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 2022.

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