

Massachusetts Health Connector Appeals Unit

FINAL APPEAL DECISION: PA 20-278

Appeal Decision: The penalty is overturned in full.

Hearing Issue: Appeal of the 2020 Tax Year Penalty

Hearing Date: May 11, 2022

Decision Date: May 19, 2022

AUTHORITY

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

JURISDICTION

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

HEARING RECORD

The Appellant appeared at the hearing, which was held by telephone on May 11, 2022. The procedures to be followed during the hearing were reviewed with the Appellant who was then sworn in. Exhibits were marked and admitted in evidence with no objection from the Appellant. The Appellant testified.

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

- | | | |
|--------------|---|---------|
| Exhibit 1: | Appeal Case Information from Schedule HC. | (1 P). |
| Exhibit 2: | Statement of Grounds for Appeal 2020 Signed by Appellant on 3/17/2021 | (2 PP). |
| Exhibit 2(a) | Appellant's Statement of Hardship dated 3/10/2020 | (1 P) |
| Exhibit 3: | Health Connector's Notice of Hearing dated 4/8/2022 | (2 PP). |

The record shows, and I so find:

1. Appellant, who filed a 2020 Massachusetts tax return filed single with a family size of 1, was age 26 in 2020, lived in Middlesex County, and had zero (0) dependents. (Exhibit 1).
2. Appellant's Federal Adjusted Gross Income for 2020 was \$54,060. (Exhibit 1).
3. Appellant was insured through his parent's plan until March 2020 when he lost coverage due to turning 26. (Appellant's Testimony, Exhibit 2(a)).
4. Appellant looked into Employer Sponsored Insurance ("ESI"), but it was not offered. (Appellant's Testimony).

5. Appellant did not know about or investigate insurance through the Connectorcare. (Appellant's Testimony).
6. Appellant has been assessed a tax penalty for six (6) months in 2020. The Appellant has appealed this assessment (Exhibits 1, 2).
7. Appellant's continued to work during Covid in a position where he was at high risk, and his overtime and income decreased because of Covid. (Appellant's Testimony, Exhibit 2(a)).
8. Because of the high risk of catching Covid in his employment, he left his home so as not to endanger his older family members and was rendered homeless and slept at his place of business. (Appellant's Testimony, Exhibit 2(a)).
9. Because of the fear of losing his job, living situation, and not having savings, he could not risk spending money on insurance. (Appellant's Testimony, Exhibit 2(a)).
10. Appellant also financially assisted his Mother and her minor children who required assistance because of Covid and caretaking issues. (Appellant's Testimony, Ex. 2(a)).
11. According to Table 3 Appellant could have afforded \$360.40 per month for health insurance in 2020. According to Table 4 Appellant could have purchased insurance for \$269.00 per month.
12. The Appellant would not have been eligible for ConnectorCare coverage in 2020 because the Appellant's income was more than 300% of the poverty level, which was \$37,470.00. (See Table 2 of Schedule HC 2020, Appellant's Testimony).
13. In addition to the foregoing, I take administrative notice of the 2020 Schedule HC Instructions and Worksheets, available at <http://www.mass.gov.dor/docs/dor/health-care/2020>, and in particular, Tables 1-6 which, as discussed below, include the Affordability Schedule and other financial information used in making 2020 individual mandate tax penalty determinations.

ANALYSIS AND CONCLUSIONS OF LAW

The issue on appeal is whether the tax penalty assessed by the Massachusetts Department of Revenue for 2020 should be waived, either in whole or in part. Appellant has been assessed a tax penalty for six (6) months in 2020. Appellant has appealed the penalty. (See Exhibits 1 and 2).

The Appellant submitted a statement of grounds for appeal (Ex. 2) with the appeal and checked that during 2020 and during the hearing, the Appellant also testified that the individual mandate did not apply to him during 2020 because of a natural disaster (Covid) and also that the expense of purchasing health insurance would have caused him to experience a serious deprivation of food, shelter, clothing or other necessities and that during 2020. See 956 CMR 6.08.

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

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

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

The evidence provided by the Appellant established that her income for 2020, \$54,060.00 was more than 300% of the federal poverty level, which for 2020 was \$37,470.00 for a single person. According to Table 3 of Schedule HC for 2020, the Appellant could have afforded \$360.40 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 \$269 per month. Individual coverage was affordable through the individual market for the Appellant in 2020 (Schedule HC for 2020).

The next issue to consider is whether the Appellant had access to affordable employer health insurance in 2020. The Appellant testified his Employer did not offer Employer Sponsored Insurance. Thus, the Appellant did not have access to affordable Employer Sponsored Insurance (“ESI”). (Appellant’s Testimony).

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

The Appellant credibly testified that he was homeless and forced to move out of his residence because of the risk of spreading Covid to a vulnerable family member whom he resided. He also credibly testified that he incurred sudden financial expenses in 2020 for a family member because of Covid. (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)(a), (3), as defined by law so as to waive his penalty for the months in question. I find the Appellant met his burden that he could not afford the cost of \$360.40 and did not

have adequate income to afford the cost of purchasing private insurance given his credible concerns that as a twenty-six (26) year old, he was going to lose his employment and shelter. I find this 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 2020 only and is based upon the specific facts I have found to be true and should not assume that the same determination will be made should Appellant be assessed a penalty in the future.

PENALTY ASSESSED

Number of Months Appealed: 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 2020 for the amount equal to one half of the lowest cost health insurance plan available to you for each month you have been assessed the penalty, as listed above, plus applicable interest back to the due date of the return without regard to extension.

NOTIFICATION OF YOUR RIGHT TO APPEAL TO COURT

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

Cc: Connector Appeals Unit

Hearing Officer

ADDENDUM

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

FINAL APPEAL DECISION: PA 20-331

Appeal Decision: The penalty is overturned in full.

Hearing Issue: Appeal of the 2020 Tax Year Penalty

Hearing Date: May 11, 2022

Decision Date: May 18, 2022

AUTHORITY

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

JURISDICTION

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

HEARING RECORD

The Appellant appeared at the hearing, which was held by telephone on May 11, 2022. The procedures to be followed during the hearing were reviewed with the Appellant who was then sworn in. Exhibits were marked and admitted in evidence with no objection from the Appellant. The Appellant testified.

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

- | | | |
|------------|--|-----------|
| Exhibit 1: | Appeal Case Information from Schedule HC. | (1 page). |
| Exhibit 2: | Statement of Grounds for Appeal 2020 Signed by Appellant on 3/16/2021. | (2 PP). |
| Exhibit 3: | Health Connector's Notice of Hearing dated 4/8/2022 | (2 PP). |

The record shows, and I so find:

1. Appellant, who filed a 2020 Massachusetts tax return filed single with a family size of 1, was age 34 in 2020, lived in Essex County, and had zero (0) dependents. (Exhibit 1).
2. Appellant's Federal Adjusted Gross Income for 2020 was \$40,072. (Exhibit 1).
3. Appellant was unemployed from November 2019 until she was able to obtain employment in July, 2020 and obtain Employer Sponsored Insurance("ESI"). (Exhibit 1, Appellant's Testimony).
4. Appellant did not investigate insurance through the Connectorcare because she assumed she would not be able to afford it given that she was unemployed. (Appellant's Testimony).
5. Appellant did not receive any unemployment income during the time she was uninsured. (Appellant's Testimony).

6. Appellant has been assessed a tax penalty for three (3) months in 2020. The Appellant has appealed this assessment (Exhibits 1, 2).
7. Appellant had the following average approximate monthly living expenses in 2020: Rent: \$1,750, Food: \$300, Car Payment: \$240, Care Insurance: \$214, Cell Phone: \$30, Internet: \$100, totaling \$2,634. (Appellant's Testimony).
8. According to Table 3 Appellant could have afforded \$248.78 per month for health insurance in 2020. According to Table 4 Appellant could have purchased insurance for \$288.00 per month.
9. The Appellant would not have been eligible for ConnectorCare coverage in 2020 because the Appellant's income was more than 300% of the poverty level, which was \$37,470.00. (See Table 2 of Schedule HC 2020, Appellant's Testimony).
10. In addition to the foregoing, I take administrative notice of the 2020 Schedule HC Instructions and Worksheets, available at <http://www.mass.gov/dor/docs/dor/health-care/2020>, and in particular, Tables 1-6 which, as discussed below, include the Affordability Schedule and other financial information used in making 2020 individual mandate tax penalty determinations.

ANALYSIS AND CONCLUSIONS OF LAW

The issue on appeal is whether the tax penalty assessed by the Massachusetts Department of Revenue for 2020 should be waived, either in whole or in part. Appellant has been assessed a tax penalty for three (3) months in 2020. Appellant has appealed the penalty. (See Exhibits 1 and 2).

The Appellant submitted a statement of grounds for appeal (Ex. 2) with the appeal and checked that during 2020 and testified during the hearing that the individual mandate did not apply to her during 2020 because of a natural disaster (Covid) and also that the expense of purchasing health insurance would have caused her to experience a serious deprivation of food, shelter, clothing or other necessities. See 956 CMR 6.08.

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

To determine if Appellant's penalty should be waived in whole or in part, we must consider whether affordable insurance which met minimum creditable coverage standards was available to the Appellant through employment, through the private market, or through a government-sponsored program. If

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

The evidence provided by the Appellant established that her income for 2020, \$40,072.00 was greater than 300% of the federal poverty level, which for 2020 was \$37,470.00 for a single person. According to Table 3 of Schedule HC for 2020, the Appellant could have afforded \$248.78 per month. According to Table 4, Appellant, age 34 and living in Essex County during the time she was being penalized for not having insurance, could have purchased insurance for \$288 per month. Individual coverage was not affordable through the individual market for the Appellant in 2020 (Schedule HC for 2020).

The next issue to consider is whether the Appellant had access to affordable employer health insurance in 2020. The Appellant credibly testified she was unemployed during the months she was being penalized, and thus did not have access to affordable Employer Sponsored Insurance (“ESI”). (Appellant’s Testimony).

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

The Appellant had the following average monthly living expenses in 2020: Rent: \$1,750, Food: \$300, Car Payment: \$240, Care Insurance: \$214, Cell Phone: \$30, Internet: \$100, totaling \$2,634. (Appellant’s Testimony).

The evidence presented by the Appellant in this case is sufficient to establish that she experienced a financial hardship and other hardships pursuant to 956 CMR 6.08(1)(e), (3), as defined by law so as to waive her penalty for the months in question. I find the Appellant met her burden that she could not afford the cost of \$248.78 and did not have adequate income to afford the cost of purchasing private insurance given that she was unemployed and not receiving income during the months she was being penalized, and given her approximate monthly expenses of \$2,634. I find this would have caused the Appellant to experience a serious deprivation of food, shelter clothing, or other necessities. The mandate has not been lost on the Appellant as she obtained health insurance when she became employed (Appellant Testimony).

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

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

PENALTY ASSESSED

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

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

NOTIFICATION OF YOUR RIGHT TO APPEAL TO COURT

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

Cc: Connector Appeals Unit

Hearing Officer

ADDENDUM

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

Massachusetts Health Connector Appeals Unit

FINAL APPEAL DECISION: PA 20-606

Appeal Decision: The penalty is overturned in full.
Hearing Issue: Appeal of the 2020 Tax Year Penalty
Hearing Date: May 11, 2022
Decision Date: May 19, 2022

AUTHORITY

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

JURISDICTION

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

HEARING RECORD

The Appellant appeared at the hearing, which was held by telephone on May 11, 2022. The procedures to be followed during the hearing were reviewed with the Appellant who was then sworn in. Exhibits were marked and admitted in evidence with no objection from the Appellant. The Appellant testified.

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

| | | |
|--------------|---|---------|
| Exhibit 1: | Appeal Case Information from Schedule HC. | (1 P). |
| Exhibit 2: | Statement of Grounds for Appeal 2020 Signed by Appellant 4/30/2021. | (2 PP). |
| Exhibit 2(a) | Appellant's Statement in Support of Appeal dated 4/30/2021 | (1P). |
| Exhibit 3: | Health Connector's Notice of Hearing dated 4/8/2022 | (2 PP). |

The record shows, and I so find:

1. Appellant, who filed a 2020 Massachusetts tax return filed single with a family size of 1, was age 24 in 2020, lived in Bristol County, and had zero (0) dependents. (Exhibit 1).
2. Appellant's Federal Adjusted Gross Income for 2020 was \$82,200. (Exhibit 1).
3. Appellant previously had health insurance through her mother's plan but lost in when she moved out of the house. (Appellant's Testimony, Exhibit 2(a)).
4. Appellant looked into Employer Sponsored Insurance("ESI") and the Connector but was laid off in April and May during Covid and could not afford it (Appellant's Testimony).

5. Appellant has been assessed a tax penalty for twelve (12) months in 2020. The Appellant has appealed this assessment (Exhibits 1, 2).
6. Appellant returned to work part time under 20 hours and collected unemployment. (Appellant's Testimony).
7. Because of her being laid off, reduced earnings and paying for her basic necessities, she could not risk spending money on insurance. (Appellant's Testimony, Exhibit 2(a)).
8. Appellant also financially assisted her mother and boyfriend who was a full-time student during Covid. (Appellant's Testimony).
9. Appellant had the following approximate monthly living expenses in 2020: Rent: \$750, Utilities: \$300, Food: \$300, Car Payment: \$350, Car Insurance: \$215, Cell Phone: \$160, Internet: \$60, Credit Card: \$200, Assistance with Boyfriend's Loans: \$280, Boyfriend's Car Insurance: \$240, totaling \$2,855. (Appellant's Testimony).
10. According to Table 3 Appellant could have afforded \$548 per month for health insurance in 2020. According to Table 4 Appellant could have purchased insurance for \$269.00 per month.
11. The Appellant would not have been eligible for ConnectorCare coverage in 2020 because the Appellant's income was more than 300% of the poverty level, which was \$37,470.00. (See Table 2 of Schedule HC 2020, Appellant's Testimony).
12. In addition to the foregoing, I take administrative notice of the 2020 Schedule HC Instructions and Worksheets, available at <http://www.mass.gov/dor/docs/dor/health-care/2020>, and in particular, Tables 1-6 which, as discussed below, include the Affordability Schedule and other financial information used in making 2020 individual mandate tax penalty determinations.
13. The Appellant obtained ESI in 2021 which is approximately \$74 per week, or x. 4.3 weeks, \$318.20 per month. (Appellant's Testimony).

ANALYSIS AND CONCLUSIONS OF LAW

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

The Appellant submitted a statement of grounds for appeal (Ex. 2) with the appeal and checked that during 2020 and during the hearing also testified that the individual mandate did not apply to her during 2020 because the expense of purchasing health insurance would have caused her to experience a serious deprivation of food, shelter, clothing or other necessities and that during 2020. See 956 CMR 6.08.

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

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

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

The evidence provided by the Appellant established that her income for 2020, \$82,200.00 was more than 300% of the federal poverty level, which for 2020 was \$37,470.00 for a single person. According to Table 3 of Schedule HC for 2020, the Appellant could have afforded \$548 per month. According to Table 4, Appellant, age 24 and living in Bristol County during the time she was being penalized for not having insurance, could have purchased insurance for \$269 per month. Individual coverage was affordable through the individual market for the Appellant in 2020 (Schedule HC for 2020).

The next issue to consider is whether the Appellant had access to affordable employer health insurance in 2020. The Appellant testified she was able to obtain Employer Sponsored Insurance in 2021 for \$74 a week, or of approximately \$ 318.20 per month. (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 2020 is considered to be affordable if the employee's contribution for an individual plan is 9.78 percent or less of the employee's projected household modified adjusted income (MAGI). The coverage is considered to meet minimum value standards if it has an actuarial value of at least 60 percent. In this case, as referenced above, the Appellant's cost of ESI of approximately \$318.20 per month is less than \$ 669.93 ($\$82,200 \times 9.78/12 = \669.93). The Appellant did have access to Employer Sponsored Insurance ("ESI") for the months she was being penalized. (Appellant's Testimony).

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

The Appellant had the following average monthly living expenses in 2020: Rent: \$750, Utilities: \$300, Food: \$300, Car Payment: \$350, Car Insurance: \$215, Cell Phone: \$160, Internet: \$60, Credit Card: \$200, Assistance with Boyfriend's Loans: \$280, Boyfriend's Car Insurance: \$240, totaling \$2,855.

The Appellant credibly testified that she financially supported her mother who moved in with her because of Covid, and also her boyfriend who was a full-time student. (Appellant's Testimony, ex. 2(a)).

The evidence presented by the Appellant in this case is sufficient to establish that she experienced a hardship pursuant to 956 CMR 6.08(1)(a), (3), as defined by law so as to waive her penalty for the months in question. I find the Appellant met her burden that she could not afford the cost of \$548 and did not have adequate income to afford the cost of purchasing private insurance or ESI given her credible concerns that as a twenty-four (24) year old, she was laid off for two months and her hours were reduced upon return to work. Given the uncertainty of her income, as well as the increased expenses related to supporting her mother and boyfriend, and the monthly expenses of \$2,855, I find the cost of \$548 would have caused the Appellant to experience a serious deprivation of shelter and other necessities. (Appellant Testimony).

Moreover, the mandate has not been lost on the Appellant as she testified, she obtained ESI in 2021. Based upon the facts summarized and on the totality of the evidence, it is concluded that the Appellant's request for a waiver from the penalty is **approved**.

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

PENALTY ASSESSED

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

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

NOTIFICATION OF YOUR RIGHT TO APPEAL TO COURT

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

Cc: Connector Appeals Unit

Hearing Officer

ADDENDUM

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

FINAL APPEAL DECISION: PA 20-1213

Appeal Decision: The penalty is overturned in full.

Hearing Issue: Appeal of the 2020 Tax Year Penalty

Hearing Date: May 20, 2022

Decision Date: May 31, 2022

AUTHORITY

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

JURISDICTION

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

HEARING RECORD

The Appellant appeared at the hearing, which was held by telephone on May 20, 2022. The procedures to be followed during the hearing were reviewed with the Appellant who was then sworn in. Exhibits were marked and admitted in evidence with no objection from the Appellant. The Appellant testified.

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

- | | | |
|------------|--|-----------|
| Exhibit 1: | Appeal Case Information from Schedule HC. | (1 page). |
| Exhibit 2: | Email Grounds for Appeal/Vacate Dismissal 2020 by Appellant on 2/7/2022. | (2 PP). |
| Exhibit 3: | Health Connector's Notice of Hearing dated 4/8/2022 | (2 PP). |

The record shows, and I so find:

1. Appellant, who filed a 2020 Massachusetts tax return filed single with a family size of 1, was age 26 in 2020, lived in Bristol County, and had zero (0) dependents. (Exhibit 1).
2. Appellant's Federal Adjusted Gross Income for 2020 was \$31,204. (Exhibit 1).
3. Appellant was employed full time where he was paid \$15-\$17 hour until he was laid off during the Covid.
4. Appellant previously had Employer Sponsored Insurance("ESI") in 2018 and 2019 but could not afford it. (Appellant's Testimony).
5. Appellant did not know about insurance through the Connectorcare and didn't know there was a penalty for not having insurance. (Appellant's Testimony).

6. Appellant was in the process of joining the Navy which he did in 2021 and currently has health insurance through Tricare. (Appellant's Testimony).
7. Appellant collected unemployment compensation and later in the year returned to work in various part time positions. (Appellant's Testimony).
8. Appellant has been assessed a tax penalty for twelve (12) months in 2020. The Appellant has appealed this assessment (Exhibits 1, 2).
9. Appellant had the following average monthly living expenses in 2020: Rent contribution: \$450, Car Insurance: \$100, Cell Phone: \$116, Student Loans: \$750, Credit Cards: \$ \$70, totaling: \$1,486. (Appellant's Testimony).
10. According to Table 3 Appellant could have afforded \$136.21 per month for health insurance in 2020. According to Table 4 Appellant could have purchased insurance for \$269.00 per month.
11. The Appellant would have been eligible for ConnectorCare coverage in 2020 because the Appellant's income was less than 300% of the poverty level, which was \$37,470.00. (See Table 2 of Schedule HC 2020, Appellant's Testimony).
12. In addition to the foregoing, I take administrative notice of the 2020 Schedule HC Instructions and Worksheets, available at <http://www.mass.gov.dor/docs/dor/health-care/2020>, and in particular, Tables 1-6 which, as discussed below, include the Affordability Schedule and other financial information used in making 2020 individual mandate tax penalty determinations.

ANALYSIS AND CONCLUSIONS OF LAW

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

The Appellant testified that the individual mandate did not apply to him during 2020 because of a natural disaster (Covid) and also that the expense of purchasing health insurance would have caused him to experience a serious deprivation of food, shelter, clothing or other necessities and that during 2020. See 956 CMR 6.08.

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

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

The evidence provided by the Appellant established that his income for 2020, \$31,204.00 was less than 300% of the federal poverty level, which for 2020 was \$37,470.00 for a single person. According to Table 3 of Schedule HC for 2020, the Appellant could have afforded \$136.21 per month. According to Table 4, Appellant, age 26 and living in Bristol County during the time he was being penalized for not having insurance, could have purchased insurance for \$269 per month. Individual coverage was not affordable through the individual market for the Appellant in 2020 (Schedule HC for 2020).

The next issue to consider is whether the Appellant had access to affordable employer health insurance in 2020. The Appellant testified in 2018 and 2019 had Employer Sponsored Insurance, did not recall the amount of his share of the premium, but it was too expensive given his \$15-\$17 hourly wage. Thus, the Appellant did not have access to affordable Employer Sponsored Insurance ("ESI"). (Appellant's Testimony).

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

The Appellant had the following average monthly living expenses in 2020: Rent contribution: \$450, Car Insurance: \$100, Cell Phone: \$116, Student Loans: \$750, Credit Cards: \$ \$70, totaling: \$1,486. (Appellant's Testimony).

The evidence presented by the Appellant in this case is sufficient to establish that he experienced a financial hardship and other hardships pursuant to 956 CMR 6.08(1),(e), (3), as defined by law so as to waive his penalty for the months in question. I find the Appellant met his burden that he could not afford the cost of \$136.21 given his monthly expenses of \$1,486 and lack of income due to being laid off during Covid. I find this would have caused the Appellant to experience a serious depravation of food, shelter clothing, or other necessities. (Appellant Testimony).

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

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

PENALTY ASSESSED

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

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

NOTIFICATION OF YOUR RIGHT TO APPEAL TO COURT

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

Cc: Connector Appeals Unit

Hearing Officer

ADDENDUM

If the Appellant still does not have health insurance, and if her income and employment have not changed, 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 20-331

Appeal Decision: The penalty is overturned in full.

Hearing Issue: Appeal of the 2020 Tax Year Penalty

Hearing Date: May 20, 2022

Decision Date: May 30, 2022

AUTHORITY

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

JURISDICTION

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

HEARING RECORD

The Appellant appeared at the hearing, which was held by telephone on May 20, 2022. The procedures to be followed during the hearing were reviewed with the Appellant who was then sworn in. Exhibits were marked and admitted in evidence with no objection from the Appellant. The Appellant testified.

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

- | | | |
|------------|---|---------|
| Exhibit 1: | Appeal Case Information from Schedule HC. | (1 P). |
| Exhibit 2: | Email Grounds for Appeal/Vacate Dismissal 2020 by Appellant on 3/13/2022. | (2 PP). |
| Exhibit 3: | Health Connector's Notice of Hearing dated 4/8/2022 | (2 PP). |

The record shows, and I so find:

1. Appellant, who filed a 2020 Massachusetts tax return filed single with a family size of 1, was age 23 in 2020, lived in Hampshire County, and had zero (0) dependents. (Exhibit 1).
2. Appellant's Federal Adjusted Gross Income for 2020 was \$44,434. (Exhibit 1).
3. Appellant was employed full time throughout the pandemic in retail food services where her net take home pay averaged \$580 a week. (Appellant's Testimony).
4. Appellant had previously had coverage through a parent but became ineligible because her income was too high. (Appellant's Testimony).
5. Appellant was eligible for Employer Sponsored Insurance ("ESI") and was not sure if the premium was \$136 a week, or a month but could not afford it. (Appellant's Testimony).

6. Appellant was getting ready to have a family and was concerned about the increased price for ESI family plans. (Appellant's Testimony).
7. Appellant investigated insurance through the Connectorcare and obtained insurance in November 2020. (Appellant's Testimony).
8. Appellant has been assessed a tax penalty for seven (7) months in 2020. The Appellant has appealed this assessment (Exhibits 1, 2).
9. Appellant had the following average approximate monthly living expenses in 2020: Rent: \$1,800, Utilities: \$300, Car Payment: \$432, Car Insurance: \$300, Gas: \$ 200, Cell Phone: \$360, Dumpster Bill: \$120, Credit card ($\$800/12 = \66.66 , totaling \$3,578. (Appellant's Testimony).
10. Appellant also received an eviction notice that was stayed during the eviction moratorium enacted during Covid. (Appellant's Testimony).
11. Appellant also financially supported her parents, one of whom was on disability during Covid. (Appellant's Testimony).
12. According to Table 3 Appellant could have afforded \$281.42 per month for health insurance in 2020. According to Table 4 Appellant could have purchased insurance for \$241.00 per month.
13. The Appellant would not have been eligible for ConnectorCare coverage in 2020 because the Appellant's income was more than 300% of the poverty level, which was \$37,470.00. (See Table 2 of Schedule HC 2020, Appellant's Testimony).
14. In addition to the foregoing, I take administrative notice of the 2020 Schedule HC Instructions and Worksheets, available at <http://www.mass.gov/dor/docs/dor/health-care/2020>, and in particular, Tables 1-6 which, as discussed below, include the Affordability Schedule and other financial information used in making 2020 individual mandate tax penalty determinations.

ANALYSIS AND CONCLUSIONS OF LAW

The issue on appeal is whether the tax penalty assessed by the Massachusetts Department of Revenue for 2020 should be waived, either in whole or in part. Appellant has been assessed a tax penalty for seven (7) months in 2020. Appellant has appealed the penalty. (See Exhibits 1 and 2).

The Appellant submitted a statement of grounds for appeal (Ex. 2) with the appeal and testified during the hearing that the individual mandate did not apply to her during 2020 because of a natural disaster (Covid) requiring the sudden responsibility for providing care for a family member and also that the expense of purchasing health insurance would have caused her to experience a serious deprivation of food, shelter, clothing or other necessities. See 956 CMR 6.08.

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

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

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

The evidence provided by the Appellant established that her income for 2020, \$44,434.00 was greater than 300% of the federal poverty level, which for 2020 was \$37,470.00 for a single person. According to Table 3 of Schedule HC for 2020, the Appellant could have afforded \$281.41 per month. According to Table 4, Appellant, age 23 and living in Hampshire County during the time she was being penalized for not having insurance, could have purchased insurance for \$241 per month. Individual coverage was affordable through the individual market for the Appellant in 2020 (Schedule HC for 2020).

The next issue to consider is whether the Appellant had access to affordable employer health insurance in 2020. The Appellant testified she was eligible for Employer Sponsored Insurance (“ESI”) and was not sure if the premium was \$136 a week or a month, but could not afford it. (Appellant’s Testimony). The Appellant testified she was getting ready to have a family and was concerned about the increased price for ESI for a family plan. Pursuant to 26 IRC section 36B and 45 CFR section 155.305(f), applicants are eligible for an Advanced Premium Tax Credit (APTC) if they meet qualifying income levels and other eligibility requirements. Massachusetts residents may also be eligible for additional state premium assistance through the Health Connector’s ConnectorCare program if: a) their household income does not exceed 300 percent of the Federal Poverty Level (FPL) and b) they are eligible for an APTC. 956 CMR 12.09(1) An applicant who has access to other qualifying health insurance, including insurance through an employer, will be blocked from eligibility for an APTC if the coverage is affordable and meets minimum value standards, as those terms are defined by the law. See 26 CFR section 1.36B-2(c)(3). Coverage for plan year 2020 is considered to be affordable if the employee’s contribution for an individual plan is 9.78 percent or less of the employee’s projected household modified adjusted income (MAGI). The coverage is considered to meet minimum value standards if it has an actuarial value of at least 60 percent. In this case, as referenced above, the Appellant’s cost of ESI of approximately \$136 per month is less than \$503.91 ($\$44,434 \times 9.78\% / 12 = \362.71). Appellant did have access to Employer Sponsored Insurance (“ESI”) for the months she was being penalized. (Appellant’s Testimony).

Where the Appellant did have access to affordable coverage through ESI and did have access to affordable coverage through private insurance, we need to determine if the Appellant experienced a financial hardship such the coverage would have been unaffordable for her. See 956 CMR 6.08. et. seq. The Appellant may not be subject to a penalty for failing to get health insurance for the months in question if she can show that she experienced a hardship during 2020. Examples of hardships include

being homeless or overdue in rent or mortgage payments, receiving a shut-off notice for utilities, or incurring unexpected increases in basic living expenses due to domestic violence, death of a family member, sudden responsibility for providing care for a family member or fire, flood or natural disaster. In addition, the Appellants' tax penalty for 2020 could be waived if she experienced financial circumstances such that the expense of purchasing health insurance would have caused her to experience a serious deprivation of food, shelter, clothing or other necessities. See 956 CMR 6.08.

The Appellant had the following average monthly living expenses in 2020: Rent: \$1,800, Utilities: \$300, Car Payment: \$432, Car Insurance: \$300, Gas: \$ 200, Cell Phone: \$360, Dumpster Bill: \$120, Credit card (\$800/12= \$66.66, totaling \$3,578. (Appellant's Testimony).

The evidence presented by the Appellant in this case is sufficient to establish that she experienced a financial hardship and other hardships pursuant to 956 CMR 6.08(1)(e), (3), as defined by law so as to waive her penalty for the months in question. I find the Appellant has met her burden that she could not afford the cost of \$281.24 and did not have adequate income to afford the cost of purchasing private insurance given that her net monthly income was approximately \$2,494(\$580 x 4.3 weeks) during the months she was being penalized. This income would be subsumed given her approximate monthly expenses of \$3,578. I find this would have caused the Appellant to experience a serious deprivation of food, shelter clothing, or other necessities.

The Appellant also testified she received an eviction notice that was stayed during the eviction moratorium enacted during Covid and also that she financially supported her parents, one of whom was on disability during Covid. (Appellant's Testimony. Finally, the mandate has not been lost on the Appellant as she obtained health insurance in November. (Appellant Testimony).

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

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

PENALTY ASSESSED

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

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

NOTIFICATION OF YOUR RIGHT TO APPEAL TO COURT

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

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

Cc: Connector Appeals Unit

Hearing Officer

ADDENDUM

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

Massachusetts Health Connector Appeals Unit

FINAL APPEAL DECISION: PA 20-1216

Appeal Decision: The penalty is overturned in full.

Hearing Issue: Appeal of the 2020 Tax Year Penalty

Hearing Date: May 20, 2022

Decision Date: May 31, 2022

AUTHORITY

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

JURISDICTION

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

HEARING RECORD

The Appellant appeared at the hearing, which was held by telephone on May 20, 2022. The procedures to be followed during the hearing were reviewed with the Appellant who was then sworn in. Exhibits were marked and admitted in evidence with no objection from the Appellant. The Appellant testified.

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

- | | | |
|------------|---|-----------|
| Exhibit 1: | Appeal Case Information from Schedule HC. | (1 page). |
| Exhibit 2: | Appellant's Statement supporting Vacate Dismissal received 2/17/2022. | (2 PP). |
| Exhibit 3: | Health Connector's Notice of Hearing dated 4/8/2022 | (2 PP). |

The record shows, and I so find:

1. Appellant, who filed a 2020 Massachusetts tax return filed single with a family size of 1, was age 28 in 2020, lived in Hampden County, and had zero (0) dependents. (Exhibit 1).
2. Appellant's Federal Adjusted Gross Income for 2020 was \$28,849. (Exhibit 1).
3. Appellant was employed part and full time at a supermarket and worked during Covid.
4. Appellant had access to Employer Sponsored Insurance("ESI"), did not know the amount of the premium, but knew he could not afford it. (Appellant's Testimony).
5. Appellant did not know about or investigate obtaining insurance through the Connectorcare. (Appellant's Testimony).
6. Appellant average weekly net take home pay was \$300-\$400 a week. (Appellant's Testimony).

7. Appellant has been assessed a tax penalty for twelve (12) months in 2020. The Appellant has appealed this assessment (Exhibits 1, 2).
8. Appellant had the following average monthly living expenses in 2020: Rent: \$600, Electric: \$40, Car Insurance: \$120, Cell Phone: \$50, Gas: \$80, Food: \$250, totaling: \$1,140. (Appellant's Testimony).
9. According to Table 3 Appellant could have afforded \$100.97 per month for health insurance in 2020. According to Table 4 Appellant could have purchased insurance for \$241.00 per month.
10. The Appellant would have been eligible for ConnectorCare coverage in 2020 because the Appellant's income was less than 300% of the poverty level, which was \$37,470.00. (See Table 2 of Schedule HC 2020, Appellant's Testimony).
11. In addition to the foregoing, I take administrative notice of the 2020 Schedule HC Instructions and Worksheets, available at <http://www.mass.gov/dor/docs/dor/health-care/2020>, and in particular, Tables 1-6 which, as discussed below, include the Affordability Schedule and other financial information used in making 2020 individual mandate tax penalty determinations.

ANALYSIS AND CONCLUSIONS OF LAW

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

The Appellant testified that the individual mandate did not apply to him during 2020 because the expense of purchasing health insurance would have caused him to experience a serious deprivation of food, shelter, clothing or other necessities and that during 2020. See 956 CMR 6.08.

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

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

The evidence provided by the Appellant established that his income for 2020, \$24,849.00 was less than 300% of the federal poverty level, which for 2020 was \$37,470.00 for a single person. According to Table 3 of Schedule HC for 2020, the Appellant could have afforded \$100.97 per month. According to Table 4, Appellant, age 26 and living in Bristol County during the time he was being penalized for not having insurance, could have purchased insurance for \$241 per month. Individual coverage was not affordable through the individual market for the Appellant in 2020 (Schedule HC for 2020).

The next issue to consider is whether the Appellant had access to affordable employer health insurance in 2020. The Appellant testified had access to Employer Sponsored Insurance, did not recall the amount of his share of the premium, but it was too expensive. Thus, the Appellant did not have access to affordable Employer Sponsored Insurance (“ESI”). (Appellant’s Testimony).

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

The Appellant had the following average monthly living expenses in 2020: Rent: \$600, Electric: \$40, Car Insurance: \$120, Cell Phone: \$50, Gas: \$80, Food: \$250, totaling: \$1,140. (Appellant’s Testimony).

The evidence presented by the Appellant in this case is sufficient to establish that he experienced a financial hardship and other hardships pursuant to 956 CMR 6.08 (1), (e), (3), as defined by law so as to waive his penalty for the months in question. I find the Appellant met his burden that he could not afford the cost of \$ 100.97 given his monthly expenses of \$1,140 and monthly net take home income of \$1,200. I find this would have caused the Appellant to experience a serious deprivation of food, shelter clothing, or other necessities. (Appellant Testimony).

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

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

PENALTY ASSESSED

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

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

NOTIFICATION OF YOUR RIGHT TO APPEAL TO COURT

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

Cc: Connector Appeals Unit

Hearing Officer

ADDENDUM

If the Appellant still does not have health insurance, and if her income and employment have not changed, 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 21-1764

Appeal Decision: The penalty is overturned in full
Hearing Issue: Appeal of the 2021 Tax Year Penalty
Hearing Date: May 27, 2022
Decision Date: May 31, 2022

AUTHORITY

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

JURISDICTION

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

HEARING RECORD

The Appellant appeared at the hearing, which was held by telephone on May 15, 2022. The procedures to be followed during the hearing were reviewed with the Appellant who was then sworn in. Exhibits were marked and admitted in evidence with no objection from the Appellant. The Appellant testified.

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

| | | |
|--------------|---|---------|
| Exhibit 1: | Appeal Case Information from Schedule HC. | (1 P). |
| Exhibit 2: | Statement of Grounds in Support of Appeal dated 3/5/2022. | (2 PP). |
| Exhibit 2(a) | Appellant's Documents in Support of Appeal submitted 3/5/2020 | |
| Exhibit 3: | Health Connector's Notice of Hearing dated 4/13/2022 | (2 PP). |

The record shows, and I so find:

1. Appellant, who filed a 2021 Massachusetts tax return filed married filing joint with a family size of 2, Appellant Husband who was uninsured was age 61 in 2021, lived in Worcester County, and had zero (0) dependents. (Exhibit 1).
2. Appellant's Spouse was covered under an Employer Sponsored Insurance("ESI). (Appellant's Testimony).
3. Appellant Spouse could not afford to add the Appellant uninsured Husband to her ESI at the time of enrollment and could not afford the premium of approximately \$700 per month for a family plan, (Appellant's Testimony, Ex. 2(a)).

4. Appellant investigated obtaining Connectorcare for the uninsured spouse but made too much to apply for Health Connector. (Appellant's Testimony, Ex. 2(a)).
5. Appellant Husband worked for a small employer and the cost of ESI was approximately \$500 for an individual plan. (Appellant's Testimony).
6. Appellant's Federal Adjusted Gross Income for 2021 was \$58,855. (Exhibit 1).
7. Appellant had the following approximate monthly living expenses in 2021: Rent: \$705, Utilities: \$300 Condo Insurance: \$56, Car Payment: \$600, Car Insurance: \$150, Cell Phone: \$250, Internet: \$100, Food: \$400, Credit Cards: \$300, Medical Out of Pockets: 150. totaling \$2,111. (Appellant's Testimony, Ex. 2(a)).
8. According to Table 3 the uninsured Appellant could have afforded \$392.36 per month for health insurance in 2021. According to Table 4 Appellant could have purchased an individual insurance plan for \$401.00 per month.
9. The Appellant would have not been eligible for ConnectorCare coverage in 2021 because the Appellant's income was more than 300% of the poverty level, which was \$51,270.00. (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. One of the Appellants was uninsured all of 2021. Appellant Husband 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 but did not indicate the grounds for his appeal. The Appellant adduced testimony that he moved to Massachusetts in June 2021 and was not able to join his Spouses plan after he determined that he was responsible for having health insurance. See 956 CMR 6.08(1)(a).

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

in coverage to be three months. The Connector's regulations provide for a waiver of the tax penalty in the case of a financial hardship. See 956 CMR 6.08.

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

The evidence provided by the Appellant established that their income for 2021, \$58,855.00 was more than 300% of the federal poverty level, which for 2021 was \$51,720 for a family size of two (2). According to Table 3 of Schedule HC for 2021, the Appellant could have afforded \$392.61 per month. According to Table 4, Appellant, age 61 and living in Worcester County during the time he was being penalized for not having insurance, could have purchased insurance for \$401 per month. Individual coverage was not 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 in 2021. The Appellant testified he worked for a small employer and ESI was approximately \$500 for an individual plan, and that they could not afford to add him on his Spouses ESI plan which would have increased the premium to approximately \$700 per month. (Appellant's Testimony). I find the Appellant did have not access to affordable ESI through his or his Spouse's Employer.

Where the Appellant did not have access affordable coverage through ESI, private insurance, and did not have access to Connectorcare, the Appellant's penalty is waived in full.

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 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, 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 21-1765

Appeal Decision: The penalty is overturned in full.

Hearing Issue: Appeal of the 2021 Tax Year Penalty

Hearing Date: May 27, 2022

Decision Date: May 31, 2022

AUTHORITY

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

JURISDICTION

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

HEARING RECORD

The Appellant appeared at the hearing, which was held by telephone on May 27, 2022. The procedures to be followed during the hearing were reviewed with the Appellant who was then sworn in. Exhibits were marked and admitted in evidence with no objection from the Appellant. The Appellant testified.

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

| | | |
|--------------|--|---------|
| Exhibit 1: | Appeal Case Information from Schedule HC. | (1 P). |
| Exhibit 2: | Statement of Grounds in Support of Appeal dated 3/6/2022. | (2 PP). |
| Exhibit 2(a) | Appellant's Statement/Documents in Support of Appeal submitted 3/6/2022. | (13PP). |
| Exhibit 3: | Health Connector's Notice of Hearing dated 4/13/2022 | (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 55 in 2021, lived in Suffolk County, and had zero (0) dependents. (Exhibit 1).
2. Appellant's Federal Adjusted Gross Income for 2021 was \$42,316. (Exhibit 1).
3. Appellant collected unemployment early March 2020-June 2021 at approximately \$435 per week. (Appellant's Testimony, Exhibit 2(a)).
4. Appellant's approximate net take home pay was \$640 per week when she returned to work in June 2021. (Appellant's Testimony, Exhibit 2(a)).

5. Appellant looked into Employer Sponsored Insurance (“ESI”) when she returned to work in June, would not have been eligible until September, and could not afford the cost of approximately \$160 per month. (Appellant’s Testimony).
6. Appellant has been assessed a tax penalty for twelve (12) months in 2021. The Appellant has appealed this assessment (Exhibits 1, 2).
7. Because of her being laid off, reduced earnings and paying for her basic necessities, she could not risk spending money on insurance. (Appellant’s Testimony, Exhibit 2(a)).
8. Appellant had the following approximate monthly living expenses in 2021: Rent: \$1,750, Car Payment: \$179, Car Insurance: \$98, Chiropractor: \$130/ Cell Phone: \$26, Internet: \$65, Food: \$200, totaling \$ 2,488. (Appellant’s Testimony, Ex. 2(a)).
9. According to Table 3 Appellant could have afforded \$262.71 per month for health insurance in 2021. According to Table 4 Appellant could have purchased insurance for \$401.00 per month.
10. 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).
11. 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.
13. The Appellant obtained ESI in 2021 which is approximately \$74 per week, or x. 4.3 weeks, \$318.20 per month. (Appellant’s Testimony).

ANALYSIS AND CONCLUSIONS OF LAW

The issue on appeal is whether the tax penalty assessed by the Massachusetts Department of Revenue for 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 her during 2021 because the expense of purchasing health insurance would have caused her to experience a serious deprivation of food, shelter, clothing or other necessities and that during 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 her income for 2021, \$42,316.00 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 \$262.71 per month. According to Table 4, Appellant, age 55 and living in Suffolk County during the time she was being penalized for not having insurance, could have purchased insurance for \$401 per month. Individual coverage was not 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 in 2021. The Appellant testified she was not working until June 2021, and was not eligible for Employer Sponsored Insurance until September 2021 at a cost of approximately \$160 per month. (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's cost of ESI of approximately \$160 per month is less than $(\$42,316 \times 9.83/12 = \$346.63)$. The Appellant did have access to Employer Sponsored Insurance ("ESI") for a portion of the months she was being penalized. (Appellant's Testimony).

Where the Appellant did not have access affordable coverage for full-rate insurance on the market and for a portion of the time she was employed through ESI, we need to determine if the Appellant experienced a financial hardship such the coverage would have been unaffordable for her. See 956 CMR 6.08. et. seq. The Appellant may not be subject to a penalty for failing to get health insurance for the months in question if she can show that she experienced a hardship during 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 she experienced financial circumstances

Massachusetts Health Connector Appeals Unit

FINAL APPEAL DECISION: PA 21-1768

Appeal Decision: The penalty is overturned in full.
Hearing Issue: Appeal of the 2021 Tax Year Penalty
Hearing Date: May 27, 2022
Decision Date: May 31, 2022

AUTHORITY

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

JURISDICTION

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

HEARING RECORD

The Appellant appeared at the hearing, which was held by telephone on May 27, 2022. The procedures to be followed during the hearing were reviewed with the Appellant who was then sworn in. Exhibits were marked and admitted in evidence with no objection from the Appellant. The Appellant testified.

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

| | | |
|--------------|--|---------|
| Exhibit 1: | Appeal Case Information from Schedule HC. | (1 P). |
| Exhibit 2: | Statement of Grounds in Support of Appeal dated 3/7/2022. | (2 PP). |
| Exhibit 2(a) | Appellant's Documents in Support of Appeal submitted 3/7/2022. | |
| Exhibit 3: | Health Connector's Notice of Hearing dated 4/13/2022 | (2 PP). |

The record was left open until June 10, 2022 for the Appellant to submit: evidence of coverage 1095B. The Appellant submitted the following on May 31, 2022.

| | |
|------------|---|
| Exhibit 4: | 2021 Form 1099-HC reflecting coverage from January- Jul 2021. |
| Exhibit 5: | 2021 Form 1095B reflecting coverage from January-December 2021. |
| Exhibit 6: | 2021 Form 1095 B reflecting coverage from August-October 2021. |

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 48 in 2021, lived in Middlesex County, and had zero (0) dependents. (Exhibit 1).
2. Appellant's Federal Adjusted Gross Income for 2021 was \$57,268. (Exhibit 1).

3. The Appellant testified he Employer Sponsored Insurance (“ESI”) during the period he was covered and had MassHealth during the months for which he was being penalized. (Appellant’s Testimony, Exhibits. 4-6).
4. Appellant testified and submitted documentation that he had received an eviction notice during the period for which he was being penalized. (Appellant’s Testimony, Exhibit 2(a)).
5. Appellant is currently insured through ESI. (Appellant’s Testimony, Exhibit 2(a)).
6. Appellant has been assessed a tax penalty for two (2) months in 2021. The Appellant has appealed this assessment (Exhibits 1, 2).
7. According to Table 3 Appellant could have afforded \$381.79 per month for health insurance in 2021. According to Table 4 Appellant could have purchased insurance for \$336.00 per month.
8. 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).
9. 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 two (2) months in 2021. Appellant has appealed the penalty. (See Exhibits 1 and 2).

The Appellant submitted a statement of grounds for appeal (Ex. 2) and checked that during 2021 that the individual mandate did not apply to him during 2021 because he was overdue in rent and because he incurred an unexpected natural or human caused event causing substantial household or personal damage to him in 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, \$57,268.00 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 \$ 381.79 per month. According to Table 4, Appellant, age 48 and living in Middlesex County during the time he was being penalized for not having insurance, could have purchased insurance for \$336 per month. Individual coverage was not 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 in 2021. The Appellant testified that he had access to coverage and also had coverage under MassHealth.

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 his. 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 his to experience a serious deprivation of food, shelter, clothing or other necessities. See 956 CMR 6.08.

The Appellant testified and submitted corroborating documentation that he had coverage throughout the year and received an eviction notice during the period for which he was being penalized. (Appellant's Testimony, Exs. 2(a), 4-6). The evidence presented by the Appellant in this case is sufficient to establish that he also experienced a hardship via an eviction notice pursuant to 956 CMR 6.08(1)(a), (3), as defined by law so as to waive his penalty for the months in question. Moreover, the mandate has not been lost on the Appellant as he testified, he obtained insurance in 2021. (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: 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 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 her income and employment have not changed, he is advised to investigate her eligibility for subsidized health insurance through the Health Connector at www.mahealthconnector.org or by contacting customer service at 1-877-623-6765.

FINAL APPEAL DECISION: PA 21-1769

Appeal Decision: The penalty is overturned in part.
Hearing Issue: Appeal of the 2021 Tax Year Penalty
Hearing Date: May 27, 2022
Decision Date: May 31, 2022

AUTHORITY

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

JURISDICTION

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

HEARING RECORD

The Appellant appeared at the hearing, which was held by telephone on May 27, 2022. The procedures to be followed during the hearing were reviewed with the Appellant who was then sworn in. Exhibits were marked and admitted in evidence with no objection from the Appellant. The Appellant testified.

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

- | | | |
|---------------|---|-----------|
| Exhibit 1: | Appeal Case Information from Schedule HC. | (1 page). |
| Exhibit 2: | Statement of Grounds in Support of Appeal dated 3/7/2022. | (2 PP). |
| Exhibit 2(a): | Appellant's Statement and Documents in Support of Appeal submitted 3/7/2022. (2019 and 2020 1040s, Insurance correspondence and card). | |
| Exhibit 3: | Health Connector's Notice of Hearing dated 4/13/2022 | (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 36 in 2021, lived in Suffolk County, and had zero (0) dependents. (Exhibit 1).
2. Appellant's Federal Adjusted Gross Income for 2021 was \$71,048. (Exhibit 1).
3. The Appellant was paid 22.50 hourly at his full-time employment until he began receiving a salary in September 2021. (Appellant's Testimony, Exhibit 2(a)).
4. Appellant's approximate bi-weekly net take home pay was \$1,500 per week when he was paid hourly, and a substantial portion of his earnings were backloaded towards the end of the year when he began receiving salary and also a bonus. (Appellant's Testimony, Exhibit 2(a)).

5. Appellant had heard from Human Resources that Employer Sponsored Insurance (“ESI”) was not affordable but did not know the amount of the premium. (Appellant’s Testimony).
6. Appellant investigated obtaining insurance through the Connector but was only eligible for partial aid with very bad coverage. (Appellant’s Testimony, Exhibit 2(a)).
7. Appellant has been assessed a tax penalty for twelve (12) months in 2021. The Appellant has appealed this assessment (Exhibits 1, 2).
8. Because of his hourly earnings for most of the year, the Appellant could not afford spending money on insurance. (Appellant’s Testimony, Exhibit 2(a)).
9. Appellant had the following approximate monthly living expenses in 2021: Rent: \$1,300, Utilities: \$150, Car Payment: \$200, Car Insurance: \$250, Gas: \$ 60, Cell Phone: \$75, Food: \$200, Credit Card \$300, Student Loan: \$50; totaling \$ 2,585. (Appellant’s Testimony, Ex. 2(a)).
10. According to Table 3 Appellant could have afforded \$473.65 per month for health insurance in 2021. According to Table 4 Appellant could have purchased insurance for \$275.00 per month.
11. 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).
12. 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.
13. The Appellant obtained ESI in 2021 which is approximately \$74 per week, or x. 4.3 weeks, \$318.20 per month. (Appellant’s Testimony).

ANALYSIS AND CONCLUSIONS OF LAW

The issue on appeal is whether the tax penalty assessed by the Massachusetts Department of Revenue for 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 during 2021 because the expense of purchasing health insurance would have caused his 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, \$71,048.00 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 \$ 473.65 per month. According to Table 4, Appellant, age 36 and living in Suffolk County during the time he was being penalized for not having insurance, could have purchased insurance for \$275 per month. Individual coverage was not 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 in 2021. The Appellant testified that he had heard from Human Resources that Employer Sponsored Insurance (“ESI”) was not affordable but did not know the amount of the premium. (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’s did not know the cost of ESI. Accordingly, I find the Appellant did have access to Employer Sponsored Insurance (“ESI”) but I am unable to determine whether the insurance was affordable. (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 his. 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: \$1,300, Utilities: \$150, Car Payment: \$200, Car Insurance: \$250, Gas: \$ 60, Cell Phone: \$75, Food: \$200, Credit Card \$300, Student Loan: \$50; totaling \$ 2,585. (Appellant's Testimony, Ex. 2(a)).

The evidence presented by the Appellant in this case is insufficient to establish that he experienced a hardship pursuant to 956 CMR 6.08(1)(a), (3), as defined by law so as to waive his penalty for the months in question. I find the Appellant did not meet his burden that he could not afford the cost of \$473.65 for the months he began receiving salary. I find that he did not have adequate income to afford the cost of purchasing private insurance during the first nine months of the year given his credible testimony that given his biweekly net take home pay of approximately \$1,500 per pay period, he could not afford to purchase insurance given his monthly expenses of \$2,585. Moreover, the mandate has not been lost on the Appellant as he testified, he obtained private insurance in 2021. (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 **partially 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: 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 her income and employment have not changed, he is advised to investigate her eligibility for subsidized health insurance through the Health Connector at www.mahealthconnector.org or by contacting customer service at 1-877-623-6765.

Massachusetts Health Connector Appeals Unit

FINAL APPEAL DECISION: PA20-1188

Appeal Decision: Appeal Approved

Hearing Issue: Appeal of the 2020 Tax Year Penalty

Hearing Date: April 20, 2022

Decision Date: May 19, 2022

AUTHORITY

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

JURISDICTION

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

HEARING RECORD¹

The Appellant listed as the Primary Taxpayer (Primary Taxpayer) on the Appeal Case Information from Schedule HC for 2020 appeared at the hearing, which was held by telephone on April 20, 2022. The Appellant listed as the Primary Taxpayer's Spouse (Appellant Spouse) did not appear at the hearing on that date. The Primary Taxpayer testified they were authorized to speak for their spouse. (Appellant's Testimony).

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

- Exhibit 1: Hearing Notice dated March 14, 2022 (2 pages)
- Exhibit 2: Appeal Case Info. from Sch. HC for 2020 (1 page)
- Exhibit 3: Vacate Dismissal Request (2 pages)
- Exhibit 4: Hearing Decision PA19-1142 Final (6 pages)

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

FINDINGS OF FACT

The record shows, and I so find:

1. The Primary Taxpayer turned 56 years old in April 2020. The Primary Taxpayer filed their Federal Income Tax Return as a married person, filing jointly, with two (2) dependents claimed. (Exhibit 2).
2. The Appellant Spouse turned 51 years old in February 2020. (Exhibit 2).
3. The Appellants lived in Plymouth County, MA during 2020. (Exhibit 2).
4. The Appellants' Federal Adjusted Gross Income for 2020 was \$225,783.06.00. (Exhibit 2).
5. The Primary Taxpayer did not have Minimum Creditable Coverage (MCC)-compliant health insurance during six months of tax year 2020 according to Appeal Information from Schedule HC for 2020. (Exhibit 2).
6. The Primary Taxpayer was assessed a tax penalty of three (3) months according to Appeal Case Information from Schedule HC for 2020. (Exhibit 2).
7. Appellant Spouse was not assessed a tax penalty for any months during 2020. (Exhibit 2)
8. I take administrative notice of the financial information set forth in Tables 1 through 6 of the DOR 2020 Massachusetts Schedule HC Health Care Instructions and Worksheet. Tables 3 and 4 incorporate affordability and premium schedules adopted by the Board of Directors for the Commonwealth Health Insurance Connector Authority for 2020. Table 2 sets forth income at 300% of the Federal poverty level and Tables 5 and 6 set forth tax penalties in effect for 2020.
9. In accordance with Table 3 of Schedule HC for 2020, the Primary Taxpayer filing the Federal tax return as a married person, filing jointly, with two (2) dependents claimed, with an annual adjusted gross income of \$225,783.06.00, could afford to pay \$1,505.22 per month for government-sponsored health insurance. In accordance with Table 4, the Primary Taxpayer, age 56, living in Plymouth County, could have purchased private market health insurance for their family at a cost of \$1,024 per month. (Table 4, Schedule HC for 2020). Thus, private insurance was affordable for the Primary Taxpayer in 2020.
10. The Primary Taxpayer purchased health insurance family plan coverage through their employer during 2020. (Appellant's Testimony and Exhibit 3). However, that plan was not MCC-compliant in one respect; it did not provide dependent care maternity coverage. Thus, affordable MCC-compliant employer-sponsored insurance was not available to the Primary Taxpayer during 2020. (Taxpayer's Testimony and Exhibit 3).

11. The Appellants were not eligible for government-subsidized ConnectorCare coverage in 2020 because their Federal Adjusted Gross Income of \$230,664.00 was greater than the Federal poverty level of \$77,250 for a family of four. (Schedule HC for 2020).
12. The Appellants have a seventeen-year-old son and a twenty-year-old daughter. (Primary Taxpayer's Testimony).
13. The Primary Taxpayer was employed by a Michigan company during 2020 that was purchased by an international company during that year.
14. Before the Primary Taxpayer's company was purchased by an international company, it offered health insurance through Blue Cross Blue Shield (BCBS) of Michigan. (Taxpayer's Testimony and Exhibit 5).
15. The BCBS plan met MCC standards in all respects except that it did not offer maternity leave benefits for dependents.
16. The Primary Taxpayer asked his company if they could supplement their health plan to provide maternity leave benefits for dependents. The company responded negatively because the Primary Taxpayer and one other employee are the company's only Massachusetts employees. (Primary Taxpayer's Testimony, which I credit).
17. The international company for which the Primary Taxpayer now works does offer MCC-compliant health insurance, in which the Primary Taxpayer has been enrolled since July 2020.
18. The Primary Taxpayer used to work a second job driving an Uber car to help make ends meet, anticipating the cost of college tuitions for their two children and other family expenses. During the pandemic, however, the Primary Taxpayer was forced to give up Uber driving and, thus, lost a second source of income in the amount of about \$14,000.00 annually. (Primary Taxpayer's Testimony, which I credit).
19. The Primary Taxpayer works as a salesman. Their company's sales have been reduced because of the pandemic. Consequently, the Primary Taxpayer and other sales personnel will not receive any bonuses or salary raises. (Primary Taxpayer's Testimony).
20. The Primary Taxpayer takes care of their parent who suffers from Alzheimer's disease. (Primary Taxpayer's Testimony, which I credit).
21. Appellants' 2020 monthly living expenses of \$11,258.00 included: Mortgage - \$2,600.00, Heat - \$350.00, Phone - \$425.00, Cable/internet - \$150.00, Electricity - \$250.00, Food - \$2,000, Car payments - 500.00, Car insurance - \$400.00, Gas - \$300.00, Credit Card debt - \$1,667.00 and college tuition - \$9,591.00. (Primary Taxpayer's Testimony).
22. The Taxpayer filed an appeal of their three-month assessment for tax years 2019. (Exhibit 4)

ANALYSIS AND CONCLUSIONS OF LAW

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

The Primary Taxpayer was assessed a tax penalty of three (3) months according to Appeal Information from Schedule HC for 2020. (Exhibit 2). Appellant Spouse was not assessed a tax penalty for any months during 2019. (Exhibit 2)

The Primary Taxpayer appeals their tax penalty assessment of three (3) months on the ground of hardship, the equitable basis of having tried unsuccessfully to secure maternity care for dependent coverage from their employer and the fact that they have had MCC-compliant health insurance since July 2020 . (Taxpayer’s Testimony and Exhibit 3).

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

In accordance with Table 3 of Schedule HC for 2020, the Primary Taxpayer filing the Federal tax return as a married person, filing jointly, with two (2) dependents claimed, with an annual adjusted gross income of \$225,783.06.00, could afford to pay \$1,505.22 per month for government-sponsored health insurance. In accordance with Table 4, the Primary Taxpayer, age 56, living in Plymouth County, could have purchased private market health insurance for their family at a cost of \$1,024 per month. (Table 4, Schedule HC for 2020). Thus, private insurance was affordable for the Primary Taxpayer in 2020.

The Primary Taxpayer purchased health insurance family plan coverage through their employer during 2020. (Appellant’s Testimony and Exhibit 3). However, that plan was not MCC-compliant in one respect; it did not provide dependent care maternity coverage. Thus, affordable MCC-compliant employer-sponsored insurance was not available to the Primary Taxpayer during 2020. (Taxpayer’s Testimony and Exhibit 3).

The Appellants were not eligible for government-subsidized ConnectorCare coverage in 2020 because their Federal Adjusted Gross Income of \$230,664.00 was greater than the Federal poverty level of \$77,250 for a family of four. (Schedule HC for 2020).

Appellants' had monthly living expenses of about \$11,258.00 monthly in 2020. The Primary Taxpayer was forced to give up their second job as an Uber driver because of the pandemic. This meant a loss of about \$14,000.00 annually in income. (Primary Taxpayer's Testimony, which I credit). Additionally, because sales were down for the Primary Taxpayer's company, they did not receive any bonus or salary increase for 2020. At the same time, they had to assume the time and expense of caring for their parent suffering from Alzheimer's disease. (Primary Taxpayer's Testimony, which I credit).

Based on the totality of the circumstances and the evidence contained in this administrative record, I conclude that the Primary Taxpayer has demonstrated financial hardship. 956 CMR 6.08. Moreover, the Primary Taxpayer attempted to secure maternity care coverage through their employer but was unsuccessful for the first six months of 2020 but had MCC-compliant insurance for the last six months of 2020 when an international company purchased the employer. (Primary Taxpayer's Testimony, which I credit).

For all these reasons, the Primary Taxpayer's three-month penalty is waived entirely.

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

PENALTY ASSESSED

Appellant Primary Taxpayer:

No. of Months Appealed: 3 No. of Months Assessed: 0

Appellant Spouse:

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

If the number of months assessed is zero (0) because your penalty has been overturned, the Connector has notified the Department of Revenue that you should NOT be assessed a penalty for Tax Year 2011.

NOTIFICATION OF YOUR RIGHT TO APPEAL TO COURT

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

Hearing Officer

Cc: Connector Appeals Unit

Massachusetts Health Connector Appeals Unit

FINAL APPEAL DECISION: PA20-1195

Appeal Decision: Appeal Approved
Hearing Issue: Appeal of the 2020 Tax Year Penalty
Hearing Date: March 10, 2022
Decision Date: May 4, 2022

AUTHORITY

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

JURISDICTION

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

HEARING RECORD¹

The Appellant appeared at the hearing, which was held by telephone, on March 10, 2022.

The hearing record consists of the Appellant's testimony and the following documents which were admitted into evidence without objection.

| | | |
|------------|--------------------------------------|----------|
| Exhibit 1 | Hearing Notice dated. Feb. 22, 2022 | 2 pages |
| Exhibit 2 | Form MA 1099 -HC_1 | 1 page |
| Exhibit 3 | Form MA 1099 -HC_2 | 1 page |
| Exhibit 4 | COBRA Cont. Covg. Election Notice. | 14 pages |
| Exhibit 5 | Email to H. Cohen-Smith, 12/20/21 | 2 pages |
| Exhibit 6. | Email to H. Cohen-Smith, 12/7/21 | 1 page |
| Exhibit 7 | Letter to Health Connector, 11/15/21 | 1 page |

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

FINDINGS OF FACT

The record shows, and I so find:

1. The Appellant turned 34 years old in November 2020. The Appellant filed their Federal Income Tax Return as a single individual, with no dependents claimed. (Exhibit 2).
2. The Appellant lived in Middlesex County, MA from January through June 15, 2020. (Appellant's Testimony, which I credit).
3. The Appellant's Federal Adjusted Gross Income (AGI) for 2020 was \$23,837.00 as shown on Schedule HC for 2020. (Exhibit 2).
4. The Appellant had health insurance that met Minimum Creditable Coverage (MCC) during six (6) months of tax year 2020 according to Appeal Case Information from Schedule HC for 2020. (Exhibit 3).
5. The Appellant has been assessed a three (3)-month tax penalty for 2020, which they have appealed. (Exhibit 1).
6. I take administrative notice of the financial information set forth in Tables 1 through 6 of the DOR 2020 Massachusetts Schedule HC Health Care Instructions and Worksheet. Tables 3 and 4 incorporate affordability and premium schedules adopted by the Board of Directors for the Commonwealth Health Insurance Connector Authority for 2020. Table 2 sets forth income at 300% of the Federal poverty level and Tables 5 and 6 set forth tax penalties in effect for 2020.
7. In accordance with Table 3 of Schedule HC for 2020, the Appellant filing the Federal tax return as a single individual, with no dependents claimed, with an annual adjusted gross income of \$23,837.00, could afford to pay \$57.61 per month for government-sponsored health insurance. In accordance with Table 4, the Appellant, age 34 years, living in Middlesex County could have purchased private market health insurance for \$288.00 per month. (Table 4, Schedule HC for 2020). Thus, private insurance was not affordable for the Appellant in 2020.
8. Employer-sponsored insurance (ESI) was not available to Appellant after June 2020. (Appellant's Testimony, which I credit).
9. The Appellant was income-eligible for ConnectorCare coverage in 2020 because their adjusted gross income of \$23,837 was less than 300% of the Federal poverty level, which was \$37,470.00 in 2020 (Schedule HC, Table 2). (Exhibit 2).
10. The Appellant was employed by a university as a Post-Doctoral Fellow from January through June 2020. During that time, they received MCC-compliant health insurance coverage through their employer. (Appellant's Testimony, which I credit).

11. The Appellant moved from Massachusetts on June 15, 2020 and did not reside in Massachusetts for the remainder of 2020. (Appellant’s Testimony, which I credit).
12. The Appellant found a job in North Carolina during 2021, where they currently reside. (Appellant’s Testimony, which I credit, and Exhibit 7).
13. The Appellant incorrectly completed their Form 1099-HC for 2020, which mistakenly failed to reflect that Appellant was a Massachusetts non-resident from July through December 2020. (Appellant’s Testimony, which I credit, and Exhibits 2 & 3).

ANALYSIS AND CONCLUSIONS OF LAW

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

The Appellant testified and wrote in their letter to the Connector that they moved from Massachusetts in mid-June 2020. (Exhibit 7 and Appellant’s Testimony, which I credit).

I find that the Appellant did move from Massachusetts in mid-June 2020. Appellant mistakenly did not indicate on their 2020 tax forms that they lived in Massachusetts only for 5.5 months during 2020, January through mid-June. (Appellant’s Testimony, which I credit). The Appellant had MCC-compliant health insurance during the 5.5 months that they lived in Massachusetts. Given that they did not live in Massachusetts for the remaining 6.5 months of 2020, they should not be assessed a tax penalty for those months.

Based on all the credible evidence contained in this administrative record and the totality of the circumstances, I conclude that Appellant’s MA Form HC-2020 was completed incorrectly and that during 2020, the Appellant lived in Massachusetts for 5.5 months, during which time they has MCC-compliant coverage. During the remainder of 202, the Appellant did not reside in Massachusetts. For these reasons, payment for the three (3)-month penalty assessment for the Appellant is waived entirely.

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

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: PA20-1198

Appeal Decision: Appeal Approved
Hearing Issue: Appeal of the 2020 Tax Year Penalty
Hearing Date: April 20, 2022
Decision Date: May 28, 2022

AUTHORITY

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

JURISDICTION

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

HEARING RECORD¹

The Appellant listed as the Primary Taxpayer (Primary Taxpayer) appeared at the hearing on April 20, 2022, which was held by telephone, and was authorized by their spouse to speak on the Appellant Spouse's behalf. (Primary Taxpayer's Testimony). The Appellant Spouse did not appear at the hearing. Additionally, the Primary Taxpayer's Tax Representative appeared with them at the hearing and, pursuant to an Open record Request, submitted an Authorized Representative Designation form listed as Exhibit 7 below.

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

| | | |
|-----------|---|---|
| Exhibit 1 | Hearing Notice dated March 14, 2022 | 2 |
| Exhibit 2 | Appeal Case Info. from Sch. HC for 2020 | 1 |
| Exhibit 3 | Statement of Grounds for Appeal | 5 |
| Exhibit 4 | Letter fr. Medford Tax Experts, 12.2.21 | 1 |
| Exhibit 5 | Form 1099-K for 2020 | 1 |

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

| | | |
|-----------|--|---|
| Exhibit 6 | Form M-2848 POA and Decl of Representative | 2 |
| Exhibit 7 | Authorized Representative Designation | 1 |

FINDINGS OF FACT

The record shows, and I so find:

1. The Primary Taxpayer turned 57 years old in September 2020. The Primary Taxpayer filed their Federal Income Tax Return as a married person, filing jointly, with one dependent claimed. (Exhibit 2).
2. The Appellant Spouse turned 41 years old in February 2020. (Exhibit 2).
3. The Primary Taxpayer and Appellant Spouse (together, Appellants) lived in Middlesex County, MA during five (5) months of 2020 (August through December). (Exhibits 2 and 4 and Testimony of Primary Taxpayer, which I find credible).
4. The Appellants' Federal Adjusted Gross Income for 2020 was \$43,679.00. (Exhibit 2).
5. Neither the Primary Taxpayer or the Appellant Spouse had MCC-compliant health insurance coverage during twelve (12) months of tax year 2020 according to Appeal Information from Schedule HC for 2020. (Exhibit 2).
6. Each Appellant was assessed a tax penalty of twelve (12) months according to Appeal Case Information from Schedule HC for 2020, and each appeals their respective assessment. (Exhibit 2).
7. I take administrative notice of the financial information set forth in Tables 1 through 6 of the DOR 2020 Massachusetts Schedule HC Health Care Instructions and Worksheet. Tables 3 and 4 incorporate affordability and premium schedules adopted by the Board of Directors for the Commonwealth Health Insurance Connector Authority for 2020. Table 2 sets forth income at 300% of the Federal poverty level and Tables 5 and 6 set forth tax penalties in effect for 2020.
8. In accordance with Table 3 of Schedule HC for 2020, the Primary Taxpayer filing the Federal tax return as a married person, filing jointly, with no dependents claimed, with an annual adjusted gross income of \$43,679.00, could afford to pay \$269.35 per month for government-sponsored health insurance. In accordance with Table 4, the Primary Taxpayer, age 57, living in Middlesex County, could have purchased private market health insurance for \$864.00 per month. (Table 4, Schedule HC for 2020). Thus, private insurance was not affordable for the Appellants in 2020.
9. Employer-sponsored insurance was not available to the Primary Taxpayer during 2020. (Primary Taxpayer's Testimony).

10. The Appellants were income-eligible for government-subsidized ConnectorCare coverage in 2020 because their federal Adjusted Gross Income of \$43,679.00 was less than the Federal poverty level of \$50,730.00 for a family of two. (Schedule HC for 2020).
11. Prior to moving to Massachusetts, the Primary Taxpayer had been employed by a food delivery ride service. However, the Primary Taxpayer was laid off from that job for at least fifteen (15) weeks during 2020 because of the Covid-19 pandemic, including when they first moved to Massachusetts in August and September 2020.
12. The Primary Taxpayer received some unemployment benefits during 2020. (Primary Taxpayer's Testimony).
13. The Primary Taxpayer became employed again as a food delivery driver from October through December 2020. (Exhibit 5 and Primary Taxpayer's Testimony).
14. The Primary Taxpayer's new spouse was not employed and did not earn income in Massachusetts during 2020.
15. As a new resident of Massachusetts in August 2020, The Primary Taxpayer did not understand that they may have qualified for ConnectorCare coverage.² (Primary Taxpayer's Testimony, which I credit).
16. The Primary Taxpayer's 2020 Massachusetts Schedule HC Health Care Form was completed incorrectly by a third-party tax preparer and did not reflect that Appellants were new residents to Massachusetts as of August 2020. Thus, they resided in Massachusetts for only five (5) months during 2020. (Testimony of Primary Taxpayer and the Primary Taxpayer, which I credit).
17. Appellants' 2020 monthly living expenses of \$3,406.75 included: Rent - \$1,800.00, Gas - \$180.00, Electricity - \$45.00, Food - \$425.00, Car payments - \$254.00, Car insurance - \$72.75, Phone - \$85.00, Wifi - \$45.00, Food - \$500.00. Additionally, the Primary Taxpayer had expenses of \$3,600.00 for last month's rent and a security deposit, and they owed about \$10,000.00 in income taxes. (Primary Taxpayer's Testimony).
18. The Appellants have applied for MassHealth Insurance and are waiting to hear back. (Primary Taxpayer's Testimony).

ANALYSIS AND CONCLUSIONS OF LAW

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

² The Primary Taxpayer was provided with the phone number and website address for the Commonwealth Health Insurance Connector, as well as for MassHealth, for future reference.

There is a three-month grace period to allow the taxpayer to obtain health insurance coverage or to make the transition between health insurance policies. See M.G.L. c. 111M, sec. 2(b) and for Tax Year 2011, Administrative Bulletin 03-10: M.G.L. c. 111M and M.G.L. c. 176Q as implemented by 956 CMR 6.00, which interprets the 63-day gap in coverage to be three months. The Connector's regulations provide for a waiver of the tax penalty in the case of financial hardship. See 956 CMR 6.08.

The Appellant checked the boxes on the Statement of Grounds for Appeal saying that the expense of purchasing health insurance would have caused a serious deprivation of food and other living expenses and also checked the "Other" box. (Exhibit 3 and Primary Taxpayer's Testimony).

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

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

In accordance with Table 3 of Schedule HC for 2020, the Primary Taxpayer filing the Federal tax return as a married person, filing jointly, with no dependents claimed, with an annual adjusted gross income of \$43,679.00, could afford to pay \$269.35 per month for government-sponsored health insurance. In accordance with Table 4, the Primary Taxpayer, age 57, living in Middlesex County, could have purchased private market health insurance for \$864.00 per month. (Table 4, Schedule HC for 2020). Thus, private insurance was not affordable for the Appellants in 2020.

Employer-sponsored insurance was not available to the Primary Taxpayer during 2020. (Primary Taxpayer's Testimony).

The Appellants were income-eligible for government-subsidized ConnectorCare coverage in 2020 because their federal Adjusted Gross Income of \$43,679.00 was less than the Federal poverty level of \$50,730.00 for a family of two. (Schedule HC for 2020).

The Primary Taxpayer's 2020 Massachusetts Schedule HC Health Care Form was completed incorrectly by a third-party tax preparer and did not reflect that Appellants were new residents to Massachusetts as of August 2020. Thus, they resided in Massachusetts for only five (5) months during 2020. (Testimony of Primary Taxpayer and the Primary Taxpayer, which I credit). Thus, I conclude that their tax penalty assessment should be reduced from twelve months to five (5)

months. Further, applying the three-month grace period discussed above, I conclude that the penalty assessment should be further reduced to two (2) months.

Prior to moving to Massachusetts, the Primary Taxpayer had been employed by a food delivery ride service. However, the Primary Taxpayer was laid off from that job for at least fifteen (15) weeks during 2020 because of the Covid-19 pandemic, including when they first moved to Massachusetts in August and September 2020.

The Primary Taxpayer received some unemployment benefits during 2020. (Primary Taxpayer's Testimony).

The Primary Taxpayer became employed again as a food delivery driver from October through December 2020. (Exhibit 5 and Primary Taxpayer's Testimony).

The Primary Taxpayer's new spouse was not employed and did not earn income in Massachusetts during 2020.

As a new resident of Massachusetts in August 2020, The Primary Taxpayer did not understand that they may have qualified for ConnectorCare coverage.³ (Primary Taxpayer's Testimony, which I credit).

Appellants' 2020 monthly living expenses of \$3,406.75 included: Rent - \$1,800.00, Gas - \$180.00, Electricity - \$45.00, Food - \$425.00, Car payments - \$254.00, Car insurance - \$72.75, Phone - \$85.00, Wifi - \$45.00, Food - \$500.00. Additionally, the Primary Taxpayer had expenses of \$3,600.00 for last month's rent and a security deposit, and they owed about \$10,000.00 in income taxes. (Primary Taxpayer's Testimony).

The Appellants have applied for MassHealth Insurance and are waiting to hear back. (Primary Taxpayer's Testimony).

Based on the totality of the circumstances and evidence contained in the administrative record, I conclude that Appellants lived in Massachusetts during only five (5) months of 2020. Further, applying the three-month grace period, their penalty assessment should be reduced to two (2) months. Appellants have demonstrated that they would have experienced hardship if they had paid for health insurance during 2020. 956 CMR 6.08 (1) and (3). Their annual living expenses during 2020 totaled almost \$41,000.00. They had additional expenses of \$13,600 for last month's rent and a security deposit and for back taxes. Their total annual expenses of \$54,481.00 would have exceeded their AGI of \$43,679.00 for 2020. Appellants did not understand the Connector marketplace and the possibility that they may have qualified for subsidized insurance during 2020. Appellants have applied for MassHealth insurance.

For all these reasons, each of Appellants' twelve-month penalty is waived entirely.

³ The Primary Taxpayer was provided with the phone number and website address for the Commonwealth Health Insurance Connector, as well as for MassHealth, for future reference.

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

PENALTY ASSESSED

Appellant Primary Taxpayer:

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

Appellant Spouse:

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

If the number of months assessed is zero (0) because your penalty has been overturned, the Connector has notified the Department of Revenue that you should NOT be assessed a penalty for Tax Year 2011.

NOTIFICATION OF YOUR RIGHT TO APPEAL TO COURT

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

Hearing Officer

Cc: Connector Appeals Unit

Massachusetts Health Connector Appeals Unit

Tax Penalty Appeal Decision—Docket No. PA20-1210 (RB + TBB)

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

Hearing Issue: Appeal of the 2020 Tax Year Penalty

Hearing Date: May 2, 2022

Decision Date: May 7, 2022

AUTHORITY

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

JURISDICTION

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

HEARING RECORD

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

1. DOR Appeal Case Information from Schedule HC (1 page);
2. Appellants' Statement of Grounds for Appeal – 2020 (3 pages);
3. Appellants' Letter in Support of Appeal (1 page); and
4. Health Connector's Notice of Hearing (2 pages).

FINDINGS OF FACT

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

1. The Appellants appealed from the Department of Revenue's assessment of a 24 month penalty for 2020 (12 months for Husband and 12 months for Wife). The basis for the penalty was that the Appellants were not insured at any time in 2020. Exhibits 1 and 2. Based on Exhibit 1 and the Appellant's hearing testimony, I find that the penalty assessment is accurate.
2. The Appellants filed a Massachusetts personal income tax return for 2020 as a married couple filing jointly with 2 dependents. The Appellants' federal adjusted gross income (AGI) for 2020 was \$74,928. Exhibit 1. The Appellants have 5 children, but only the 2 younger children were claimed as dependents on the Appellants' 2020 tax return. Testimony.
3. The Husband and Wife were both older than the maximum age (55+) set forth in DOR Table 4 for monthly health insurance premiums (the Wife is younger), and they resided in [name of city or town omitted] in Norfolk County, Massachusetts. Exhibit 1.
4. The Appellants' AGI was more than 150% of the federal poverty level. On this basis I conclude that the Appellants were not automatically exempt from the assessment of a tax penalty in 2020. DOR Table 1.
5. The Appellant's 2020 AGI (\$74,928) was less than 300% of the federal poverty level (\$77,250 for a four person household). DOR Table 2. On this basis I infer that it is likely that the Appellants would satisfy the financial eligibility requirements for government-subsidized health insurance.
6. Based on DOR Table 3 (married filing jointly with one or more dependents) the Appellants could afford to pay 7.60 of their income -- or \$475 per month -- for health insurance coverage in 2020. (The calculation is 7.60 % multiplied by \$74,928 AGI = \$5,694.52 per year divided by 12 months = \$474.54 per month.)
7. Based on DOR Table 4 (Region 2) the Appellants could obtain family health insurance coverage based on their age (55+) and location (Norfolk County) for \$1,024 per month in 2020. (Alternatively, the Husband and Wife could obtain coverage as a married couple for \$894.)

8. The family's total income was adversely affected in 2020 by the coronavirus pandemic (COVID-19). The Husband's pension as a retired state government employee was their only source of income in 2020. Testimony and Exhibit 3.
9. The Appellants assumed that they had health insurance coverage in 2020, but the Wife learned at a doctor's appointment that their insurance coverage had lapsed. The Appellants' multiple interactions with insurers, including the Health Connector, in 2020 are unclear, but a late premium payment is the apparent reason that the Appellants did not have coverage. For 2021, the Wife was covered by MassHealth, but the Husband was not covered because he had reached the age of federal Medicare eligibility (65 years old). Testimony and Exhibit 3. (I note that it is unclear on this hearing record why the health insurance premiums were not paid by payroll deduction from the Husband's state retirement plan, at least until he reached the Medicare retirement age.)
10. The Appellants financial condition was adversely affected by a mortgage foreclosure. Over a period of time their monthly payments were increased to avoid foreclosure. The Husband also withdrew his deferred compensation state retirement funds (a form of 501k tax deferred retirement plan) in order to save the family home from foreclosure and had to pay the penalty imposed by the IRS for an early withdrawal. Testimony and Exhibit 3.
11. The Appellants were also behind in their utility payments. They entered into a payment plan to avoid termination of their service. Testimony. See 956 Code Mass. Regs. 6.08 (1) (b) ("received a [gas or electric] shut-off notice").
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 2020 Massachusetts income tax return.
13. I take administrative notice of the financial information set forth in Tables 1 through 6 of the DOR 2020 Massachusetts Schedule HC Health Care Instructions and Worksheet. Tables 3 and 4 incorporate the affordability schedules adopted by the board of directors for the Commonwealth Health Insurance Connector Authority (Health Connector or Connector) for 2020. See 956 Code Mass. Regs.

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

ANALYSIS AND CONCLUSIONS OF LAW

The case is before me on the Appellants' (Husband and Wife) appeal from the state Department of Revenue's (DOR) assessment of a 24 month tax penalty -- 12 months for the Husband and 12 months for the Wife -- because neither of the Appellants had health insurance coverage in 2020. See Exhibits 1 and 2. The issue to be decided is whether the penalty should be waived, either in whole or in part.

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

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

The Health Connector’s regulations also provide for a “hardship” appeal from the assessment of a penalty. 956 Code Mass. Regs. 6.07 and 6.08. The grounds for a hardship appeal are summarized in the Statement of Grounds for Appeal – 2020 that the Appellants signed and filed in this case. See Exhibit 2.

The Appellants in this case were poorly informed about their health insurance situation, and they made a number of unsuccessful communications to try to resolve the problems. To illustrate, the Wife learned they were not insured in 2020 only when she showed up for a doctor’s appointment. The Appellants enlisted the help of a local hospital without success. A year later (in 2021) the Wife was enrolled in MassHealth, but the Husband was not eligible for MassHealth because he was 65 years old, which is the eligibility age for the federal Medicare program. See, e.g., Findings of Fact, No. 9, above. (The federal Medicare issue needs urgent attention by the Appellants. Since Medicare is a federal law program it cannot be resolved in this appeal which is limited to government-subsidized health plans under Massachusetts law. See the RECOMMENDATION at the end of this decision.)

Exactly how the Appellants reached this point is not altogether clear on this hearing record. What is clear, however, is that they could not afford health insurance under the circumstances that existed in 2020, when the DOR penalized them because both Husband and Wife lacked health insurance. Under the objective standards set forth in DOR Tables 3 and 4, the Appellants could afford to pay \$475 per month for health insurance, but the \$1,024 monthly premium was substantially more than they could afford. See Mass. Gen. Laws, c. 111M, sec. 2 (a) (“deemed affordable”) and Findings of Fact, Nos. 5 – 7, above.

The Appellants mortgage foreclosure problem, which stretched over a period of time, also illustrates the Appellants’ weakened financial condition. Notably, the Appellants’ withdrew the funds that the Husband had saved in his deferred compensation retirement plan in order to save the family home from foreclosure. See 956 Code Mass. Regs. 6.08 (1) (a) (“more than 30 days in arrears in rent or mortgage payments, or received an eviction or foreclosure notice”).

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

PENALTY ASSESSED

Number of Months Appealed: (Husband) 12____ Number of Months Assessed: _-0-
Number of Months Appealed: (Wife) 12 Number of Months Appealed -0-

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

OR

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

NOTIFICATION OF YOUR RIGHT TO APPEAL TO COURT

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

Hearing Officer

Cc: Massachusetts Health Connector Appeals Unit

RECOMMENDATION. During your appeal hearing I expressed concern that the Husband’s federal Medicare situation needs urgent attention since he may not have enrolled in Medicare at the usual eligibility point (65 years old). My decision to waive the penalty that the state Department of Revenue assessed for 2020 does not affect your potential responsibility for late payment fees for late enrollment in Medicare. I will suggest some sources that you might use to address the Medicare enrollment issue.

I begin with the state **Group Insurance Commission (GIC)** since your appeal hearing testimony indicated that your household had once had health insurance through GIC due to the Husband’s status as state government employee (in the judicial branch). GIC should be able to explain your health insurance status and what should happen at age 65.

The GIC also offers Medicare supplemental coverage to state retirees. See 2022-2023 Benefits Overview. Contact: Online at mass.gov/GIC or by telephone at 1-617-727-4636,

The state also provides a free Medicare counselling and advocacy program known as **SHINE** (Serving the Health Insurance Needs of Everyone). SHINE volunteers are available at locations throughout the state, such as senior centers. I suggest that you schedule a SHINE appointment at the same time that you are contacting GIC. Email SHINE@state.ma.us or telephone 1-800-243-4636.

You will also have to deal with Medicare itself. As a resource look for the “Medicare & You 2022” handbook that is available in print – perhaps at your local library – or online at [Medicare.gov](https://www.Medicare.gov). Look for the sections on enrolling in the various parts of Medicare as well as the sections on late payment penalties and ways to get excused from the penalty (including special COVID provisions when government workers frequently were not available to answer your telephone calls). Note that Medicare is more complex than most people assume, so pay attention to the options available to you. I also suggest that you ask GIC to explain how being a former Massachusetts government works with Medicare if no member of your household is eligible for Social Security.

Massachusetts Health Connector Appeals Unit

Tax Penalty Appeal Decision—Docket No. PA20-1211 (BB)

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

Hearing Issue: Appeal of the 2020 Tax Year Penalty

Hearing Date: May 2, 2022

Decision Date: May 8, 2022

AUTHORITY

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

JURISDICTION

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

HEARING RECORD

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

1. DOR Appeal Case Information from Schedule HC (1 page);
2. Appellant’s Statement of Grounds for Appeal – 2020 (envelope) (1 page);
3. Appellant’s Letter in Support of Appeal (1 page); and
4. Health Connector’s Notice of Hearing (2 pages).

FINDINGS OF FACT

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

1. The Appellant appealed from the Department of Revenue's assessment of a 12 month penalty for 2020. The basis for the penalty was that the Appellant reported that she was not insured at any time in 2020 as part of her state income tax return. Exhibits 1 and 2.
2. Based on the Appellant's sworn testimony at the appeal hearing and on the written document that she submitted prior to the hearing (Exhibit3) I find that the Appellant was insured for all 12 months in 2020.
3. The Appellant, who was under 26 years of age in 2020, was insured as a dependent on her Father's health insurance policy. In Exhibit 3, the Appellant identified the name of the insurance company and the policy number, and she set forth her Father's name in full as the policy holder.
4. The Appellant mistakenly informed the state Department of Revenue that she was not insured when she completed DOR Schedule HC as part of her 2020 state income tax return. See Exhibit 1. She sought to correct her mistake when she submitted her letter dated March 21, 2022, as part of her appeal. See Exhibit 3 and Testimony.

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. The basis for the penalty assessment is that the Appellant mistakenly informed the DOR that she did not have health insurance in 2020. See Exhibits 1 and 2. The issue to be decided is whether the penalty should be waived, either in whole or in part.

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

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

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

The Health Connector’s regulations also provide for a “hardship” appeal from the assessment of a penalty. 956 Code Mass. Regs. 6.07 and 6.08. The grounds for a hardship appeal are summarized in the Statement of Grounds for Appeal – 2020 that the Appellant signed and filed in this case. See Exhibit 2.

The evidence that the Appellant presented in support of her appeal persuasively established that the Appellant, who was under 26 years old in 2020, was insured for all of 2020 under her Father’s health insurance plan. The Appellant mistakenly informed the state Department of Revenue that she was not insured when she submitted her state income tax return, but she corrected this information in her appeal. Exhibit 3 and Testimony.

Since the Appellant was actually insured in 2020 there is no basis for the assessment of a tax penalty under the terms of the individual mandate, as summarized 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 2020 for the amount equal to one half of the lowest cost health insurance plan available to you for each month you have been assessed the penalty, as listed above, plus applicable interest back to the due date of the return without regard to extension.

OR

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

NOTIFICATION OF YOUR RIGHT TO APPEAL TO COURT

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

Hearing Officer

Cc: Massachusetts Health Connector Appeals Unit

Massachusetts Health Connector Appeals Unit

Tax Penalty Appeal Decision—Docket No. PA21—1728 (LB)

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

Hearing Issue: Appeal of the 2021 Tax Year Penalty

Hearing Date: May 9, 2022

Decision Date: May 13, 2022

AUTHORITY

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

JURISDICTION

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

HEARING RECORD

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

1. DOR Appeal Case Information from Schedule HC (1 page);
2. Appellant’s Statement of Grounds for Appeal – 2021 (4 pages);
3. Appellant’s Letter in Support of Appeal (1 page); and
4. Health Connector’s Notice of Hearing (2 pages).

FINDINGS OF FACT

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

1. The Appellant appealed from the Department of Revenue's assessment of a 5 month penalty for 2021. The basis for the penalty was that the Appellant was insured for the months of September – December (4 months) but was not insured for the months of January – August (8 months). Exhibits 1 and 2. Based on Exhibit 1 and the Appellant's hearing testimony, I find that the penalty assessment is accurate. (The calculation is 12 months minus 4 months insured = 8 months uninsured minus 3-month administrative grace period = 5 penalty months.)
2. The Appellant filed a Massachusetts personal income tax return for 2021 as a single person with no dependents. The Appellant's federal adjusted gross income (AGI) for 2021 was \$30,055. Exhibit 1.
3. The Appellant was 51 years old at the beginning of 2021 and resided in [name of city or town omitted] in Barnstable County, Massachusetts. Exhibit 1.
4. The Appellant's AGI was more than 150% of the federal poverty level. On this basis I conclude that the Appellant was not automatically exempt from the assessment of a tax penalty in 2021. DOR Table 1.
5. The Appellant's 2021 AGI (\$30,055) was less than 300% of the federal poverty level (\$38,280 for a one person household). DOR Table 2. On this basis I infer that it is likely that the Appellant would satisfy the financial eligibility requirements for government-subsidized health insurance.
6. Based on DOR Table 3 the Appellant could afford to pay 4.20 % of her income -- or \$105 per month -- for health insurance coverage in 2021. (The calculation is 4.20% multiplied by \$30,055 AGI = \$1,262.31 per year divided by 12 months = \$105.19 per month.)
7. Based on DOR Table 4 (Region 2) the Appellant could obtain individual health insurance coverage at her age and location for \$390 per month in 2021.
8. The Appellant was unemployed in 2020 due to the onset of the coronavirus pandemic (COVID-19), and her unemployment continued into 2021. The Appellant's employment situation was exacerbated by the fact her employment was typically seasonal due to her place of residence. Testimony and Exhibit 3.

9. The Appellant applied for government-subsidized health insurance, but she was unable to afford the \$492 per month premium that she was quoted. Testimony. I accept her testimony as credible though it is higher than the premium amount set forth in DOR Table 4 above.
10. The Appellant's situation changed in September 2021. Her unemployment insurance benefits ended, she found a new job that did not offer health insurance as a job benefit, and her application for MassHealth was approved. Testimony and Exhibit 3. The Appellant was enrolled in MassHealth for the remainder of 2021. Exhibit 1 (insurance coverage for September, October, November, and December).
11. The Appellant has a \$20,000 credit card balance. She was otherwise able to maintain her core living expenses such as rent and utilities. 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 2021 Massachusetts income tax return.
13. I take administrative notice of the financial information set forth in Tables 1 through 6 of the DOR 2021 Massachusetts Schedule HC Health Care Instructions and Worksheet. Tables 3 and 4 incorporate the affordability schedules adopted by the board of directors for the Commonwealth Health Insurance Connector Authority (Health Connector or Connector) for 2021. See 956 Code Mass. Regs. 6.05. Table 1 sets forth income levels less than 150% of the federal poverty level that are exempt from the assessment of a state tax penalty. Table 2 sets forth income eligibility standards for various family sizes at 300% of the federal poverty level, which is the income eligibility standard for the ConnectorCare government subsidized health insurance program. Tables 5 and 6 set forth the tax penalties in effect for 2020. (The DOR instructions are published online at <http://www.mass.gov/dor/2018ScheduleHCInstructions> and are also available in the state income tax forms supplied to taxpayers. See also DOR Technical Information Release (TIR) 12-7: Individual Mandate Penalties for Tax Year 2021.)

ANALYSIS AND CONCLUSIONS OF LAW

The case is before me on the Appellant's appeal from the state Department of Revenue's (DOR) assessment of a 5 month tax penalty for 2021 because the Appellant was not insured for the months of January – August but was insured for the months of September 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 – 2021 that the Appellant signed and filed in this case. See Exhibit 2.

Like many others, the Appellant lost her job in 2020 due to the onset of the coronavirus pandemic, and her job loss continued into 2021 until she started a new job in September 2021. The Appellant's initial efforts to obtain government-insured health insurance were not successful because she could not afford the premium that was quoted to her. The Appellant's MassHealth application was approved in September 2021,

when her unemployment insurance benefits ended. She has been enrolled in MassHealth since then.

The objective standards set forth in DOR Tables 3 and 4 show that the Appellant could not afford health insurance in 2021. She could afford to pay \$105 per month based on her income, but health insurance would cost her \$390 per month. In addition, the Appellant had a \$20,000 credit card balance.

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

PENALTY ASSESSED

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

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

OR

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

NOTIFICATION OF YOUR RIGHT TO APPEAL TO COURT

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

Hearing Officer

Cc: Massachusetts Health Connector Appeals Unit

Massachusetts Health Connector Appeals Unit

Tax Penalty Appeal Decision—Docket No. PA21-1732 (CC)

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

Hearing Issue: Appeal of the 2021 Tax Year Penalty

Hearing Date: May 9, 2022

Decision Date: May 15, 2022

AUTHORITY

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

JURISDICTION

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

HEARING RECORD

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

1. DOR Appeal Case Information from Schedule HC (1 page);
2. Appellant's Statement of Grounds for Appeal – 2021 (7 pages);
3. Appellant's Letter in Support of Appeal (1 page);
4. United Healthcare Transmittal for IRS Form 1095-B (2 pages, dated 12/13/21);
5. Appellant's 2021 IRS Form 1095-B (1 page);
6. Appellant's 2021 IRS Form 1095-B with Instructions (2 pages); and
7. Health Connector's Notice of Hearing (2 pages; dated 4/8/22).

FINDINGS OF FACT

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

1. The Appellant appealed from the Department of Revenue's assessment of a 2 month penalty against the Appellant as a part-year Massachusetts resident in 2021. The basis for the penalty was that the Appellant became a Massachusetts resident on August 1, 2021, and was not insured in Massachusetts for the months August through December 2021 (5 months). Exhibits 1 and 2. Based on Exhibit 1 and the Appellant's hearing testimony, I find that the penalty assessment is accurate. See also Exhibit 3. (The calculation is 5 months uninsured minus 3-month administrative grace period = 2 penalty months.)
2. The Appellant filed a Massachusetts personal income tax return for 2021 as a single person with no dependents. The Appellant's federal adjusted gross income (AGI) for 2021 was \$ 44,336. Exhibit 1.
3. The Appellant was 27 years old at the beginning of 2021 and resided in [name of city or town omitted] in Middlesex County, Massachusetts, beginning in August 2021. Exhibit 1 and Exhibit 3.
4. In 2021 the Appellant was employed in Washington, D.C., in a salaried position with health insurance benefits for the months of January – July. Testimony and Exhibit 3. The Appellant's health insurance coverage for the months of January – July is verified by a document from United Healthcare, the insurer. Exhibit 5 (2021 IRS Form 1095-B). See also Exhibit 3 and Exhibit 6 (duplicate of Exhibit 5).
5. The Appellant relocated to Massachusetts on August 1, 2021. He did not have health insurance coverage for the remainder of 2021. Exhibit 1, Exhibit 3 and Testimony. See also Exhibit 5 (no coverage after July). The Appellant had health insurance coverage in Massachusetts starting in January 2022. Testimony and Exhibit 3.
6. The Appellant assumed a new position in Massachusetts in early September 2021. His new position required a 6 week period of training through late October for which he was not paid. The Appellant submitted his first bill for services rendered

in late October for which he was paid in November, and a second bill at the end of November for which he was paid in December 2021. Testimony. See also Exhibit 3 (“at this time I made very little”).

7. I find that nearly all of the Appellant’s 2021 AGI (\$44,336) was earned for the period January – July before he relocated to Massachusetts. The Appellant principally lived on his savings for the remainder of 2021. Testimony and Exhibit 3. See also Exhibit 5.
8. If I were to assume that the Appellant earned his \$44,336 AGI evenly throughout 2021, the Appellant could afford to pay \$272.25 per month for health insurance premiums under DOR Table 3. (The calculation is 7.45% times \$44,336 AGI = \$3,303.03 per year divided by 12 months = \$272.25 per month.
9. Based on DOR Table 4 (Region 2) the Appellant could obtain individual health insurance coverage at his age and location for \$263 per month in 2021.
10. The \$9 per month difference between what the Appellant afford to pay under DOR Table 3 and what health insurance would cost under DOR Table 4 supports my finding that the Appellant could not afford health insurance under the income he earned in Massachusetts.
11. In late 2021 the Appellant incurred over \$400 for professional expenses. 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 2021 Massachusetts income tax return.
13. I take administrative notice of the financial information set forth in Tables 1 through 6 of the DOR 2021 Massachusetts Schedule HC Health Care Instructions and Worksheet. Tables 3 and 4 incorporate the affordability schedules adopted by the board of directors for the Commonwealth Health Insurance Connector Authority (Health Connector or Connector) for 2021. See 956 Code Mass. Regs. 6.05. Table 1 sets forth income levels less than 150% of the federal poverty level

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

ANALYSIS AND CONCLUSIONS OF LAW

The case is before me on the Appellant's appeal from the state Department of Revenue's (DOR) assessment of a 2 month tax penalty because the Appellant did not have health insurance coverage for the months of August through December 2021 when he resided in Massachusetts as a part-year resident. There is no dispute that the Appellant was insured for the months of January through July before he relocated to Massachusetts. See Exhibits 1 and 2. The issue to be decided is whether the penalty should be waived, either in whole or in part.

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

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

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

In this case the Appellant’s financial circumstances changed substantially when he relocated to Massachusetts in August 2021. Before he moved, the Appellant had a salaried position that provided health insurance coverage for the months of January through July 2021, as reflected in the 2021 IRS Form 1095-B (Exhibit 5) that the Appellant submitted in support of his appeal.

The evidence shows that most of the income that the Appellant earned in 2021 (\$44,336 AGI) was earned before he moved to Massachusetts to accept a new position that did not provide health insurance coverage. For most of the Fall of 2021 the Appellant was enrolled in an unpaid orientation program to qualify him for his new position. The Appellant was only able to submit two bills or services rendered at the end of 2021.

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

PENALTY ASSESSED

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

OR

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

NOTIFICATION OF YOUR RIGHT TO APPEAL TO COURT

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

Hearing Officer

Cc: Massachusetts Health Connector Appeals Unit

Massachusetts Health Connector Appeals Unit

Tax Penalty Appeal Decision—Docket No. PA21-1733 (CD)

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

Hearing Issue: Appeal of the 2021 Tax Year Penalty

Hearing Date: May 9, 2022

Decision Date: May 17, 2022

AUTHORITY

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

JURISDICTION

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

HEARING RECORD

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

1. DOR Appeal Case Information from Schedule HC (1 page);
2. Appellant's Statement of Grounds for Appeal – 2021 (7 pages);
3. Appellant's Letter in Support of Appeal (1 page); and
4. Health Connector's Notice of Hearing (2 pages).

FINDINGS OF FACT

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

1. The Appellant appealed from the Department of Revenue's assessment of a 12 month penalty for 2021. The basis for the penalty was that the Appellant was not insured at any time in 2021. Exhibits 1 and 2. Based on Exhibit 1 and the Appellant's hearing testimony, I find that the penalty assessment is accurate.
2. The Appellant filed a Massachusetts personal income tax return for 2021 as a single person with no dependents. The Appellant's federal adjusted gross income (AGI) for 2021 was \$22,550. Exhibit 1.
3. The Appellant was 50 years old at the beginning of 2021 and resided in [name of city or town omitted] in Norfolk County, Massachusetts. Exhibit 1.
4. The Appellant's AGI was more than 150% of the federal poverty level. On this basis I conclude that the Appellant was not automatically exempt from the assessment of a tax penalty in 2021. DOR Table 1.
5. The Appellant's 2021 AGI (\$22,550) was less than 300% of the federal poverty level (\$38,280 for a one person household). DOR Table 2. On this basis I infer that it is likely that the Appellant would satisfy the financial eligibility requirements for government-subsidized health insurance.
6. The Appellant was not employed for a two year period after he lost his job in early 2020 due to the onset of the coronavirus pandemic (COVID-19). The Appellant received unemployment insurance benefits until he exhausted his claim. Testimony and Exhibit 3.
7. The Appellant successfully appealed the tax penalty that the DOR assessed for 2020. Exhibit 1, Exhibit 3, and Testimony. (The appeal decision is not included in the hearing record, but I find the Appellant's testimony and his supporting letter credible. See Exhibit 3 ("I'm writing to you with regret and asking the Commonwealth of Massachusetts once again for leniency for not having health care for the year of 2021 due to my Employment Status."))
8. The Appellant started a new job the week before his May 9, 2022, appeal hearing in this case concerning the 2021 tax penalty assessed by the DOR. The Appellant expects to enroll in his new employer's health plan after a short waiting period. Testimony.

9. In addition to unemployment insurance benefits, the Appellant supported himself from his savings and with financial help from members of his family. He has a \$13,000 credit card debt. I also credit the list of monthly living expenses that the Appellant set forth in his letter supporting his appeal. Exhibit 3.
10. The Appellant filed applications for coverage under the Health Connector during the disruptive period caused by COVID-19. Instead of an eligibility decision the Appellant would be informed that his application was “pending.” Testimony.
11. Based on DOR Table 3 the Appellant could afford to pay 2.90 % of his income -- or \$54 per month -- for health insurance coverage in 2021. (The calculation is 2.90% multiplied by \$22,550 AGI = \$653.95 per year divided by 12 months = \$54.49 per month.)
12. Based on DOR Table 4 (Region 2) the Appellant could obtain individual health insurance coverage at his age and location for \$390 per month per month in 2021.
13. Except as set forth in the foregoing findings of fact, I adopt the facts set forth in Exhibit 1 as my own findings of fact. Exhibit 1 is a computer printout prepared by the Massachusetts Department of Revenue (DOR) that extracts information submitted by the Appellant on Schedule HC as part of the Appellant’s 2021 Massachusetts income tax return.
14. I take administrative notice of the financial information set forth in Tables 1 through 6 of the DOR 2021 Massachusetts Schedule HC Health Care Instructions and Worksheet. Tables 3 and 4 incorporate the affordability schedules adopted by the board of directors for the Commonwealth Health Insurance Connector Authority (Health Connector or Connector) for 2021. See 956 Code Mass. Regs. 6.05. Table 1 sets forth income levels less than 150% of the federal poverty level that are exempt from the assessment of a state tax penalty. Table 2 sets forth income eligibility standards for various family sizes at 300% of the federal poverty level, which is the income eligibility standard for the ConnectorCare government subsidized health insurance program. Tables 5 and 6 set forth the tax penalties in effect for 2020. (The DOR instructions are published online at <http://www.mass.gov/dor/2018ScheduleHCInstructions> and are also available in

the state income tax forms supplied to taxpayers. See also DOR Technical Information Release (TIR) 12-7: Individual Mandate Penalties for Tax Year 2021.)

ANALYSIS AND CONCLUSIONS OF LAW

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

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

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

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

The Appellant in this case, like many others during this period, was unemployed in 2020 and 2021 due to the coronavirus pandemic (COVID-19).

For 2021, the year at issue in this appeal, the Appellant primarily supported himself through a combination of unemployment insurance benefits, financial help from his family, and credit card debt. The Appellant continued to apply for new jobs until he was finally successful shortly before the May 9, 2022, hearing in this appeal. The Appellant also appealed for government-subsidized health insurance coverage through the Health Connector. He was informed that his application was “pending” and never received a final eligibility decision. The objective standards set forth in DOR Tables 2, 3, and 4 indicate that the Appellant could not afford health insurance without a subsidy. See Findings of Fact, Nos. 5, 10, 11 and 12, above.

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

PENALTY ASSESSED

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

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

OR

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

NOTIFICATION OF YOUR RIGHT TO APPEAL TO COURT

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

Hearing Officer

Cc: Massachusetts Health Connector Appeals Unit

Massachusetts Health Connector Appeals Unit

FINAL APPEAL DECISION: PA21-1741

Appeal Decision: Appeal Approved

Hearing Issue: Appeal of the 2021 Tax Year Penalty

Hearing Date: May 16, 2022

Decision Date: May 28, 2022

AUTHORITY

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

JURISDICTION

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

HEARING RECORD¹

The Appellant appeared at the hearing, which was held by telephone, on May 16, 2022.

The hearing record consists of the Appellant's testimony and the following documents which were admitted into evidence without objection.

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

FINDINGS OF FACT

The record shows, and I so find:

1. The Appellant turned 37 years old in April 2021. The Appellant filed their Federal Income Tax Return as a single individual, with no dependents claimed. (Exhibit 2).

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

2. The Appellant lived in Worcester County, MA during part of 2020. (Appellant's Testimony, which I credit and Exhibit 2).
3. The Appellant's Federal Adjusted Gross Income (AGI) for 2021 was \$26,428.00 as shown on Schedule HC for 2021. (Exhibit 2).
4. The Appellant did not have health insurance that met Minimum Creditable Coverage (MCC) during twelve (12) months of tax year 2021 according to Appeal Case Information from Schedule HC for 2020. (Exhibit 2).
5. The Appellant has been assessed a twelve (12)-month tax penalty for 2021, which they have appealed. (Exhibit 2).
6. I take administrative notice of the financial information set forth in Tables 1 through 6 of the DOR 2021 Massachusetts Schedule HC Health Care Instructions and Worksheet. Tables 3 and 4 incorporate affordability and premium schedules adopted by the Board of Directors for the Commonwealth Health Insurance Connector Authority for 2021. Table 2 sets forth income at 300% of the Federal poverty level and Tables 5 and 6 set forth tax penalties in effect for 2021.
7. In accordance with Table 3 of Schedule HC for 2021, the Appellant filing the Federal tax return as a single individual, with no dependents claimed, with an annual adjusted gross income of \$26,428.00, could afford to pay \$92.50 per month for government-sponsored health insurance. In accordance with Table 4, the Appellant, age 37 years, living in Worcester County could have purchased private market health insurance for \$275.00 per month. (Table 4, Schedule HC for 2021). Thus, private insurance was not affordable for the Appellant in 2021.
8. Employer-sponsored insurance (ESI) was not available to Appellant during 2021. (Appellant's Testimony).
9. The Appellant was income-eligible for ConnectorCare coverage in 2021 because their adjusted gross income of \$26,428.00 was less than 300% of the Federal poverty level, which was \$38,280.00 in 2021 (Schedule HC, Table 2). (Exhibit 2).
10. The Appellant did not understand that they may have qualified for subsidized ConnectorCare coverage, as they were not familiar with the individual mandate as a new resident of Massachusetts. (Appellant's Testimony, which I credit).
11. The Appellant moved to Massachusetts on about October 21, 2021. (Appellant's Testimony, which I credit).
12. Appellant completed their own tax returns for 2021, using a computer tax program. They incorrectly failed to indicate on the tax forms that they did not become a Massachusetts resident until October 2021. (Appellant's Testimony, which I credit)

13. The Appellant began work in Massachusetts through a temporary placement agency, which did not offer health insurance until after ninety (90) days of employment, which Appellant had not completed. (Appellant's Testimony, which I credit).
14. The Appellant's monthly living expenses of \$935.00 included: Rent - \$500.00, Electricity - \$75.00, Telephone - \$110.00, Food - \$250.00. (Appellant's Testimony). Additionally, the Appellant has outstanding student loans in the amount of \$50,000.00 and expenses relating to replacement of their car, which was totaled when it was parked and hit by a drunk driver. (Appellant's Testimony, which I credit).
15. The Appellant found full-time work in March 2022, through which they have enrolled in MCC-compliant health insurance. (Appellant's Testimony, which I credit).

ANALYSIS AND CONCLUSIONS OF LAW

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

The Appellant did not check a box on their Statement of Grounds for Appeal but explained in their Supporting Letter and testimony that they had only moved to Massachusetts in October 2021 and became employed part-time through a temporary agency that did not offer insurance. (Appellant's Testimony and Exhibits 3 and 4). Appellant secured full-time employment in March 2022, through which they have enrolled in MCC-compliant health insurance. (Appellant's Testimony, which I credit).

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

In accordance with Table 3 of Schedule HC for 2021, the Appellant filing the Federal tax return as a single individual, with no dependents claimed, with an annual adjusted gross income of \$26,428.00, could afford to pay \$92.50 per month for government-sponsored health insurance. In accordance with Table 4, the Appellant, age 37 years, living in Worcester County could have

purchased private market health insurance for \$275.00 per month. (Table 4, Schedule HC for 2021). Thus, private insurance was not affordable for the Appellant in 2021.

Employer-sponsored insurance (ESI) was not available to Appellant during 2021. (Appellant's Testimony).

The Appellant was income-eligible for ConnectorCare coverage in 2021 because their adjusted gross income of \$26,428.00 was less than 300% of the Federal poverty level, which was \$38,280.00 in 2021 (Schedule HC, Table 2). (Exhibit 2).

As an initial matter, I conclude that Appellant lived in Massachusetts only from October through December 2021, a period of less than three months. Thus, under the three (3)-month grace period discussed above, the Appellant would not be assessed a penalty. Further, even if they had been assessed a penalty, based on all the credible evidence contained in this administrative record and the totality of the circumstances, I conclude that Appellant experienced hardship and uncertainty within the meaning of 956 CMR 6.08(1) and (3) during the time they lived in Massachusetts in 2021. For all these reasons, payment for the twelve (12)-month penalty assessment for the Appellant is waived entirely.

The Appellant should note that the waiver of their penalty is based upon facts that I have determined to be true in 2020. The Appellant should not assume that a similar determination will be made for subsequent tax years should they again be assessed a tax penalty for failure to have health insurance in Massachusetts, as the individual mandate requires. ²

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

² The Appellant was given the phone numbers and website addresses for the Commonwealth Health Insurance Connector and for MassHealth.

Massachusetts Health Connector Appeals Unit

FINAL APPEAL DECISION: PA21-1742

Appeal Decision: Appeal Approved

Hearing Issue: Appeal of the 2020 Tax Year Penalty

Hearing Date: May 16, 2022

Decision Date: May 28, 2022

AUTHORITY

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

JURISDICTION

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

HEARING RECORD¹

The Appellant appeared at the hearing, which was held by telephone on May 16, 2022.

The hearing record consists of the Appellant's testimony and the following documents which were admitted into evidence without objection.

| | | |
|-----------|--|---------|
| Exhibit 1 | Hearing Notice dated April 11, 2022 | 2 pages |
| Exhibit 2 | Appeal Case Info. fr. Sch. HC for 2021 | 1 page |
| Exhibit 3 | Statement of Grounds for Appeal | 4 pages |
| Exhibit 4 | IRS FORM 1095C | 3 pages |
| Exhibit 5 | Trustees of Tufts Tax Statement | 1 page |

FINDINGS OF FACT

The record shows, and I so find:

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

1. The Appellant turned 26 years old in May 2021. The Appellant filed their Federal Income Tax Return as a single individual, with no dependents claimed. (Exhibit 2).
2. The Appellant lived in Middlesex County, MA in 2021. (Appellant's Testimony).
3. The Appellant's Federal Adjusted Gross Income (AGI) for 2021 was \$51,492.00 as shown on Schedule HC for 2021. (Exhibit 2).
4. The Appellant did not have health insurance that met Minimum Creditable Coverage (MCC) during nine (9) months of tax year 2020 according to Appeal Case Information from Schedule HC for 2020. (Exhibit 2 and Appellant's Testimony).
5. The Appellant has been assessed a six (6)-month tax penalty for 2021, which they have appealed. (Exhibits 2 & 3).
6. I take administrative notice of the financial information set forth in Tables 1 through 6 of the DOR 2021 Massachusetts Schedule HC Health Care Instructions and Worksheet. Tables 3 and 4 incorporate affordability and premium schedules adopted by the Board of Directors for the Commonwealth Health Insurance Connector Authority for 2020. Table 2 sets forth income at 300% of the Federal poverty level and Tables 5 and 6 set forth tax penalties in effect for 2021.
7. In accordance with Table 3 of Schedule HC for 2021, the Appellant filing the Federal tax return as a single individual, with no dependents claimed, with an annual adjusted gross income of \$51,492.00, could afford to pay \$343.28.20 per month for government-sponsored health insurance. In accordance with Table 4, the Appellant, age 26, living in Middlesex County, could have purchased private market health insurance for \$269.00 per month. (Table 4, Schedule HC for 2020). Thus, private insurance was affordable for the Appellant in 2021.
8. Employer-sponsored insurance (ESI) was not available to Appellant from January through September 2021. The ESI was available to Appellant from September through December 2021, and they immediately enrolled in that insurance program. (Appellant's Testimony).
9. The Appellant was not income-eligible for ConnectorCare coverage in 2021 because their adjusted gross income of \$51,492.00 was more than 300% of the Federal poverty level, which was \$38,280.00 in 2020 (Schedule HC, Table 2). (Appellant's Testimony and Exhibit 2).
10. The Appellant was an international graduate student, who was not familiar with the individual mandate or possible insurance coverage options through the Health Connector. (Appellant's Testimony, which I credit).
11. After they received their graduate degree in January 2021, they became employed as a temporary contract employee with the University in which they had done graduate

work. They earned approximately \$190.00 weekly or \$760.00 per month from January through September 2021. Thus, Appellant deemed they could not afford to purchase health insurance during those months without sacrificing their basic living expenses. (Appellant's Testimony, which I credit).

12. In September 2021, Appellant secured a full-time job with a different higher education institution. The new employer offered MCC-compliant ESI, which the Appellant immediately enrolled in and began receiving in October 2021. (Appellant's Testimony and Exhibits 3 & 4).
13. Appellant's 2021 monthly living expenses of \$1,610.00 included: Rent - \$700.00, Laundry - \$35.00, Phone - \$25.00, Food - \$550.00, and Credit Card debt - \$300.00. (Appellants' Testimony).
14. The Appellant currently has MCC-compliant health insurance through their new employer. (Appellant's Testimony and Exhibits 3 & 4).

ANALYSIS AND CONCLUSIONS OF LAW

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

The Appellant checked the box on the Statement of Grounds for Appeal stating that the expense of purchasing health insurance would have caused a serious deprivation of food and other living necessities.

To determine if the six (6)-month penalty should be waived in whole or in part, there must be an evaluation of whether affordable insurance which met minimum creditable coverage standards was available to the Appellant through employment, through private insurance, or through a government-sponsored program. If affordable insurance was available, it must be determined if such insurance was not affordable to the Appellant because the Appellant experienced a hardship as defined in 956 CMR 6.08.

In accordance with Table 3 of Schedule HC for 2021, the Appellant filing the Federal tax return as a single individual, with no dependents claimed, with an annual adjusted gross income of \$51,492.00, could afford to pay \$343.28.20 per month for government-sponsored health insurance. In accordance with Table 4, the Appellant, age 26, living in Middlesex County, could

have purchased private market health insurance for \$269.00 per month. (Table 4, Schedule HC for 2020). Thus, private insurance was affordable for the Appellant in 2021.

Employer-sponsored insurance (ESI) was not available to Appellant from January through September 2021. The ESI was available to Appellant from September through December 2021, and they immediately enrolled in that insurance program. (Appellant's Testimony).

The Appellant was not income-eligible for ConnectorCare coverage in 2021 because their adjusted gross income of \$51,492.00 was more than 300% of the Federal poverty level, which was \$38,280.00 in 2020 (Schedule HC, Table 2). (Appellant's Testimony and Exhibit 2).

The Appellant was an international graduate student, who was not familiar with the individual mandate or possible insurance coverage options through the Health Connector. (Appellant's Testimony, which I credit).

After they received their graduate degree in January 2021, they became employed as a temporary contract employee with the University in which they had done graduate work. They earned approximately \$190.00 weekly or \$760.00 per month from January through September 2021. Thus, Appellant deemed they could not afford to purchase health insurance during those months without sacrificing their basic living expenses. (Appellant's Testimony, which I credit).

In September 2021, Appellant secured a full-time job with a different higher education institution. The new employer offered MCC-compliant ESI, which the Appellant immediately enrolled in and began receiving in October 2021. (Appellant's Testimony and Exhibits 3 & 4).

Appellant's 2021 monthly living expenses of \$1,610.00 included: Rent - \$700.00, Laundry - \$35.00, Phone - \$25.00, Food - \$550.00, and Credit Card debt - \$300.00. (Appellants' Testimony).

The Appellant currently has MCC-compliant health insurance through their new employer. (Appellant's Testimony and Exhibits 3 & 4).

Based on all the credible evidence contained in this administrative record and the totality of the circumstances, I conclude that during 2021 the Appellant experienced hardship and uncertainty within the meaning of 956 CMR 6.08 (1) and (3), which they could not have predicted. Further, as soon as Appellant became eligible to receive ESI, they applied for coverage, which continues currently. For all these reasons, payment for the six (6)-month penalty assessment for the Appellant is waived entirely.

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

PENALTY ASSESSED

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

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

NOTIFICATION OF YOUR RIGHT TO APPEAL TO COURT

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

Hearing Officer

cc: Connector Appeals Unit

Massachusetts Health Connector Appeals Unit

FINAL APPEAL DECISION: PA21-1743

Appeal Decision: Appeal Approved

Hearing Issue: Appeal of the 2020 Tax Year Penalty

Hearing Date: May 16, 2022

Decision Date: May 28, 2022

AUTHORITY

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

JURISDICTION

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

HEARING RECORD¹

The Appellant appeared at the hearing, which was held by telephone on May 16, 2022.

The hearing record consists of the Appellant's testimony and the following documents which were admitted into evidence without objection.

| | | |
|-----------|--|---------|
| Exhibit 1 | Hearing Notice dated April 11, 2022 | 2 pages |
| Exhibit 2 | Appeal Case Info. fr. Sch. HC for 2021 | 1 page |
| Exhibit 3 | Statement of Grounds for Appeal | 4 pages |
| Exhibit 4 | Supporting Letter | 1 page |
| Exhibit 5 | Records of Payments | 5 pages |

FINDINGS OF FACT

The record shows, and I so find:

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

1. The Appellant turned 27 years old in December 2021. The Appellant filed their Federal Income Tax Return as a single individual, with no dependents claimed. (Exhibit 2).
2. The Appellant lived in Suffolk County, MA in 2021. (Appellant's Testimony and Exhibit 2).
3. The Appellant's Federal Adjusted Gross Income (AGI) for 2021 was \$23,320.00 as shown on Schedule HC for 2021. (Exhibit 2).
4. The Appellant did not have health insurance that met Minimum Creditable Coverage (MCC) during eight (8) months of tax year 2020 according to Appeal Case Information from Schedule HC for 2020. (Exhibit 2 and Appellant's Testimony).
5. The Appellant has been assessed a five (5)-month tax penalty for 2021, which they have appealed. (Exhibits 2 & 3).
6. I take administrative notice of the financial information set forth in Tables 1 through 6 of the DOR 2021 Massachusetts Schedule HC Health Care Instructions and Worksheet. Tables 3 and 4 incorporate affordability and premium schedules adopted by the Board of Directors for the Commonwealth Health Insurance Connector Authority for 2020. Table 2 sets forth income at 300% of the Federal poverty level and Tables 5 and 6 set forth tax penalties in effect for 2021.
7. In accordance with Table 3 of Schedule HC for 2021, the Appellant filing the Federal tax return as a single individual, with no dependents claimed, with an annual adjusted gross income of \$23,320.00, could afford to pay \$56.36 per month for government-sponsored health insurance. In accordance with Table 4, the Appellant, age 27, living in Suffolk County, could have purchased private market health insurance for \$263.00 per month. (Table 4, Schedule HC for 2020). Thus, private insurance was not affordable for the Appellant in 2021.
8. Employer-sponsored insurance (ESI) was not available to Appellant during 2021. (Appellant's Testimony).
9. The Appellant was income-eligible for ConnectorCare coverage in 2021 because their adjusted gross income of \$23,320.00 was less than 300% of the Federal poverty level, which was \$38,280.00 in 2021 (Schedule HC, Table 2). (Appellant's Testimony and Exhibit 2).
10. The Appellant was employed part-time until August 2021. Their part-time employer did not offer health insurance to part-time employees. (Appellant's Testimony, which I credit).
11. During the time of their part-time employment, Appellant had to resort to a GoFundMe account to pay the cost of their father's funeral and a portion of the costs of their mother's medical expenses, after she suffered two strokes during 2021. (Exhibit 4).

12. Given these unanticipated personal tragedies and expenses and their part-time employment, Appellant could not meet their September rent payments and received a loan from a friend. (Appellant's Testimony, which I credit).
13. During this same time period, Appellant applied for and received MassHealth insurance beginning in September 2021 and continuing through December 2021. (Appellant's Testimony, which I credit).
14. Appellant is now employed full-time by a new employer but does not qualify for ESI through the new employer for approximately an additional three (3) months. They will enroll in ESI as soon as eligible. (Appellant's Testimony, which I credit).
15. Appellant's 2021 monthly living expenses of \$959.00 included: Rent - \$500.00, Utilities - \$100.00, Phone - \$130.00, Student loan - \$100.00, Loan for rent - \$50.00, Father's funeral expenses - \$54.00, and Mother's medical expenses - \$25.00. (Appellants' Testimony and Exhibit 4).
16. The Appellant currently has MCC-compliant health insurance through MassHealth and expects to soon have insurance through their new employer. (Appellant's Testimony and Exhibits 3 & 4).

ANALYSIS AND CONCLUSIONS OF LAW

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

The Appellant checked the boxes on the Statement of Grounds for Appeal stating that the expense of purchasing health insurance would have caused a serious deprivation of food and other living necessities and that during 2021, they experienced significant, unexpected increase in essential expenses resulting from the death of their father and strokes suffered by their mother.

To determine if the five (5)-month penalty should be waived in whole or in part, there must be an evaluation of whether affordable insurance which met minimum creditable coverage standards was available to the Appellant through employment, through private insurance, or through a government-sponsored program. If affordable insurance was available, it must be determined if such insurance was not affordable to the Appellant because the Appellant experienced a hardship as defined in 956 CMR 6.08.

In accordance with Table 3 of Schedule HC for 2021, the Appellant filing the Federal tax return as a single individual, with no dependents claimed, with an annual adjusted gross income of \$23,320.00, could afford to pay \$56.36 per month for government-sponsored health insurance. In accordance with Table 4, the Appellant, age 27, living in Suffolk County, could have purchased private market health insurance for \$263.00 per month. (Table 4, Schedule HC for 2020). Thus, private insurance was not affordable for the Appellant in 2021.

Employer-sponsored insurance (ESI) was not available to Appellant during 2021. (Appellant's Testimony).

The Appellant was income-eligible for ConnectorCare coverage in 2021 because their adjusted gross income of \$23,320.00 was less than 300% of the Federal poverty level, which was \$38,280.00 in 2021 (Schedule HC, Table 2). (Appellant's Testimony and Exhibit 2).

The Appellant was employed part-time until August 2021. Their part-time employer did not offer health insurance to part-time employees. (Appellant's Testimony, which I credit).

During the time period of their part-time employment, Appellant had to resort to a GoFundMe account to pay the cost of their father's funeral and a portion of the costs of their mother's medical expenses, after she suffered two strokes during 2021. (Exhibit 4).

Given these unanticipated personal tragedies and expenses and their part-time employment, Appellant could not meet their September rent payments and received a loan from a friend. (Appellant's Testimony, which I credit).

During this same time period, Appellant applied for and received MassHealth insurance beginning in September 2021 and continuing through December 2021. (Appellant's Testimony, which I credit).

Appellant is now employed full-time by a new employer but does not qualify for ESI through the new employer for approximately an additional three (3) months. They will enroll in ESI as soon as eligible. (Appellant's Testimony, which I credit).

Appellant's 2021 monthly living expenses of \$959.00 included: Rent - \$500.00, Utilities - \$100.00, Phone - \$130.00, Student loan - \$100.00, Loan for rent - \$50.00, Father's funeral expenses - \$54.00, and Mother's medical expenses - \$25.00. (Appellants' Testimony and Exhibit 4).

The Appellant currently has MCC-compliant health insurance through MassHealth and expects to soon have insurance through their new employer. (Appellant's Testimony and Exhibits 3 & 4).

Based on all the credible evidence contained in this administrative record and the totality of the circumstances, I conclude that during 2021 the Appellant experienced hardship and uncertainty within the meaning of 956 CMR 6.08 (1) and (3), which they could not have predicted. Further, when circumstances became dire, Appellant applied for and received MassHealth insurance coverage. They will soon be eligible to enroll in ESI through their new employer. For all these reasons, payment for the five (5)-month penalty assessment for the Appellant is waived entirely.

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

PENALTY ASSESSED

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

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

NOTIFICATION OF YOUR RIGHT TO APPEAL TO COURT

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

Hearing Officer

cc: Connector Appeals Unit

Massachusetts Health Connector Appeals Unit

FINAL APPEAL DECISION: PA21-1744

Appeal Decision: Appeal Approved

Hearing Issue: Appeal of the 2020 Tax Year Penalty

Hearing Date: May 16, 2022

Decision Date: May 31, 2022

AUTHORITY

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

JURISDICTION

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

HEARING RECORD¹

The Appellant appeared at the hearing, which was held by telephone on May 16, 2022.

The hearing record consists of the Appellant's testimony and the following documents which were admitted into evidence without objection.

| | | |
|-----------|--|---------|
| Exhibit 1 | Hearing Notice dated April 11, 2022 | 2 pages |
| Exhibit 2 | Appeal Case Info. fr. Sch. HC for 2021 | 1 page |
| Exhibit 3 | Statement of Grounds for Appeal | 7 pages |

FINDINGS OF FACT

The record shows, and I so find:

1. The Appellant turned 26 years old in November 2021. The Appellant filed their Federal Income Tax Return as a single individual, with no dependents claimed. (Exhibit 2).
2. The Appellant lived in Plymouth County, MA in 2021. (Appellant's Testimony).

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

3. The Appellant's Federal Adjusted Gross Income (AGI) for 2021 was \$25,261.00 as shown on Schedule HC for 2021. (Exhibit 2).
4. The Appellant did not have health insurance that met Minimum Creditable Coverage (MCC) during twelve (12) months of tax year 2021 according to Appeal Case Information from Schedule HC for 2020. (Exhibit 2 and Appellant's Testimony).
5. The Appellant has been assessed a twelve (12)-month tax penalty for 2021, which they have appealed. (Exhibits 2 & 3).
6. I take administrative notice of the financial information set forth in Tables 1 through 6 of the DOR 2021 Massachusetts Schedule HC Health Care Instructions and Worksheet. Tables 3 and 4 incorporate affordability and premium schedules adopted by the Board of Directors for the Commonwealth Health Insurance Connector Authority for 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.
7. In accordance with Table 3 of Schedule HC for 2021, the Appellant filing the Federal tax return as a single individual, with no dependents claimed, with an annual adjusted gross income of \$25,261.00, could afford to pay \$61.00 per month for government-sponsored health insurance. In accordance with Table 4, the Appellant, age 26, living in Plymouth County, could have purchased private market health insurance for \$263.00 per month. (Table 4, Schedule HC for 2020). Thus, private insurance was not affordable for the Appellant in 2021.
8. Employer-sponsored insurance (ESI) was not available to Appellant during 2021. (Appellant's Testimony).
9. The Appellant was income-eligible for ConnectorCare coverage in 2021 because their adjusted gross income of \$25,261.00 was less than 300% of the Federal poverty level, which was \$38,280.00 in 2020 (Schedule HC, Table 2). (Appellant's Testimony and Exhibit 2).
10. The Appellant drove a car for a ride share company during part of 2021 and was unemployed during the remainder of the year. The company did not offer ESI. (Appellant's Testimony).
11. The Appellant did not believe they could afford to pay for health insurance. They did not understand the individual mandate, how the Health Connector marketplace works or that they may have qualified for ConnectorCare insurance coverage. (Appellant's Testimony, which I credit).
12. Appellant's 2021 monthly living expenses of \$2,682.67 included: Rent & Utilities - \$1,000.00, Car insurance - \$250.00, Car payments - \$416.67, Phone - \$200.00, Gas -

\$250.00, Phone - \$200.00, Food - \$200.00, and Credit Card debt - \$166.00. (Appellants' Testimony).

13. The Appellant recently learned about the Health Connector, applied for insurance and is waiting to hear back. (Appellant's Testimony).

ANALYSIS AND CONCLUSIONS OF LAW

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

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

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

In accordance with Table 3 of Schedule HC for 2021, the Appellant filing the Federal tax return as a single individual, with no dependents claimed, with an annual adjusted gross income of \$25,261.00, could afford to pay \$61.00 per month for government-sponsored health insurance. In accordance with Table 4, the Appellant, age 26, living in Plymouth County, could have purchased private market health insurance for \$263.00 per month. (Table 4, Schedule HC for 2020). Thus, private insurance was not affordable for the Appellant in 2021.

Employer-sponsored insurance (ESI) was not available to Appellant during 2021. (Appellant's Testimony).

The Appellant was income-eligible for ConnectorCare coverage in 2021 because their adjusted gross income of \$25,261.00 was less than 300% of the Federal poverty level, which was \$38,280.00 in 2020 (Schedule HC, Table 2). (Appellant's Testimony and Exhibit 2).

The Appellant drove a car for a ride share company during part of 2021 and was unemployed during the remainder of the year. The company did not offer ESI. (Appellant's Testimony).

The Appellant did not believe they could afford to pay for health insurance. They did not understand the individual mandate, how the Health Connector marketplace works or that they may have qualified for ConnectorCare insurance coverage. (Appellant's Testimony, which I credit).

Appellant's 2021 monthly living expenses of \$2,682.67 included: Rent & Utilities - \$1,000.00, Car insurance - \$250.00, Car payments - \$416.67, Phone - \$200.00, Gas - \$250.00, Phone - \$200.00, Food - \$200.00, and Credit Card debt - \$166.00. (Appellants' Testimony).

The Appellant recently learned about the Health Connector, applied for insurance and is waiting to hear back. (Appellant's Testimony).

Based on all the credible evidence contained in this administrative record and the totality of the circumstances, I conclude that during 2021 the Appellant experienced hardship and uncertainty within the meaning of 956 CMR 6.08 (1) and (3), which they could not have predicted.

Appellant's monthly expenses of \$2,682.67, or \$32,192.67, annually exceeded their AGI of \$25,261.00. Further, the Appellant is in the process of attempting to secure MCC-compliant health insurance. For all these reasons, payment for the twelve (12)-month penalty assessment for the Appellant is waived entirely.

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

PENALTY ASSESSED

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

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

NOTIFICATION OF YOUR RIGHT TO APPEAL TO COURT

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

Hearing Officer

cc: Connector Appeals Unit

Massachusetts Health Connector Appeals Unit

FINAL APPEAL DECISION: PA20-480

Appeal Decision Appeal Approved.

Hearing Issue: Appeal of the 2020 Tax Year Penalty

Hearing Date: February 23, 2022

Decision Date: May 23, 2022

AUTHORITY

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

JURISDICTION

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

HEARING RECORD

Appellant appeared at the hearing, which was held by telephone, on February 23, 2022. The hearing record consists of the Appellant's testimony, and the following documents which were admitted into evidence without objection by Appellant:

- Exhibit 1: Notice of Hearing (1-25-22) (2 pages);
- Exhibit 2: Information from Schedule HC TY 2020 (1 page);
- Exhibit 3: Statement of Grounds for Appeal (4-2-21) (with letter and documents) (7 pages);
- Exhibit 4: Final Appeal Decision re TY2019 (11-23-20) (3 pages); and
- Exhibit 5: Prior Hearing Notice (8-4-21) (2 pages).

FINDINGS OF FACT

The record shows, and I so find:

1. Appellants, ages 33 and 27 during 2020, from Middlesex County, filed married filing jointly on the tax return with a family size of 3. (Exhibit 2).
2. Appellant did have health insurance for all of 2020, through the employer. However, Appellant learned after the end of 2020 that the insurance for the period January through July did not meet minimum creditable coverage for Massachusetts. Appellant changed employers in July 2020, and the insurance for the period from August through December 2020 did meet minimum creditable coverage. The insurance for January through July substantially met all of the

- requirements for minimum creditable coverage. The other Appellant had health insurance for all of 2020 that met minimum creditable coverage. (Appellant's testimony, Exhibits 2, 3).
3. Appellants' Federal Adjusted Gross Income for 2020 was \$381,364.00 (Exhibit 2).
 4. Both of Appellants now have health insurance that meets minimum creditable coverage. (Appellant's Testimony).
 5. I take administrative notice of the financial information set forth in Tables 1 through 6 in the DOR 2020 Massachusetts Schedule HC Health Care Instructions and Worksheets. Tables 3 and 4 incorporate affordability and premium schedules adopted by the Board of Directors for the Commonwealth Health Insurance Connector Authority for 2020. Table 2 sets forth income at 300% of the Federal poverty level and Tables 5 and 6 set forth tax penalties in effect for 2020.
 6. Appellants could afford health insurance based on the tables in Schedule HC. According to Table 4, the health insurance would cost \$736.00 for coverage. According to Table 3, Appellants were deemed to afford \$2,542.00.
 7. Private insurance was affordable for the Appellants in 2020. (Schedule HC for 2020).
 8. Appellants' AGI was over 300% of the Federal Poverty Level, and Appellants therefore would not have qualified for subsidized health insurance through the Health Connector. (Schedule HC for 2020).
 9. Appellant claimed that they should be granted a waiver based on the grounds that they purchased health insurance through the employer that did not meet minimum creditable coverage, but substantially met it and was what was available through the employer. (Testimony of Appellant, Exhibit 3).
 10. Appellant did not incur significant and unexpected increases in essential expenses as a result of domestic violence; due to the death of a spouse, family member, or partner who shared household expenses; the sudden responsibility for providing full care for an aging parent or other family member. Appellant did not incur additional expenses as a result of a fire, flood, or other natural or man-made disaster in 2020 (Exhibit 3).
 11. Appellant was not homeless, was not thirty days or more behind in rent in 2020, and Appellant did not receive a shut-off notice for basic utilities. (Appellant's Testimony, Exhibit 3).

ANALYSIS AND CONCLUSIONS OF LAW

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

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

One of Appellants had health insurance for all of 2020 that met minimum creditable coverage. The other Appellant did have health insurance for all of 2020, but for the months of January through July, it did not meet minimum creditable coverage for Massachusetts. For August through December 2020, the Appellant had switched employment and the health insurance did meet minimum creditable coverage for Massachusetts. One of Appellants has no penalty and the other Appellant has been assessed a tax penalty for four months. Appellant appealed the assessment. See Exhibits 2, and 3. To determine if the penalty should be waived in whole or in part, we must consider whether affordable insurance which met minimum creditable coverage standards was available to the Appellant through employment, through the private market, or through a government-sponsored program. If affordable insurance was available, we must determine if such insurance was, in fact, not affordable to the Appellant because they experienced a financial hardship as defined in 956 CMR 6.08.

Private insurance was affordable for the Appellants during 2020. According to Tables 3 and 4 of the HC Schedule for 2020, Appellants, with an adjusted gross income of \$381,364.00 were deemed to have been able to afford health insurance on the private market. According to Table 3, Appellants could have afforded to pay \$2,542.00 per month; according to Table 4, Appellants, who were 33 and 27 years old in 2020, from Middlesex County, and filed the 2019 Massachusetts taxes as married filing jointly with a family size of 3, would have had to pay \$736.00 for coverage per month for insurance on the private market. See CMR 6.05 (1)(2), Schedule HC Tables 3 and 4, and Exhibit 2.

With regard to the hardship waiver of the penalty, Appellant claimed that they had health insurance that substantially met minimum creditable coverage and was what was available through the employer. In addition, Appellant did not learn that it did not meet minimum creditable coverage for Massachusetts until after the end of the year of 2020. In addition, it met substantially all requirements. Appellant has health insurance that meets minimum creditable coverage for Massachusetts. For these reasons, the waiver of the penalty is approved.

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

PENALTY ASSESSED

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

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

NOTIFICATION OF YOUR RIGHT TO APPEAL TO COURT

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

Hearing Officer

Cc: Connector Appeals Unit

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

Massachusetts Health Connector Appeals Unit

FINAL APPEAL DECISION: PA20-495

Appeal Decision Appeal Approved.

Hearing Issue: Appeal of the 2020 Tax Year Penalty

Hearing Date: February 23, 2022

Decision Date: May 23, 2022

AUTHORITY

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

JURISDICTION

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

HEARING RECORD

Appellant appeared at the hearing, which was held by telephone, on February 23, 2022. The hearing record consists of the Appellant's testimony, and the following documents which were admitted into evidence without objection by Appellant:

- Exhibit 1: Notice of Hearing (1-25-22) (2 pages);
- Exhibit 2: Information from Schedule HC TY 2020 (1 page);
- Exhibit 3: Statement of Grounds for Appeal (4-7-21) (with documents) (7 pages);
- Exhibit 4: Letter to vacate dismissal (10-5-21) (1 page); and
- Exhibit 5: Prior Hearing Notice (8-4-21) (2 pages).

FINDINGS OF FACT

The record shows, and I so find:

1. Appellants, ages 25 and 26 during 2020, from Middlesex County, filed married filing jointly on the tax return with a family size of 2. (Exhibit 2).
2. One of the Appellants did have health insurance for all of 2020, and the other Appellant did not have health insurance during 2020. Appellants' expenses for necessities used all of the income. (Appellant's testimony, Exhibits 2, 3).
3. Appellants' Federal Adjusted Gross Income for 2020 was \$36,742.00 (Exhibit 2).
4. Both of Appellants now have health insurance that meets minimum creditable coverage. (Appellant's Testimony).

5. I take administrative notice of the financial information set forth in Tables 1 through 6 in the DOR 2020 Massachusetts Schedule HC Health Care Instructions and Worksheets. Tables 3 and 4 incorporate affordability and premium schedules adopted by the Board of Directors for the Commonwealth Health Insurance Connector Authority for 2020. Table 2 sets forth income at 300% of the Federal poverty level and Tables 5 and 6 set forth tax penalties in effect for 2020.
6. Appellants could not afford health insurance based on the tables in Schedule HC. According to Table 4, the health insurance would cost \$538.00 for coverage. According to Table 3, Appellants were deemed to afford \$189.00.
7. Private insurance was not affordable for the Appellants in 2020. (Schedule HC for 2020).
8. Appellants' AGI was under 300% of the Federal Poverty Level, and Appellants therefore may have qualified for subsidized health insurance through the Health Connector. (Schedule HC for 2020).
9. Appellant claimed that they should be granted a waiver based on the grounds that purchasing health insurance would have caused a serious deprivation of food, shelter, clothing and other necessities. (Testimony of Appellant, Exhibit 3).
10. Appellant did not incur significant and unexpected increases in essential expenses as a result of domestic violence; due to the death of a spouse, family member, or partner who shared household expenses; the sudden responsibility for providing full care for an aging parent or other family member. Appellant did not incur additional expenses as a result of a fire, flood, or other natural or man-made disaster in 2020 (Exhibit 3).
11. Appellant was not homeless, was not thirty days or more behind in rent in 2020, and Appellant did not receive a shut-off notice for basic utilities. (Appellant's Testimony, Exhibit 3).

ANALYSIS AND CONCLUSIONS OF LAW

The issue on appeal is whether the tax penalty assessed by the Massachusetts Department of Revenue for 2020 should be waived in whole, in part, or not at all.

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

One of Appellants had health insurance for all of 2020. The other Appellant did not have health insurance for all of 2020. One of Appellants has no penalty and the other Appellant has been assessed a tax penalty for twelve months. Appellant appealed the assessment. See Exhibits 2, and 3. To determine if the penalty should be waived in whole or in part, we must consider whether affordable insurance which met minimum creditable coverage standards was available to the Appellant through employment, through the private market, or through a government-sponsored program. If affordable insurance was

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

Private insurance was not affordable for the Appellants during 2020. According to Tables 3 and 4 of the HC Schedule for 2020, Appellants, with an adjusted gross income of \$36,742.00 were deemed to not have been able to afford health insurance on the private market. According to Table 3, Appellants could have afforded to pay \$189 per month; according to Table 4, Appellants, who were 25 and 26 years old in 2020, from Middlesex County, and filed the 2020 Massachusetts taxes as married filing jointly with a family size of 2, would have had to pay \$538.00 for coverage per month for insurance on the private market. See CMR 6.05 (1)(2), Schedule HC Tables 3 and 4, and Exhibit 2.

With regard to the hardship waiver of the penalty, Appellant claimed that paying for health insurance would have caused a serious deprivation of food, shelter, clothing and other necessities. Appellants' expense for these necessities used all of the income. Both of Appellants now have health insurance through the Health Connector. For these reasons, the waiver of the penalty is approved.

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

PENALTY ASSESSED

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

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

NOTIFICATION OF YOUR RIGHT TO APPEAL TO COURT

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

Hearing Officer

Cc: Connector Appeals Unit

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

Massachusetts Health Connector Appeals Unit

FINAL APPEAL DECISION: PA19-1188

Appeal Decision Appeal Approved.

Hearing Issue: Appeal of the 2019 Tax Year Penalty

Hearing Date: February 15, 2022

Decision Date: May 23, 2022

AUTHORITY

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

JURISDICTION

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

HEARING RECORD

Appellant appeared at the hearing, which was held by telephone, on February 15, 2022. The hearing record consists of the Appellant's testimony, and the following documents which were admitted into evidence without objection by Appellant:

- Exhibit 1: Notice of Hearing (1-20-22) (2 pages);
- Exhibit 2: Information from Schedule HC TY 2019 (1 page); and
- Exhibit 3: Statement of Grounds for Appeal (7-2-21) (with letter and documents) (10 pages).

FINDINGS OF FACT

The record shows, and I so find:

1. Appellant, age 63 during 2019, from Bristol County, filed single on the tax return with a family size of 1. (Exhibit 2).
2. Appellant did not have health insurance for 2019. (Appellant's testimony, Exhibits 2, 3).
3. Appellant's Federal Adjusted Gross Income for 2019 was \$21,198.00 (Exhibit 2).
4. Appellant had shut off notices which were submitted with the appeal request. In addition, Appellant's expenses for food, shelter, clothing, and other necessities used all of the income. The monthly expenses for necessities was \$2,771.00, or \$33,252.00 per year. Appellant was forced to sell some assets in order to meet expenses during 2019. (Appellant's Testimony, Exhibit 3).
5. Appellant now has health insurance through Medicare. (Appellant's Testimony).

6. I take administrative notice of the financial information set forth in Tables 1 through 6 in the DOR 2019 Massachusetts Schedule HC Health Care Instructions and Worksheets. Tables 3 and 4 incorporate affordability and premium schedules adopted by the Board of Directors for the Commonwealth Health Insurance Connector Authority for 2019. Table 2 sets forth income at 300% of the Federal poverty level and Tables 5 and 6 set forth tax penalties in effect for 2019.
7. Appellant could not afford health insurance based on the tables in Schedule HC. According to Table 4, the health insurance would cost \$418.00 for coverage. According to Table 3, Appellant was deemed to afford \$51.00.
8. Private insurance was not affordable for the Appellant in 2019. (Schedule HC for 2019).
9. Appellant's AGI was under 300% of the Federal Poverty Level, and Appellant therefore may have qualified for subsidized health insurance through the Health Connector. (Schedule HC for 2019).
10. Appellant claimed that they should be granted a waiver based on the grounds that they had shut off notices and that paying for health insurance would have caused a serious deprivation of food, shelter, clothing and other necessities. (Testimony of Appellant, Exhibit 3).
11. Appellant did not incur significant and unexpected increases in essential expenses as a result of domestic violence; due to the death of a spouse, family member, or partner who shared household expenses; the sudden responsibility for providing full care for an aging parent or other family member. Appellant did not incur additional expenses as a result of a fire, flood, or other natural or man-made disaster in 2019 (Exhibit 3).
12. Appellant was not homeless, was not thirty days or more behind in rent in 2019, but Appellant did receive a shut-off notice for basic utilities. (Appellant's Testimony, Exhibit 3).

ANALYSIS AND CONCLUSIONS OF LAW

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

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

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

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

Private insurance was not affordable for the Appellant during 2019. According to Tables 3 and 4 of the HC Schedule for 2019, Appellant, with an adjusted gross income of \$21,198.00 was deemed to not have been able to afford health insurance on the private market. According to Table 3, Appellant could have afforded to pay \$51.00 per month; according to Table 4, Appellant, who was 63 years old in 2019, from Bristol County, and filed the 2019 Massachusetts taxes as single with a family size of 1, would have had to pay \$418.00 for coverage per month for insurance on the private market. See CMR 6.05 (1)(2), Schedule HC Tables 3 and 4, and Exhibit 2.

With regard to the hardship waiver of the penalty, Appellant claimed they had shut off notices, and that paying for health insurance would have caused a serious deprivation of food, shelter, clothing and other necessities. Appellant did receive shut off notices, and also the expenses for the necessities exceeded the amount of income of the Appellant. Appellant now has health insurance through Medicare. For these reasons, the waiver of the penalty is approved.

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

PENALTY ASSESSED

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

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

NOTIFICATION OF YOUR RIGHT TO APPEAL TO COURT

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

Hearing Officer

Cc: Connector Appeals Unit

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

Massachusetts Health Connector Appeals Unit

FINAL APPEAL DECISION: PA19-1195

Appeal Decision Appeal Approved.

Hearing Issue: Appeal of the 2019 Tax Year Penalty

Hearing Date: February 15, 2022

Decision Date: May 23, 2022

AUTHORITY

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

JURISDICTION

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

HEARING RECORD

Appellant appeared at the hearing, which was held by telephone, on February 15, 2022. The hearing record consists of the Appellant's testimony, and the following documents which were admitted into evidence without objection by Appellant:

- Exhibit 1: Notice of Hearing (1-20-22) (2 pages);
- Exhibit 2: Information from Schedule HC TY 2019 (1 page); and
- Exhibit 3: Statement of Grounds for Appeal (8-28-21) (3 pages).

FINDINGS OF FACT

The record shows, and I so find:

1. Appellant, age 56 during 2019, from Plymouth County, filed single on the tax return with a family size of 1. (Exhibit 2).
2. Appellant did not have health insurance for 2019. (Appellant's testimony, Exhibits 2, 3).
3. Appellant's Federal Adjusted Gross Income for 2019 was \$49,882.00 (Exhibit 2).
4. Appellant's expenses for food, shelter, clothing, child support, and other necessities used a significant amount of the income. The monthly expenses for necessities were \$3,100.00, or \$37,200.00 per year. (Appellant's Testimony, Exhibit 3).
5. Appellant now has health insurance. (Appellant's Testimony).
6. I take administrative notice of the financial information set forth in Tables 1 through 6 in the DOR 2019 Massachusetts Schedule HC Health Care Instructions and Worksheets. Tables 3 and 4

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

7. Appellant could not afford health insurance based on the tables in Schedule HC. According to Table 4, the health insurance would cost \$418.00 for coverage. According to Table 3, Appellant was deemed to afford \$332.00.
8. Private insurance was not affordable for the Appellant in 2019. (Schedule HC for 2019).
9. Appellant's AGI was over 300% of the Federal Poverty Level, and Appellant therefore would not have qualified for subsidized health insurance through the Health Connector. (Schedule HC for 2019).
10. Appellant claimed that they should be granted a waiver based on the grounds that paying for health insurance would have caused a serious deprivation of food, shelter, clothing and other necessities. (Testimony of Appellant, Exhibit 3).
11. Appellant did not incur significant and unexpected increases in essential expenses as a result of domestic violence; due to the death of a spouse, family member, or partner who shared household expenses; the sudden responsibility for providing full care for an aging parent or other family member. Appellant did not incur additional expenses as a result of a fire, flood, or other natural or man-made disaster in 2019 (Exhibit 3).
12. Appellant was not homeless, was not thirty days or more behind in rent in 2019, and Appellant did not receive a shut-off notice for basic utilities. (Appellant's Testimony, Exhibit 3).

ANALYSIS AND CONCLUSIONS OF LAW

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

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

Appellant did not have health insurance for 2019. They have been assessed a tax penalty for twelve months. Appellant appealed the assessment. See Exhibits 2, and 3. To determine if the penalty should be waived in whole or in part, we must consider whether affordable insurance which met minimum creditable coverage standards was available to the Appellant through employment, through the private market, or through a government-sponsored program. If affordable insurance was available, we must determine if such insurance was, in fact, not affordable to the Appellant because they experienced a financial hardship as defined in 956 CMR 6.08.

Private insurance was not affordable for the Appellant during 2019. According to Tables 3 and 4 of the HC Schedule for 2019, Appellant, with an adjusted gross income of \$49,882.00 was deemed to not have been able to afford health insurance on the private market. According to Table 3, Appellant could have afforded to pay \$332.00 per month; according to Table 4, Appellant, who was 56 years old in 2019, from Plymouth County, and filed the 2019 Massachusetts taxes as single with a family size of 1, would have had to pay \$418.00 for coverage per month for insurance on the private market. See CMR 6.05 (1)(2), Schedule HC Tables 3 and 4, and Exhibit 2.

With regard to the hardship waiver of the penalty, Appellant claimed that paying for health insurance would have caused a serious deprivation of food, shelter, clothing and other necessities. The expenses for the necessities and child support used most of the amount of income of the Appellant. Appellant now has health insurance. For these reasons, the waiver of the penalty is approved.

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

PENALTY ASSESSED

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

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

NOTIFICATION OF YOUR RIGHT TO APPEAL TO COURT

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

Hearing Officer

Cc: Connector Appeals Unit

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

Massachusetts Health Connector Appeals Unit

FINAL APPEAL DECISION: PA19-1198

Appeal Decision Appeal Approved.

Hearing Issue: Appeal of the 2019 Tax Year Penalty

Hearing Date: February 15, 2022

Decision Date: May 23, 2022

AUTHORITY

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

JURISDICTION

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

HEARING RECORD

Appellant appeared at the hearing, which was held by telephone, on February 15, 2022. The hearing record consists of the Appellant's testimony, and the following documents which were admitted into evidence without objection by Appellant:

- Exhibit 1: Notice of Hearing (1-20-22) (2 pages);
- Exhibit 2: Information from Schedule HC TY 2019 (1 page); and
- Exhibit 3: Statement of Grounds for Appeal (12-7-21) (with letter and documents) (10 pages).

FINDINGS OF FACT

The record shows, and I so find:

1. Appellant, age 25 during 2019, filed single on the tax return with a family size of 1. (Exhibit 2).
2. Appellant did have health insurance for all of 2019, through their employer. However, Appellant learned after the end of 2019 that the insurance did not meet minimum creditable coverage for Massachusetts. It did not meet the requirement to cover pregnancy for dependents. Appellant had no dependents during 2019 and the health insurance met the needs of the Appellant. (Appellant's testimony, Exhibits 2, 3).
3. Appellant's Federal Adjusted Gross Income for 2019 was \$64,837.00 (Exhibit 2).
4. Appellant has since moved back to Colorado. (Appellant's Testimony).
5. I take administrative notice of the financial information set forth in Tables 1 through 6 in the DOR 2019 Massachusetts Schedule HC Health Care Instructions and Worksheets. Tables 3 and 4

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

6. Appellant could afford health insurance based on the tables in Schedule HC. According to Table 4, the health insurance would cost \$257.00 for coverage. According to Table 3, Appellant was deemed to afford \$432.00.
7. Private insurance was affordable for the Appellant in 2019. (Schedule HC for 2019).
8. Appellant's AGI was over 300% of the Federal Poverty Level, and Appellant therefore would not have qualified for subsidized health insurance through the Health Connector. (Schedule HC for 2019).
9. Appellant claimed that they should be granted a waiver based on the grounds that they purchased health insurance through the employer that did not meet minimum creditable coverage, but substantially met it and was what was available through the employer. (Testimony of Appellant, Exhibit 3).
10. Appellant did not incur significant and unexpected increases in essential expenses as a result of domestic violence; due to the death of a spouse, family member, or partner who shared household expenses; the sudden responsibility for providing full care for an aging parent or other family member. Appellant did not incur additional expenses as a result of a fire, flood, or other natural or man-made disaster in 2019 (Exhibit 3).
11. Appellant was not homeless, was not thirty days or more behind in rent in 2019, and Appellant did not receive a shut-off notice for basic utilities. (Appellant's Testimony, Exhibit 3).

ANALYSIS AND CONCLUSIONS OF LAW

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

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

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

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

Private insurance was affordable for the Appellant during 2019. According to Tables 3 and 4 of the HC Schedule for 2019, Appellant, with an adjusted gross income of \$64,837.00 was deemed to have been able to afford health insurance on the private market. According to Table 3, Appellant could have afforded to pay \$432.00 per month; according to Table 4, Appellant, who was 25 years old in 2019, and filed the 2019 Massachusetts taxes as single with a family size of 1, would have had to pay \$257.00 for coverage per month for insurance on the private market. See CMR 6.05 (1)(2), Schedule HC Tables 3 and 4, and Exhibit 2.

With regard to the hardship waiver of the penalty, Appellant claimed that they had health insurance that substantially met minimum creditable coverage and was what was available through the employer. In addition, Appellant did not learn that it did not meet minimum creditable coverage for Massachusetts until after the end of the year of 2019. In addition, it met all requirements but the requirement to cover pregnancy for dependents, and Appellant had no dependents. Appellant has since moved back to Colorado. For these reasons, the waiver of the penalty is approved.

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

PENALTY ASSESSED

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

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

NOTIFICATION OF YOUR RIGHT TO APPEAL TO COURT

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

Hearing Officer

Cc: Connector Appeals Unit

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

Massachusetts Health Connector Appeals Unit

FINAL APPEAL DECISION: PA20-1068

Appeal Decision: Appeal Granted

Hearing Issue: Appeal of the 2020 Tax Year Penalty

Hearing Date: April 6, 2022

Decision Date: May 6, 2022

AUTHORITY

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

JURISDICTION

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

HEARING RECORD

The Appellant appeared at the hearing, which was held by telephone, on April 6, 2022. The Appellant offered testimony under oath or affirmation. At the end of the hearing, the record was closed.

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

- Exhibit 1: Appeal Case Information from 2020 Schedule HC (1 page)
- Exhibit 2: 6/24/21 Appeal (16 pages)
- Exhibit 3: 1/19/22 Reschedule Request (2 pages)
- Exhibit 4: 3/8/22 Hearing Notice (2 pages)

FINDINGS OF FACT

The record shows, and I so find:

1. The Appellant's filing status for 2020 was Single with no dependents. The Appellant's federal AGI in 2020 was \$19,501. The Appellant turned sixty years old in 2020. (Exhibit 1)
2. The Appellant resided in Hampshire County throughout 2020. (Exhibit 1)
3. On October 28, 2021, the Appellant appealed from the assessment of a twelve-month penalty against him for not having health insurance coverage in 2020, stating that purchasing health insurance coverage in 2020 would have caused him a serious deprivation of basic necessities. (Exhibit 2)
4. The Appellant ran his own business until May 2019, when he lost his business and went into deep financial hardship, including going into default on all his credit cards. (Appellant's testimony; Exhibit 2)
5. Since mid-2019, the Appellant has been on hold in paying \$60,000 of past due federal and state taxes. (Appellant's testimony)

6. The Appellant's monthly expenses for basic necessities in 2020 included: rent, \$660; electricity, \$35; heat/gas, \$60; water/sewer, \$36; TV/Internet, \$56; phone, \$55; car loan, \$358; car insurance, \$214; gasoline, \$200; home insurance, \$45; and, food, \$400, for a total of \$2,119/monthly. (Exhibit 2)
7. According to Table 2 of the 2020 Schedule HC Health Care, the Appellant qualified for government-subsidized health insurance in 2020, as his income was less than \$37,470 for a family size of one.
8. According to Table 3, Affordability, the Appellant could have afforded to pay up to \$47/monthly for health insurance coverage in 2020.
9. According to Table 4, the Appellant could have purchased health insurance coverage in the private market in 2020 for a monthly premium of \$387, based on his age and county of residence in 2020.
10. The Appellant could not have afforded to pay a monthly premium of \$47 for health insurance coverage in 2020. (Appellant's testimony)

ANALYSIS AND CONCLUSIONS OF LAW

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

At issue here is the Appellant's failure to have health insurance coverage at any time in 2020. The Appellant has presented overwhelming evidence that he was unable to afford health insurance coverage throughout 2020. His expenses for basic necessities in 2020 far exceeded his income during the year. Moreover, he had the additional burden of past credit card debt and federal and state taxes owed.

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

PENALTY ASSESSED

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

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

OR

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

NOTIFICATION OF YOUR RIGHT TO APPEAL TO COURT

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

Hearing Officer

Cc: Connector Appeals Unit

Massachusetts Health Connector Appeals Unit

FINAL APPEAL DECISION: PA20-1093

Appeal Decision: Appeal Granted

Hearing Issue: Appeal of the 2020 Tax Year Penalty

Hearing Date: April 6, 2022

Decision Date: May 31, 2022

AUTHORITY

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

JURISDICTION

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

HEARING RECORD

The Appellant appeared at the hearing, which was held by telephone, on April 6, 2022. The Appellant offered testimony under oath or affirmation. At the end of the hearing, the record was closed.

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

- Exhibit 1: Appeal Case Information from 2020 Schedule HC (1 page)
- Exhibit 2: 2/11/22 Request to Re-Open Appeal and Reschedule (4 pages)
- Exhibit 4: 3/8/22 Hearing Notice (2 pages)

FINDINGS OF FACT

The record shows, and I so find:

1. The Appellant's filing status for 2020 was Single with no dependents and a family size of two. The Appellant's federal AGI in 2020 was \$48,261. The Appellant turned forty years old in 2020. (Exhibit 1)
2. The Appellant resided in Essex County in 2020. (Exhibit 1)
3. On October 28, 2021, the Appellant appealed from the assessment of a twelve-month penalty against him for not having health insurance coverage in 2020, stating that purchasing health insurance coverage in 2020 would have caused him a serious deprivation of basic necessities. (Exhibit 2)
4. The Appellant's monthly expenses for basic necessities in 2020 included: rent, \$1,650; electricity, \$55; Internet/cable, \$300; phones, \$275; car insurance, \$100; M&R, \$400; food/groceries, \$350; seven-year - old daughter's schooling and clothing, \$350; and, monthly credit card minimum payment, \$200, for a total of \$3,680/monthly. (Appellant's testimony)
5. The Appellant maintained a credit card balance of \$2,500 throughout 2020, and all his credit cards were maxed out. (Appellant's testimony)

6. In March 2020, the Appellant's girlfriend lost her job, and the Appellant needed to assist her financially during much of 2020. (Exhibit 2)
7. According to Table 2 of the 2020 Schedule HC Health Care, the Appellant qualified for government-subsidized health insurance in 2020, as his income was less than \$50,730 for a family size of two.
8. According to Table 3, Affordability, the Appellant could have afforded to pay up to \$321/monthly for health insurance coverage in 2020.
9. According to Table 4, the Appellant could have purchased health insurance coverage in the private market in 2020 for a monthly premium of \$316, based on his age and county of residence in 2020.
10. The Appellant could not have afforded to pay a monthly premium of \$316 for health insurance coverage in 2020. (Appellant's testimony)

ANALYSIS AND CONCLUSIONS OF LAW

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

At issue here is the Appellant's failure to have health insurance coverage at any time in 2020. The Appellant has presented sufficient evidence to support the conclusion that he was unable to afford health insurance coverage throughout 2020. While health insurance coverage was available to the Appellant in 2020 for a monthly premium as low as \$316, this payment would have nearly exhausted the Appellant's available funds and placed him a precarious financial position. This is especially so in light of the substantial credit card debt he was dealing with during 2020; his responsibilities for his young daughter; and, the financial support the Appellant was providing his girlfriend after she had lost her job at the start of the pandemic in March 2020.

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

PENALTY ASSESSED

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

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

OR

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

NOTIFICATION OF YOUR RIGHT TO APPEAL TO COURT

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

Hearing Officer

Cc: Connector Appeals Unit

Massachusetts Health Connector Appeals Unit

FINAL APPEAL DECISION: PA201136

Appeal Decision: The penalty is overturned in full.

Hearing Issue: Appeal of the 2020 Tax Year Penalty

Hearing Date: January 28, 2022

Decision Date: May 5, 2022

AUTHORITY

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

JURISDICTION

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

HEARING RECORD

One of the appellants appeared at the hearing which was held by telephone on January 28, 2022. The procedures to be followed during the hearing were reviewed with Appellant who was then sworn in. Exhibits were marked and admitted in evidence with no objection from the appellant. Appellant testified.

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

- Exhibit 1: Statement of Grounds for Appeal 2020 signed and dated by Appellants on August 6, 2021 with letter in support attached
- Exhibit 2: Appeal Case Information from Schedule HC 2020
- Exhibit 3: Notice of Hearing sent to Appellant dated January 4, 2022 for January 28, 2022 hearing
- Exhibit 4: Final Appeal Decision for Tax Year 2019 dated April 27, 2021

FINDINGS OF FACT

The record shows, and I so find:

1. Appellants, who filed a 2020 Massachusetts tax return jointly with one dependent claimed, were 41 and 48 years old in 2020. The couple's dependent is their minor daughter (Exhibit 2, Testimony of Appellant).
2. Appellants lived in Norfolk County in 2020. During 2020, the appellants were separated, though not yet divorced (Exhibit 2, Testimony of Appellant).
3. Appellants' Federal Adjusted Gross Income for 2020 was \$55,931. In 2019, their Federal Adjusted Gross Income was \$72,647 (Exhibits 2, 4, Testimony of Appellant).
4. One of the appellants was employed full-time from January through mid-March. The appellant was then furloughed because of the pandemic for about three months. Later in the year, the appellant's employer offered him a half-time job at half the pay. The appellant did not accept the offer. Instead he took a temporary position. Later, he became self-employed and earned about \$2,000 a month. When he was furloughed, Appellant received unemployment compensation benefits (Testimony of Appellant, Exhibit 1 attachment).

5. The other appellant was self-employed. Before the pandemic, she earned about \$3,500 a month. As a result of the pandemic, her income dropped significantly. Because the couple's daughter was not in school because of the pandemic, the appellant had to cut her hours and from September through December earned between \$1,500 and \$1,800 month (Testimony of Appellant, Exhibit 1 attachment).
6. Neither appellant was offered health insurance through employment. One was self-employed for the whole year; the other was self-employed part of the year and was employed by a business which did not offer him health insurance (Testimony of Appellant).
7. Neither appellant had health insurance in 2020. They have each been assessed a tax penalty for twelve months (Testimony of Appellant, Exhibit 2).
8. I take administrative notice of the financial information set forth in Tables 1 through 6 in the DOR 2020 Massachusetts Schedule HC Health Care Instructions and Worksheets. Tables 3 and 4 incorporate affordability and premium schedules adopted by the Board of Directors for the Commonwealth Health Insurance Connector Authority for 2020. Table 2 sets forth income at 300% of the Federal poverty level and Tables 5 and 6 set forth tax penalties in effect for 2020.
9. According to Table 3 of Schedule HC for 2020, the appellants with one dependent claimed with an adjusted gross income of \$55,931 could afford to pay \$270 per month for health insurance. According to Table 4, Appellants, 41 and 48 years old and living in Norfolk County, could have purchased insurance for \$883 per month. Coverage through the individual market was unaffordable for the appellants in 2020 (Schedule HC for 2020, Exhibit 2).
10. According to Table 2 of Schedule HC for 2020, Appellants, with one dependent, earning less than \$63,990, the income limit for a family of three, would have been eligible for the ConnectorCare program based upon income (Exhibit 2, Table 2 of Schedule HC-2020, 956 CMR 12.00 et. seq.).
11. Appellants did not incur significant and unexpected increases in essential expenses as a result of domestic violence; the death of a spouse, family member, or partner who shared household expenses; or the sudden responsibility for providing full care for an aging parent or other family member; or a flood, fire, or other natural or human-caused event which resulted in personal or household damage (Testimony of Appellant).
12. Appellants did not fall more than thirty days behind in rent payments in 2020 (Testimony of Appellant).
13. Appellants did not received any shut-off notices for basic utilities during 2020 (Testimony of Appellant).
14. Appellants were living apart in 2020. Each month, one of the appellants paid \$1,400 for rent; between \$70 and \$160 for heat and electricity; \$95 for telephone and internet; \$900 for food, household items and personal care items; \$145 for clothing; \$60 for car insurance; and \$50 for gas. The other had the following monthly expenses: rent for a room- from January through March-\$350, rent shared with the other appellant in April and May, and \$1,200 a month rent from June through December; telephone-\$30; food, household items and personal care-\$800; clothing-\$110; car insurance-\$110; gas-\$85. One of the appellants had dental care which cost \$1,000 during the year and both shared legal expenses of \$3,000 (Testimony of Appellant).

ANALYSIS AND CONCLUSIONS OF LAW

The issue on appeal is whether the tax penalty assessed by the Massachusetts Department of Revenue for 2020 should be waived, either in whole or in part. The appellants have each been assessed a tax penalty for twelve months. Appellants have appealed the penalty. See Exhibits 1 and 2, and Massachusetts General Laws Chapter 111M, Section 2.

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

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

According to Table 3 of Schedule HC for 2020, the appellants with one dependent claimed with an adjusted gross income of \$55,931 could afford to pay \$270 per month for health insurance. According to Table 4, Appellants, 41 and 48 years old and living in Norfolk County, could have purchased insurance for \$883 per month. Coverage through the individual market was unaffordable for the appellants in 2020 See Schedule HC for 2020, Tables 3 and 4, and Exhibit 2.

Neither appellant had access to health insurance through employment. They were either self-employed or they were not offered health insurance by their employer. See the testimony of the appellant which I find to be credible.

According to Table 2 of Schedule HC for 2020, Appellants, with one dependent, earning less than \$63,990, the income limit for a family of three, would have been eligible for the ConnectorCare program based upon income See Exhibit 2, Table 2 of Schedule HC-2020, 956 CMR 12.00 et. seq.

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

Appellants faced a number of financial challenges during 2020. Because of the pandemic, they lost significant income. The year before, the appellants’ Federal Adjusted Income was almost \$17,000 higher. See Exhibit 4. One of the appellants was laid off from his job in mid-March, the start of the pandemic. The other who was self-employed experienced a significant drop in her income at the same time. At the most, this appellant earned \$3,500 a month. During the pandemic, her income was basically cut in half. In addition, the couple had separated, so expenses for basic necessities nearly doubled (rent, food, telephone, for example). They also had \$3,000 in legal fees because of the separation and pending divorce. See the testimony of the appellant which I find to be creditable.

Based on the facts summarized above, I determine that the cost of purchasing health insurance would have caused the appellants to experience a serious deprivation of basic necessities. Health insurance was, therefore, unaffordable for them. See 956 CMR 6.08(1)(e). See also 956 CMR 6.08(3) which provides for the consideration of financial issues other than those explicitly mentioned in the regulations raised by the appellants when determining whether the appellant had a financial hardship.

Pursuant to 956 CMR 6.08(1)(e) and 6.08(3), Appellants’ penalty is waived. Appellants should note that any waiver granted here is for 2020 only and is based upon the specific facts I have found to be true; they should not assume that the same determination will be made should Appellants be assessed a penalty in the future.

PENALTY ASSESSED

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

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

NOTIFICATION OF YOUR RIGHT TO APPEAL TO COURT

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

Cc: Connector Appeals Unit

Hearing Officer

Massachusetts Health Connector Appeals Unit

FINAL APPEAL DECISION: PA201139

Appeal Decision: The penalty is overturned in full.

Hearing Issue: Appeal of the 2020 Tax Year Penalty

Hearing Date: January 28, 2022

Decision Date: May 1, 2022, 2022

AUTHORITY

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

JURISDICTION

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

HEARING RECORD

The appellant and his representative appeared at the hearing which was held by telephone on January 18, 2022. The procedures to be followed during the hearing were reviewed with Appellant and the representative. They were then sworn in. Exhibits were marked and admitted in evidence with no objection from the appellant and the representative. Appellant and his representative testified.

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

- Exhibit 1: Statement of Grounds for Appeal 2020 signed and dated by Appellant on September 1, 2021, with letter in support attached
- Exhibit 2: Appeal Case Information from Schedule HC 2020
- Exhibit 3: Notice of Hearing sent to Appellant dated January 4, 2022 for January 28, 2022 hearing

FINDINGS OF FACT

The record shows, and I so find:

1. Appellant, who filed a 2020 Massachusetts tax return as a single person with no dependents claimed, was 28 years old in 2020 (Exhibit 2, Testimony of Appellant and Representative).
2. Appellant resided in Barnstable County in 2020 (Testimony of Appellant and Representative, Exhibit 2).
3. Appellant had a Federal Adjusted Income of \$37,088 in 2020 (Testimony of Appellant and Representative, Exhibit 2).
4. Appellant had two jobs in 2020. One was seasonal. Appellant worked at this job from April through December. He worked 35 to 40 hours a week for \$22 an hour. At his other job, Appellant worked all year, 10 to 15 hours a week at \$12 an hour. During 2020, Appellant collected unemployment for a period, receiving about \$500 a week for 5 weeks (Testimony of Appellant and Representative).
5. Appellant was not offered health insurance through either job (Testimony of Appellant and Representative)
6. Appellant had no health insurance in 2020. Appellant has been assessed a tax penalty for all of 2020. The appellant has appealed this assessment, claiming that he would not have had any affordable health insurance available

to him if the amount he received for unemployment compensation had been included in his Federal Adjusted Gross Income (Testimony of Appellant and Representative, Exhibits 1 attachment, and 2).

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

8. According to Table 3 of Schedule HC for 2020, the appellant with no dependents claimed with an adjusted gross income of \$37,088 could afford to pay \$154 per month for health insurance. According to Table 4, Appellant, 28 years old and living in Barnstable County, could have purchased insurance for \$269 per month for a plan for an individual. Insurance on the individual market was unaffordable for the appellant (Schedule HC for 2020 Tables 3 and 4, Exhibit 2).

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

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

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

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

13. Appellant had the following monthly expenses for basic necessities : rent-\$850; electricity and heat- included in rent; telephone and internet-\$300; food, household items, and personal care items-\$745; clothing-\$70; car insurance-\$200; gas-\$300; car payments-\$440 (Testimony of Appellant and Representative).

14. Appellant obtained health insurance which met the Commonwealth's standards as of January 1, 2021. Appellant was still insured as of the date of this hearing (Testimony of Appellant and Representative).

ANALYSIS AND CONCLUSIONS OF LAW

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

G.L c. 111M, § 2, also called the "individual mandate," requires every adult resident of Massachusetts to obtain insurance coverage which meets the Commonwealth's 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 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 finan-

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

Appellant was assessed a tax penalty for all of 2020 because he had no health insurance coverage during the year. Appellant has appealed the assessment. See Exhibits 1 and 2, Massachusetts General Laws, Chapter 111M, Section 2.

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

According to Table 3 of Schedule HC for 2020, the appellant with no dependents claimed with an adjusted gross income of \$37,088 could afford to pay \$154 per month for health insurance. According to Table 4, Appellant, 28 years old and living in Barnstable County, could have purchased insurance for \$269 per month for a plan for an individual. Insurance on the individual market was unaffordable for the appellant. See Schedule HC for 2020 Tables 3 and 4, and Exhibit 2.

Appellant was eligible for affordable coverage through the ConnectorCare program. The appellant's annual Federal Adjusted Income was \$37,088, less than the income limit for one person (\$37,470). See 956 CMR 12.00 et. seq., Exhibit 2, and Table 2 of Schedule HC 2020. See also the testimony of the appellant and the representative which I find to be credible.

Appellant had two jobs during 2022. Neither offered the appellant health insurance as a benefit. See the testimony of the appellant and the representative which I find to be credible.

Since the appellant could have obtained affordable health insurance which met Commonwealth standards through the ConnectorCare program, we need to determine if Appellant had a financial hardship during the remainder of the year 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 monthly expenses for basic necessities : rent-\$850; electricity and heat- included in rent; telephone and internet-\$300; food, household items, and personal care items-\$745; clothing-\$70; car insurance-\$200; gas-\$300; car payments-\$440. See the testimony of the appellant and the representative which I find to be credible. These expenses amounted to \$2,900 a month. Appellant's income came to \$3,000 before taxes.

Based upon the facts summarized above, I determine that the appellant experienced a financial hardship in 2020. Each month he ran a deficit if we consider that Appellant had to pay some taxes. The cost of purchasing health insurance would have caused Appellant to experience a serious deprivation of basic necessities. See 956 CMR 6.08(1)(e). I find that the cost of purchasing health insurance was unaffordable for the appellant.

The penalty is waived because of financial hardship. I also note that Appellant obtained health insurance as of January 1, 2021 and still had coverage as of the date of this hearing.

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

PENALTY ASSESSED

Number of Months Appealed: ___12___ Number of Months Assessed: ___0___

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

NOTIFICATION OF YOUR RIGHT TO APPEAL TO COURT

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

Cc: Connector Appeals Unit

Hearing Officer

Massachusetts Health Connector Appeals Unit

FINAL APPEAL DECISION: PA20-1169

Appeal Decision: Appeal Denied

Hearing Issue: Appeal of the 2020 Tax Year Penalty

Hearing Date: February 11, 2021

Decision Date: May 2, 2022

AUTHORITY

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

JURISDICTION

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

HEARING RECORD

The Appellant/husband appeared at the hearing, which was held by telephone, on February 11, 2022. The Appellant offered testimony under oath or affirmation. At the end of the hearing, the record was closed.

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

- Exhibit 1: Appeal Case Information from 2020 Schedule HC (1 page)
- Exhibit 2: 10/11/21 Appeal (9 pages)
- Exhibit 3: 1/14/22 Hearing Notice (2 pages)

FINDINGS OF FACT

The record shows, and I so find:

1. The Appellant/husband's filing status for 2020 was Married Filing Joint with three dependents. The Appellant's federal AGI in 2020 was \$156,939. The Appellant turned forty-six years old in 2020. (Exhibit 1)
2. The Appellant resided in Massachusetts throughout 2020. (Exhibit 1)
3. The Appellant lived in Norfolk County in 2020. (Exhibit 1)
4. The Appellant appeal from the assessment of an eight-month penalty against the Appellant on his family's 2020 income tax return, without checking off any of the boxes on the appeal form as the basis for his appeal. (Exhibit 2)
5. The Appellant/husband had health insurance coverage in 2020 that met MCC standards in January only, through his employer, and lost his coverage when he lost his job at the end of January 2020. (2020 Schedule HC)
6. The Appellant/husband had worked for this employer for four years prior to losing his job. (Appellant's testimony)

7. The Appellant purchased “a brand of membership in the Service Industry Trade Alliance called Evolve Health with an effective date of 2/1/2020,” and his “membership status is currently Active with a paid through date of 10/31/21.” (Exhibit 2)
8. By the terms of the Evolve Health agreement, the Appellant’s membership in Evolve Health was not health insurance coverage. (Exhibit 2)
9. The Appellant made no other effort to obtain health insurance coverage in 2020. (Appellant’s testimony)
10. According to Table 2 of the 2020 Schedule HC Health Care, the Appellant did not qualify for government-subsidized health insurance in 2020, as his family’s 2020 income was more \$45,255 for a family size of five.
11. According to Table 3, Affordability, the Appellant could have afforded to pay up to \$1,046/monthly for health insurance coverage in 2020.
12. According to Table 4, the Appellant could have purchased health insurance coverage in the private market in 2020 for a monthly premium of \$361, based on his age and county of residence.
13. The Appellant could have afforded to pay a monthly of \$361 for health insurance coverage in 2020. (Appellant’s testimony)

ANALYSIS AND CONCLUSIONS OF LAW

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

As the Appellant had health insurance coverage that met MCC standards through his employer through January 2020, when he lost his job and his coverage, and as he then had a three-month grace period to obtain new coverage in 2020, the issue before me is the Appellant’s failure to have health insurance coverage during the last eight months of 2020.

The Appellant has not established any basis for waiving or reducing his 2020 tax penalty for not having health insurance coverage during the last eight months of 2020. I do not find persuasive the Appellant’s position that he thought that his membership in Evolve Health provided him health insurance coverage, as his membership agreement specifically stated that it was not health insurance coverage. Moreover, the Appellant had just left a job where he had health insurance coverage that met Massachusetts standards, so he should have had some basic understanding of what such coverage required to meet MCC standards.

Accordingly, the Appellant’s eight-month penalty for 2020 shall not be waived or reduced.

PENALTY ASSESSED

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

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

OR

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

NOTIFICATION OF YOUR RIGHT TO APPEAL TO COURT

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

Hearing Officer

Cc: Connector Appeals Unit

Massachusetts Health Connector Appeals Unit

FINAL APPEAL DECISION: PA20-1174

Appeal Decision: Appeal Granted

Hearing Issue: Appeal of the 2020 Tax Year Penalty

Hearing Date: February 11, 2022

Decision Date: May 5, 2022

AUTHORITY

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

JURISDICTION

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

HEARING RECORD

The Appellant appeared at the hearing, which was held by telephone, on February 11, 2022. The Appellant offered testimony under oath or affirmation. At the end of the hearing, the record was left open until March 1, 2022, for the Appellant to submit additional evidence. The Appellant submitted additional evidence on March 1, 2022, and the record was closed.

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

- Exhibit 1: Appeal Case Information from 2020 Schedule HC (1 page)
- Exhibit 2: 10/28/21 Appeal of Dismissed Appeal
- Exhibit 3: Health Plan effective 9/2/20
- Exhibit 4: Drivers Licensed
- Exhibit 5: 10/4/21 Notice of Dismissed Appeal (2 pages)
- Exhibit 6: 1/14/22 Hearing Notice (2 pages)
- Exhibit 7: 2/11/22 Open Record Request for Additional Evidence (1 page)
- Exhibit 8: 3/1/22 Open Record Response (6 pages)

FINDINGS OF FACT

The record shows, and I so find:

1. The Appellant's filing status for 2020 was Single with no dependents. The Appellant's federal AGI in 2020 was \$18,772. The Appellant turned twenty-one years old in 2020. (Exhibit 1)
2. The Appellant resided in Worcester County throughout 2020. (Exhibit 1)
3. On October 28, 2021, the Appellant appealed from the assessment of a twelve-month penalty against him for not having health insurance coverage in 2020, stating that he had health insurance coverage throughout 2020. (Exhibit 2)

4. The Appellant had never done his own taxes prior to 2020, as his father had always done them up until then. (Appellant’s testimony)
5. In doing his own taxes for the first time in 2020, the Appellant neglected to report that he had health insurance coverage during 2020. (Appellant’s testimony)
6. The Appellant had health insurance coverage that met MCC standards through his father’s coverage from January 2020 through July 2020. (Exhibit 8)
7. The Appellant had health insurance coverage that met MCC standards through his father’s employer-sponsored coverage from September 2020 through December 2020. (Exhibit 8)

ANALYSIS AND CONCLUSIONS OF LAW

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

As the Appellant had health insurance coverage that met MCC standards during the first six months of 2020, he had a three-month grace period, through September 2020, to obtain new coverage. As the Appellant regained health insurance coverage in September 2020 that continued for the rest of the year, I conclude that the Appellant met the requirements of the individual mandate in 2020.

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

PENALTY ASSESSED

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

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

OR

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

NOTIFICATION OF YOUR RIGHT TO APPEAL TO COURT

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

Hearing Officer

Cc: Connector Appeals Unit