

Massachusetts Health Connector Appeals Unit

Tax Penalty Appeal Decision—Docket No. PA23-27

Appeal Decision: Appeal Approved -- 2023 tax penalty overturned.

Hearing Issue: Appeal of the 2023 Tax Year Penalty

Hearing Date: May 8, 2024

Decision Date: May 16, 2024

AUTHORITY

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

JURISDICTION

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

HEARING RECORD

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

1. DOR Appeal Case Information from Schedule HC (1 page);
2. Appellant’s Statement of Grounds for Appeal – 2023;
3. Health Connector’s Notice of Hearing (2 pages);
4. United HealthCare Cover Letter to Appellant (dated 12/15/2023);
5. 2023 IRS Form 1095-B;
6. 2023 IRS Form 1095-C;
7. Appellant’s Tax Return Cover Document; and
8. 2023 Form MA 1095-HC.

FINDINGS OF FACT

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

1. The Appellant appealed from the Department of Revenue's assessment of a 12 month penalty for 2023. The basis for the penalty was that the Appellant did not have health insurance at any time in 2023 that satisfied the Massachusetts minimum creditable coverage standard ("MCC"). Exhibits 1 and 2. See also Exhibit 4 ("minimum essential coverage").
2. I find that the Appellant was insured all 12 months in 2023 through a United Healthcare policy maintained by his employer located in Florida with coverage that satisfied the Massachusetts minimum creditable coverage standard ("MCC"). I base this finding on the 2023 Form MA 1099-HC that the Appellant submitted immediately prior to the appeal hearing. Exhibit 8 (date stamped 5/8/24). The Appellant's testimony at the appeal hearing was consistent with the 2023 Form MA 1099-HC.
3. In advance of the appeal hearing the Appellant submitted two federal tax forms that established that the Appellant was insured all 12 months that met the federal "minimum essential coverage" standard but not the Massachusetts MCC standard. See Exhibit 5 (2023 IRS Form 1095-B) and Exhibit 6 (2023 IRS Form 1095s-C).
4. 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 2023 Massachusetts income tax return.
5. I take administrative notice of the financial information set forth in Tables 1 through 6 of the DOR 2023 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 2023. 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 2023 income eligibility standard for the ConnectorCare government subsidized health insurance program. Tables 5 and 6 set forth the tax penalties in effect for 2023. (The DOR instructions are published online at <http://www.mass.gov/dor/2023ScheduleHCInstructions> 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 2023.)

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 2023 that satisfied the Massachusetts minimum creditable coverage standard (“MCC”). See Exhibits 1 and 2. See also Exhibit 4. 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 – 2023 that the Appellant signed and filed in this case. See Exhibit 2.

In this appeal it is undisputed that the Appellant, a Massachusetts resident and state taxpayer, was insured all 12 months in 2023 through a United Healthcare policy obtained through his employer located in Florida. Initially, the Appellant established that his health insurance coverage met the federal “minimum essential coverage” standard. Consequently, the Massachusetts Department of Revenue (DOR) assessed a 12 month penalty because the coverage did not meet the Massachusetts “minimum creditable coverage” standard. See Exhibits 1, 4, 5, and 6.

Subsequently, the Appellant submitted a 2023 Form MA 1099-HC in support of his appeal. See Exhibit 8. The Massachusetts document established that the Appellant’s health insurance coverage satisfied the Massachusetts minimum creditable coverage standard (“MCC”) for all 12 months in 2023.

For the foregoing reason, I waive the entire 12 month penalty that was assessed for 2023.

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 2023 for the amount equal to one half of the lowest cost health insurance plan available to you for each month you have been assessed the penalty, as listed above, plus applicable interest back to the due date of the return without regard to extension.

OR

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

NOTIFICATION OF YOUR RIGHT TO APPEAL TO COURT

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

Hearing Officer

Cc: Massachusetts Health Connector Appeals Unit

FINAL APPEAL DECISION: PA23-4

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

Hearing Issue: Appeal of the 2023 Tax Year Penalty

Hearing Date: April 16, 2024

Decision Date: April 28, 2024

AUTHORITY

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

JURISDICTION

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

HEARING RECORD

Appellant filed his 2023 tax return as Single with no dependents. Appellant appeared at the hearing. The Hearing was held by telephone, on April 16, 2024. The procedures to be followed during the hearing were reviewed with Appellant who was then sworn in. Exhibits were marked and admitted into evidence with no objection from Appellant. The hearing record consists of the Appellant's testimony and the following documents which were admitted into evidence:

- Exhibit 1: Health Connector Appeals Unit Notice of Hearing dated March 13, 2024.
- Exhibit 2: Appeal Case Information from Schedule HC 2023.
- Exhibit 3: Statement of Grounds for Appeal dated February 12, 2024
- Exhibit 4: Termination Notice dated November 29, 2022 from National Grid, 14 Day Notice to Pay Rent or Quit, dated July 27, 2022, 2023 Form 1095-C, received in response to an Open Record Request.

FINDINGS OF FACT

The record shows, and I so find:

1. Appellant was age 48 in January 2023, and he filed his Federal Income Tax return as Single with no Dependents (Exhibit 2).
2. The Appellant lived in Hampden County in 2023 (Exhibit 2, 3 and Appellant Testimony).
3. The Appellant's Federal Adjusted Gross Income for 2023 was \$32,856 (Exhibit 2).
4. Appellant has been assessed a twelve-month tax penalty for 2023 (Exhibit 2).

5. I take administrative notice of the financial information set forth in Tables 1 through 6 in the DOR 2023 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 2023. Table 2 sets forth income at 300% of the Federal poverty level and Tables 5 and 6 set forth tax penalties in effect for 2023.
6. In accordance with Table 3 of Schedule HC for 2023, the Appellant filing his Federal tax return as Single with no dependents, with an annual adjusted gross income of \$32,856 could afford to pay \$112 per month for health insurance. In accordance with Table 4, Appellant, age 48 living in Hampden County, could have purchased private insurance for \$428 per month. Private insurance was not affordable for Appellant.
7. Appellant testified that he was employed full time for the entire year of 2023 and his employer provided a health insurance plan for employees and he did have health insurance for most of 2023 (seven months). He said he has a 1095-C that his employer sent out too late to file his taxes. He said he did not search for a plan on the HealthConnector since he could not afford health insurance, nor did he inquire into MassHealth (Appellant Testimony).
8. The Appellant's income was less than 300% of the federal poverty level, which was \$40,770 for a household of one in 2023 (See Table 2 of Schedule HC-2023 and 956 CMR 12.04). (Exhibit 2).
9. Appellant estimated his monthly living expenses in 2023 exceeded \$1,600 including rent. He added that he fell eight months behind on rent and has a notice to quit his apartment and shut off notice from a utility company, both of which he said he would provide (Appellant Testimony).

ANALYSIS AND CONCLUSIONS OF LAW

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

Any health insurance policy must also satisfy the Massachusetts Minimum Credible Coverage (MCC) requirement to avoid the tax penalty. Mass. Gen. Laws c. 111M, sec. 2(b). In addition to financial

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

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

In accordance with Table 3 of Schedule HC for 2023, the Appellants filing his Federal tax return as Single, with no dependents claimed and with an adjusted gross income of \$32,856, could afford to pay \$112 per month for health insurance. According to Table 4, Appellant age 27, living in Norfolk County, could have purchased a private insurance plan for \$428 a month. See Schedule HC for 2023. Private insurance was not affordable for the Appellants in tax year 2023.

The Appellant would have been eligible for ConnectorCare coverage based upon his income that was less than 300% of the federal poverty level which was \$40,770 for a household of one in 2023. See Table 2 of Schedule HC 2023 and 956 CMR 12.04 for eligibility criteria. Appellant would not have qualified for MassHealth based on the income requirements in 2023.

Appellant testified credibly that he had health insurance for most of 2023. In response to an open records request of the Hearing Officer he provided a 2023 1095-C that demonstrated this. He stated believably that he did not receive this form in time to file his 2023 tax return (Exhibit 4). Appellant is well served and should file an amendment to his 2023 taxes reflecting this fact.

Appellant testified that in 2023 he had monthly living expenses exceeding \$1,600 which consumed most of his net income. He credibly testified that he did not search the HealthConnector site due to not being able to afford any health insurance plan. Private insurance was not an option for him due to its expense versus what he could afford (\$112 and \$428 respectively). He provided a utility termination notice and notice to pay rent or quit from his landlord showing him in arrears on his rent for six months. Although these notices are from 2022 they both go towards demonstrating Appellant was under financial strain entering 2023.

In light of these facts, I find that purchasing a health insurance policy by Appellant in 2023 would have resulted in an economic hardship. The penalty for 2023 is therefore waived in its entirety (12 months).

The Appellants should note that the waiver of his penalty is based upon the facts that I have determined to be true in 2023. The Appellant should not assume that a similar determination will be made for subsequent tax years should he again be assessed a penalty for failure to have health insurance.

PENALTY ASSESSED

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

If the number of months assessed is zero (0) because your penalty has been overturned, the Connector has notified the Department of Revenue that you should NOT be assessed a penalty for Tax Year 2023.

NOTIFICATION OF YOUR RIGHT TO APPEAL TO COURT

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

Cc: Connector Appeals Unit

Massachusetts Health Connector Appeals Unit

FINAL APPEAL DECISION: PA221322

Appeal Decision: The penalty is overturned.

Hearing Issue: Appeal of the 2022 Tax Year Penalty

Hearing Date: February 9, 2024

Decision Date: May 21, 2024

AUTHORITY

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

JURISDICTION

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

HEARING RECORD

The appellant appeared at the hearing which was held by telephone on February 9, 2024. The procedures to be followed during the hearing were reviewed with Appellant who was then sworn in. Exhibits were marked and admitted in evidence with no objection from the appellant. Appellant testified.

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

Exhibit 1: Statement of Grounds for Appeal 2022 signed and dated by Appellant on May 18, 2023 with letter attached

Exhibit 2: Appeal Case Information from Schedule HC 2022

Exhibit 3: Notice of Hearing sent to Appellant dated January 4, 2024 for February 9, 2024 hearing

FINDINGS OF FACT

The record shows, and I so find:

1. Appellant, who filed a 2022 Massachusetts tax return as a single individual with no dependents claimed, was 32 years old in 2022 (Exhibit 2, Testimony of Appellant).
2. Appellant resided in Hampden County starting in June, 2022. The appellant moved to the Commonwealth from another New England state. Appellant did not indicate that she was a part-year resident in the Commonwealth on her tax return (Testimony of Appellant, Exhibit 2).
3. Appellant had a Federal Adjusted Income of \$43,212 in 2022 (Testimony of Appellant, Exhibit 2).
4. The appellant was employed all year. Appellant worked at a small company which was located out of the Commonwealth. Appellant was not offered health insurance through employment until October, 2022. The employer at first said it would offer health insurance earlier in the year, but it was unable to arrange coverage that would meet the Commonwealth's minimum creditable coverage standards until the fall. Once coverage had been arranged, the appellant enrolled in the Blue Cross/Blue Shield plan offered. Appellant had coverage from October through December. As of the date of this hearing, Appellant was still covered by the plan (Testimony of Appellant).
5. Appellant has been assessed a penalty for January through June, 2022. Appellant has appealed this assessment (Testimony of Appellant, Exhibits 1, 2).

6. I take administrative notice of the financial information set forth in Tables 1 through 6 in the DOR 2022 Massachusetts Schedule HC Health Care Instructions and Worksheets. Tables 3 and 4 incorporate affordability and premium schedules adopted by the Board of Directors for the Commonwealth Health Insurance Connector Authority for 2022. Table 2 sets forth income at 300% of the Federal poverty level and Tables 5 and 6 set forth tax penalties in effect for 2022.

7. According to Table 3 of Schedule HC for 2022, the appellant with no dependent claimed with an adjusted gross income of \$43,212 could afford to pay \$268 per month for health insurance. According to Table 4, Appellant, 32 years old and living in Hampden County, could have purchased insurance for \$311 per month for a plan for an individual. Insurance on the individual market was unaffordable for the appellant (Schedule HC for 2022 Tables 3 and 4, Exhibit 2).

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

9. Appellant was not a veteran; she was not eligible for Medicare (Testimony of Appellant).

ANALYSIS AND CONCLUSIONS OF LAW

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

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

The appellant had health insurance which met the Commonwealth’s minimum creditable coverage standards from October to December in 2022. Appellant has been assessed a penalty for six months, January through June since she is entitled to a three-month grace period prior to obtaining coverage. Appellant has appealed the assessment. See Exhibits 1 and 2.

Appellant testified that she moved to Massachusetts in June, 2022. I find this testimony credible. She did not, however, indicate on her 2022 Massachusetts tax return that she was a part-year resident. Given her testimony, I find that Appellant’s penalty for January through May should be waived. Pursuant to Massachusetts General Laws, Chapter 111M, Section 2, only residents of the Commonwealth are required to have coverage or face a tax penalty. The penalty for June through August is also waived because the law also allows individuals a three-month grace period after arriving in the Commonwealth during which they must obtain coverage.

As noted above, Appellant had coverage from October through December, so we are only left to consider the penalty for the month of September. 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 for which Appellant has been assessed a penalty. If affordable insurance was available, we must determine if such insurance was, in fact, not affordable for the appellant because Appellant experienced a financial hardship as defined in 956 CMR 6.08.

According to Table 3 of Schedule HC for 2022, the appellant with no dependent claimed with an adjusted gross income of \$43,212 could afford to pay \$268 per month for health insurance. According to Table 4, Appellant, 32 years old and living Hampden County could have purchased insurance for \$311 per month for a plan for an individual. Insurance on the individual market was unaffordable for the appellant. See Schedule HC for 2022 Tables 3 and 4, and Exhibit 2.

According to Table 2 of Schedule HC for 2022, Appellant who earned more than \$38,640 per year, would have been ineligible for the ConnectorCare program based upon income. See Table 2 of Schedule HC-2022, and Exhibit 2. Appellant was not a veteran; she was not eligible for Medicare. There is no evidence in the record that Appellant was eligible for any other government-sponsored health insurance. See the testimony of Appellant which I find to be credible.

Appellant was not offered health insurance through employment in September. The appellant worked for a small company located out of Massachusetts. Though the employer wanted to offer health insurance to the employees, it took many months, until October, to find a plan that would meet the Commonwealth's minimum creditable coverage standards. When such a plan was found, Appellant was able to obtain coverage which she had from October through December. See the testimony of the appellant which I find to be credible.

During September, the appellant had no access to affordable health insurance which met the Commonwealth's standards. See discussion above. Her penalty for September is waived pursuant to Massachusetts General Laws Chapter 111M, Section 2, which provides if an individual has no access to affordable health insurance, the individual shall not be assessed a tax penalty.

I note that even if Appellant's testimony about her move to Massachusetts in June was not found to be credible, her entire penalty would be waived because of the unavailability of affordable health insurance meeting Commonwealth standards throughout the year.

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

PENALTY ASSESSED

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

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

NOTIFICATION OF YOUR RIGHT TO APPEAL TO COURT

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

Cc: Connector Appeals Unit

Hearing Officer

CONNECTOR APPEALS UNIT



FINDINGS OF FACT

The record shows, and I so find:

1. Appellant was 47 years old in the beginning of 2021. Appellant filed his 2021 Massachusetts tax return as Single. The Appellant has no dependents (Exhibit 1).
2. Appellant lived in Norfolk County, MA in 2021 (Exhibit 1).
3. Appellant's Federal Adjusted Gross Income for 2021 was \$59,346.00 (Exhibit 1, Appellant's Testimony). Appellant's Income was 437% of the Federal Poverty level and based on his income, if all other conditions were met, he would be INELIGIBLE based on income for ConnectorCare.
4. In 2021, the Appellant started the year working full-time as a laborer for a Restoration Company. This job was from January to June, and they were paid as an independent contractor, not as a regular employee. Following this period, the Appellant faced unemployment. Despite the challenges, they found a new opportunity in June 2021 as a Maintenance Technician, a position they held until December of the same year.
5. Appellant was not offered health insurance by his employer(s).
6. The Appellant does currently have Health Insurance. (Appellant's Testimony).
7. I take administrative notice of the financial information set forth in Tables 1 through 6 in the DOR 2021 Massachusetts Schedule HC Health Care Instructions and Worksheets. Tables 3 and 4 incorporate affordability and premium schedules adopted by the Board of Directors for the Commonwealth Health Insurance Connector Authority for 2021. Table 2 sets forth income at 300% of the Federal poverty level and Tables 5 and 6 set forth tax penalties in effect for 2021.
8. According to Table 3 of Schedule HC for 2021, The Appellant has no dependents, with an adjusted gross income of \$59,346.00 was deemed able to pay \$395.64 per month for health insurance, or 8.00% of his income. According to Table 4, Appellant, age 47 and living in Norfolk County, could have purchased private insurance for \$336.00 per month.
9. Private insurance was AFFORDABLE for the appellant in 2021 (Schedule HC for 2021).
10. In 2021, Appellant had the following monthly expenses for basic necessities¹:

¹The monthly expenses for basic necessities, as cited in this document, were derived from the Appellant's Testimony. To

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<u>Rent or Mortgage</u>	\$1,600.00	<u>Car Insurance</u>	\$120.00	<u>Medical/Dental</u>	\$0.00
<u>Property Taxes</u>	\$0.00	<u>Gas (Car)</u>	\$200.00	<u>House Maintenance</u>	\$0.00
<u>Cable/Internet</u>	\$130.00	<u>Food</u>	\$1,000.00	<u>Credit Cards</u>	\$0.00
<u>Heat</u>	\$100.00	<u>Cell Phone</u>	\$80.00	<u>Clothing</u>	\$50.00
<u>Electricity</u>	\$100.00	<u>Household & Toiletries</u>	\$50.00	<u>Car</u>	\$0.00
				<u>Total:</u>	\$3,490.00

11. Upon examining the appellant's testimony, it was ascertained that his gross monthly income was \$4,945.50. His necessary expenses were determined to be \$3,490.00 per month. After accounting for an approximation of federal and state taxes, this leaves a difference of \$474.51 in his monthly financial situation when considering Filing status, Adjusted Gross income and the number of Dependents in the 2021 tax year.
12. Appellant's statement of grounds for appeal was on the basis of:
 - a. During 2021, the expense of purchasing health insurance would have caused a serious deprivation of food, shelter, clothing or other necessities. Provide proof to show additional expenses above and beyond that which your income would cover. If you were eligible to receive government subsidized insurance, explain why obtaining that would cause serious deprivation. (Testimony of Appellant, Exhibit 2).
13. Appellant did not incur significant and unexpected increases in essential expenses as a result of domestic violence; the death of a spouse, family member, or partner who shared household expenses; the sudden responsibility for providing full care for an aging parent or other family member; or fire, flood, or other natural or man-made disaster in 2021 (Testimony of Appellant).
14. Appellant did not fall more than thirty days behind in rent payments in 2021. Appellant did not receive any shut-off notices for basic utilities. There was no

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

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

15. In the appeal, the Appellant conveyed that the monthly cost for Health Insurance through the Health Connector was beyond his financial means.
16. During the appeal hearing, the appellant discussed their Health Savings Account, suggesting they had some form of insurance coverage. They also mentioned an attempt to enroll in a health insurance plan with Convergent Health Insurance. To ensure a thorough review of these matters, we kept the hearing record open after the appeal concluded. This allowed the appellant to submit any further documents to support their claims regarding the Health Savings Account and the insurance enrollment attempt.
 - a. However, no documents were ever received.
17. The Appellant has been assessed a penalty for not having health insurance in 2021 for 5 months.

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 in whole, in part, or not at all.

G.L.c. 111M, § 2, also called the “individual mandate,” requires every adult resident of Massachusetts to obtain insurance coverage “[s]o long as it is deemed affordable” under the schedule set by the board of directors for the Commonwealth Health Insurance Connector Authority. The Appellant was unaware of the individual mandate, according to his testimony. Ignorance of the law is no excuse however. ‘When statutes impose punishment out of considerations of public policy, lack of knowledge of the law or of the fact that the law has been violated does not exonerate the person who may have unwittingly violated the statute.’ Franklin Office Park Realty Corp. v. Commissioner of Dep’t of Env’tl. Protection, 466 Mass. 454, 465 n.14 (2013).

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

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Appellant had health insurance for 4 month(s) in 2021. He has been assessed a tax penalty for 5 months. He appealed the assessment. See Exhibits listed above. To determine if the penalty should be waived in whole or in part, we must consider whether affordable insurance which met minimum creditable coverage standards was available to the appellant through either (1) his employment, through (2) the private market, or through (3) a government-sponsored program. If affordable insurance was available, we must determine if such insurance was, in fact, not affordable to the appellant because he experienced a financial hardship as defined in 956 CMR 6.08.

Appellant's Employment & Employer Based Insurance

Appellant was not offered health insurance by his employer. Because the appellant was not offered health insurance by their employer, they would not be blocked from applying for coverage via the Health Connector to obtain subsidized insurance.

ConnectorCare Eligibility

To be considered for ConnectorCare, with its state subsidies and tax credits, you can't be covered by affordable job-based insurance, as per the Affordable Care Act standards. See 956 CMR 12.05 and 45 CFR § 155.305(f)(1)(ii)(B). Only employer insurance that's affordable and meets minimum creditable coverage can disqualify you from getting assistance through the Health Connector to reduce your health plan cost. See 26 CFR § 1.36B-2(c)(3). The Appellant is not eligible for ConnectorCare as their income is more than 400% of the Federal Poverty Limit.

In Massachusetts, you could get state help with ConnectorCare plans if your income is 300% of the FPL or less. For tax year 2021, the Appellant is ineligible for insurance through the ConnectorCare program. The Appellant testified to not applying through the Health Connector in tax year 2021. Despite the requirement set by the individual mandate, due diligence in seeking health coverage through the Health Connector was not conducted. As their income level was 436.69% of the Federal Poverty Level, the appellant would not have been eligible for subsidies or Advanced Premium Tax Credits (APTCs), due to exceeding the income threshold.

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

Appellant's Engagement with the Health Connector

The Appellant testified to not applying through the Health Connector in tax year 2021.

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Despite the requirement set by the individual mandate, due diligence in seeking health coverage through the Health Connector was not conducted. As their income level was 436.69% of the Federal Poverty Level, the appellant would not have been eligible for subsidies or Advanced Premium Tax Credits (APTCs), due to exceeding the income threshold. A lack of supporting documentation notably hampers the Appellant's ability to substantiate their claims and appears indicative of insufficient engagement with the Health Connector's processes. The Statement of Grounds form requests that appellants provide any and all available documentation to substantiate their claims; in this instance, the Appellant failed to provide any.

Availability of Private Insurance

Private insurance was AFFORDABLE for the appellant on the open market during 2021. According to Tables 3 and 4 of the HC schedule for 2021, Appellant, with an adjusted gross income of \$59,346.00, was deemed to be able to afford health insurance on the private market. According to Table 3, Appellant could have afforded to pay \$395.64 per month; according to Table 4, Appellant, who was 47 years old in 2021, lived in Norfolk County and filed his 2021 Massachusetts taxes as a Single with 0 dependents, would have had to pay \$336.00 for insurance on the private market. See 956 CMR 6.05 (1)(2), Schedule HC Tables 3 and 4, and Exhibit 1.

In light of the Appellant's gross income (\$4,945.50 per month), tax filing status, place of residence, and the expected affordable amount the Appellant could pay per the 2021 Schedule HC Tables (\$395.64 per month), the Appellant could have afforded private health insurance with a premium of \$336.00 per month. (2021 Schedule HC Tables).

Other Government-Sponsored Healthcare Programs

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

Financial Hardship Analysis

Since affordable insurance was available to the Appellant through the private market, in 2021, it must be determined whether the Appellant experienced a financial hardship pursuant to 956 CMR 6.08 (1).

Appellant has demonstrated a financial hardship. The appellant testified that in 2022 they incurred basic monthly expenses of approximately \$3,490.00. It's clearly challenging to manage a deficit when the monthly difference between income and expenses is \$474.51. In such circumstances, it would be unfair to expect the appellant to make an additional expenditure for health insurance.

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Conclusion

The Appellant has demonstrated that the cost of purchasing health insurance would have caused them to experience a serious financial hardship. See 956 CMR 6.08(1)(e). The Appellant's 5 month penalty is therefore waived.

Appellant should note that the waiver of his penalty is based upon the facts that I have determined to be true for his 2021 appeal. He should not assume that a similar determination will be made in the future should he again be assessed a penalty for failure to have health insurance which meets the Commonwealth's minimum creditable coverage standards.

PENALTY ASSESSED

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

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

NOTIFICATION OF YOUR RIGHT TO APPEAL TO COURT

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

Hearing Officer

cc. Connector Appeals Unit

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

FINAL APPEAL DECISION

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

Hearing Issue: Appeal of the 2022 Tax Year Penalty

Hearing Date: November 28, 2023

Decision Date: Thursday, April 18, 2024

AUTHORITY

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

JURISDICTION

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

HEARING RECORD

The appellant appeared at the hearing which was held by telephone on November 28, 2023. The procedures to be followed during the hearing were reviewed with Appellant. She was sworn in. Exhibits were marked and admitted in evidence with no objection from the appellant. Appellant testified.

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

Exhibit 1:	Appeals Case Information from Schedule HC	1 page
Exhibit 2:	Appellant's Statement of Grounds for Appeal	2 Pages
Exhibit 3	1095-B Form for 2022	1 page

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Exhibit 4	Screenshot(s) of Chat with BlueCross Blue Shield of Texas	3 pages
Exhibit 5	Health Insurance Card from BlueCross Blue Shield of Texas (Coverage date 9/1/2020)	1 pages
Exhibit 6:	Medical Benefits Book for 2022 from BlueCross Blueshield of Texas	5 pages

FINDINGS OF FACT

The record shows, and I so find:

1. Appellant was 22 years old in the beginning of 2022. Appellant filed her 2022 Massachusetts tax return as Single. The Appellant has no dependents (Exhibit 1).
2. Appellant lived in Suffolk County, MA in 2022 (Exhibit 1).
3. Appellant's Federal Adjusted Gross Income for 2022 was \$84,388.00 (Exhibit 1, Appellant's Testimony). Appellant's Income was 621% of the Federal Poverty level and based on her income, if all other conditions were met, she would be INELIGIBLE based on income for ConnectorCare.
4. In 2022, the Appellant was employed in a full-time capacity. (Appellant's Testimony).
5. The Appellant was employed for the full year and did not have any job disruptions during the year 2022.
6. The Appellant does currently have Health Insurance. (Appellant's Testimony).
7. I take administrative notice of the financial information set forth in Tables 1 through 6 in the DOR 2022 Massachusetts Schedule HC Health Care Instructions and Worksheets. Tables 3 and 4 incorporate affordability and premium schedules adopted by the Board of Directors for the Commonwealth Health Insurance Connector Authority for 2022. Table 2 sets forth income at 300% of the Federal poverty level and Tables 5 and 6 set forth tax penalties in effect for 2022.
8. According to Table 3 of Schedule HC for 2022, The Appellant has no dependents, with an adjusted gross income of \$84,388.00 was deemed able to pay \$562.59 per month for health insurance, or 8.00% of her income. According to Table 4, Appellant, age 22 and living in Suffolk County, could have purchased private insurance for \$277.00 per month.

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9. Private insurance was AFFORDABLE for the appellant in 2022 (Schedule HC for 2022).
10. Appellant's statement of grounds for appeal was on the basis of:
 - a. Other. During 2022 other circumstances, such as: applying the affordability tables and schedule HC to you, is an equitable (for example because of family size); that you were unable to obtain government subsidize insurance, even though your income, qualified you; or you didn't reside in Massachusetts during your period of uninsurance.(Testimony of Appellant, Exhibit 2).
11. Appellant did not incur significant and unexpected increases in essential expenses as a result of domestic violence; the death of a spouse, family member, or partner who shared household expenses; the sudden responsibility for providing full care for an aging parent or other family member; or fire, flood, or other natural or man-made disaster in 2022 (Testimony of Appellant).
12. Appellant did not fall more than thirty days behind in rent payments in 2022. Appellant did not receive any shut-off notices for basic utilities. There was no evidence or indication of this during the Appellant's testimony. (Testimony of Appellant)
13. The Appellant has been assessed a penalty for not having health insurance that met the minimum creditable coverage standards in Massachusetts for the year 2022, spanning a period of 12 months.
14. During the hearing, the Appellant testified that she was covered under her mother's Blue Cross Blue Shield of Texas health insurance plan throughout the year. The Appellant stated that she was under the age of 26, and her mother offered to keep her on the insurance plan until she reached that age.
15. At the conclusion of the initial hearing in November, the record was left open to allow the Appellant the opportunity to obtain documentation from her health insurance provider confirming that her coverage met the minimum creditable coverage standards for Massachusetts.
16. The Appellant subsequently provided several additional documents, including screenshots from a conversation with her insurance provider, a copy of her health insurance card, and a booklet detailing the costs associated with her healthcare coverage. However, the specific confirmation requested—that the Appellant's particular coverage met the minimum creditable coverage standards for the state of Massachusetts—was not provided.

ANALYSIS AND CONCLUSIONS OF LAW

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

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

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

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

Appellant’s Employment & Employer Based Insurance

The Appellant was offered health insurance through her employer in 2022; however, she chose not to enroll in the Employer-Sponsored Insurance plan. Instead, due to her age, she opted to remain covered under her mother's health insurance policy. (Appellant's Testimony).

ConnectorCare Eligibility

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

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Insurance through her own employer. (Appellant's Testimony). The Appellant chose not to enroll in her employer's health insurance plan due to her age and the availability of coverage under her mother's health insurance plan. The Appellant remained on her mother's health insurance plan, with her mother paying for the coverage. However, the availability of this Employer-Sponsored Insurance would have blocked her from being able to apply for ConnectorCare via the Health Connector.

Appellant's Engagement with the Health Connector

The Appellant testified to not applying through the Health Connector in tax year 2022. Despite the requirement set by the individual mandate, due diligence in seeking health coverage through the Health Connector was not conducted. As their income level was 620.96% of the Federal Poverty Level, the appellant would not have been eligible for subsidies or Advanced Premium Tax Credits (APTCs), due to exceeding the income threshold.

Availability of Private Insurance

Private insurance was AFFORDABLE for the appellant on the open market during 2022. According to Tables 3 and 4 of the HC schedule for 2022, Appellant, with an adjusted gross income of \$84,388.00, was deemed to be able to afford health insurance on the private market. According to Table 3, Appellant could have afforded to pay \$562.59 per month; according to Table 4, Appellant, who was 22 years old in 2022, lived in Suffolk County and filed her 2022 Massachusetts taxes as a Single with 0 dependents, would have had to pay \$277.00 for insurance on the private market. See 956 CMR 6.05 (1)(2), Schedule HC Tables 3 and 4, and Exhibit 1.

In light of the Appellant's gross income (\$7,032.33 per month), tax filing status, place of residence, and the expected affordable amount the Appellant could pay per the 2022 Schedule HC Tables (\$562.59 per month), the Appellant could have afforded private health insurance with a premium of \$277.00 per month. (2022 Schedule HC Tables).

Other Government-Sponsored Healthcare Programs

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

Minimum Creditable Coverage Issue

The clear reasoning as to why the Appellant is appealing involves the reality that she maintained HealthCare coverage which she believed to be adequate but which in fact the Health Connector indicated did not meet the state standard for minimum creditable coverage. In accordance with Massachusetts law, residents are required to

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have Minimum Creditable Coverage (MCC) for health insurance.

The MCC requirement applies to individuals rather than health plans, although most plans available in Massachusetts meet the MCC standards. If a person is covered by a plan that does not meet MCC standards, they may be subject to a tax penalty. However, under certain circumstances, this penalty may be waived. The mandate for maintaining MCC is outlined in M.G.L. c. 111M §2.

By law, state penalties for non-compliance are set at one half of the premium for the lowest-cost plan an individual could purchase through the Massachusetts Health Connector. Exemptions to the mandate exist if the amount an individual can afford is lower than the lowest-cost insurance available to them. In such cases, the individual is exempt from the mandate and will not be penalized.

The affordability schedule assists consumers in making informed decisions about coverage and household budgets, defining the maximum amount they would be expected to contribute towards coverage before facing a penalty. This schedule is particularly relevant for Massachusetts residents who lack MCC and are potentially subject to a state penalty. Individuals who fail to have MCC during a tax year will face a penalty when they file their taxes. Regulations at 956 CMR 6.08(1) outline considerations for determining whether a taxpayer experienced a hardship, which may exempt them from the penalty.

Hardship bases are similar to those for ConnectorCare premium waiver/reductions, including circumstances such as homelessness, significant unexpected increases in essential expenses, or situations where the cost of MCC would cause the taxpayer to experience a serious deprivation of food, shelter, clothing, or other necessities.

Appellant's Claims of Inequity

The Appellant provided additional documents in the form of pictures related to her enrollment as a dependent under the Blue Cross Blue Shield of Texas Retirement Systems health plan. She supplied corresponding information indicating that her effective date of enrollment was August 1, 2018, and her end date was August 1, 2022. The Appellant also provided a plan booklet outlining her specific health benefits.

However, the Appellant did not submit any documentation from her health insurance provider confirming that her coverage complies with Massachusetts minimum creditable coverage (MCC) requirements. According to Administrative Information Bulletin 03-21, which provides guidance regarding MCC regulations for the calendar year 2022, the Appellant's health insurance meets the deductible requirements for that year. After carefully examining the evidence, particularly the information presented in Exhibit 6, I find no basis to conclude that the Appellant's health insurance coverage fails to meet the minimum creditable coverage standards set forth

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by the Commonwealth of Massachusetts.

During the hearing, the Appellant presented a 1095-B form, a tax document provided by health insurance providers, including insurers and employers that sponsor health coverage. This form reports the type and period of coverage to the IRS and the insured individual, serving as proof of health insurance coverage during the year. The 1095-B form indicated that the Appellant had insurance from January to July and again in December. However, no records were provided to specify the nature of the December 2022 insurance or whether it met the MCC standards for Massachusetts.

It is important to note that the 1095-B form does not explicitly indicate whether the health insurance coverage meets the MCC standards set by the Commonwealth of Massachusetts. These state-specific standards outline the minimum level of benefits that health insurance must provide to be considered adequate under Massachusetts law, ensuring that residents have sufficient protection against high healthcare costs. Massachusetts employs its own guidelines to determine what constitutes adequate health coverage, which may differ from the federal standards reported on the 1095-B form. To verify compliance with Massachusetts' MCC standards, residents should obtain a separate determination from their health insurance provider.

Based on the evidence provided, I find that the Appellant had minimum creditable coverage and will waive her penalty for seven (7) months of the year, from January to August. As a result, a two (2) month penalty will be assessed.

Conclusion

Based on the evidence presented, the Appellant has demonstrated that she had minimum creditable coverage for seven (7) months of the year, from January to August. Although she provided a 1095-B form indicating coverage for an additional month in December, no documentation was submitted to confirm that this coverage met Massachusetts' minimum creditable coverage standards. Consequently, the Appellant's penalty will be waived for seven (7) months, and a two (2) month penalty will be assessed for the remainder of the year.

Appellant should note that the waiver of her penalty is based upon the facts that I have determined to be true for her 2022 appeal. She should not assume that a similar determination will be made in the future should she 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: 2

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

NOTIFICATION OF YOUR RIGHT TO APPEAL TO COURT

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

Hearing Officer

cc. Connector Appeals Unit

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

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The record shows, and I so find:

1. Appellant was 60 years old in the beginning of 2023. Appellant filed her 2023 Massachusetts tax return as Married Filing Separately. The Appellant has no dependents (Exhibit 1).
2. Appellant lived in Barnstable County, MA in 2023 (Exhibit 1).
3. Appellant's Federal Adjusted Gross Income for 2023 was \$32,456.00 (Exhibit 1, Appellant's Testimony). Appellant's Income was 239% of the Federal Poverty level and based on her income, if all other conditions were met, she would be ELIGIBLE for Plan Type 3A (200.1-250% FPL) for ConnectorCare.
4. In 2023, the Appellant was initially employed as a Customer Service Representative at a Disposal Company (January through May) in a full-time capacity. (Appellant's Testimony).
 - a. However, the Appellant experienced a period of unemployment during 2023 and was only employed in this position from January-May. (Appellant's Testimony).
 - b. Later in 2023, the Appellant obtained a second position as a Customer Service Representative at a Clothing Company (November through the end of the year in 2023).
5. The Appellant was offered health insurance in 2023, by first her employer, at an approximate monthly cost of \$880.00. (Appellant's Testimony).
6. I take administrative notice of the financial information set forth in Tables 1 through 6 in the DOR 2023 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 2023. Table 2 sets forth income at 300% of the Federal poverty level and Tables 5 and 6 set forth tax penalties in effect for 2023.
7. According to Table 3 of Schedule HC for 2023, The Appellant has no dependents, with an adjusted gross income of \$32,456.00 was deemed able to pay \$110.89 per month for health insurance, or 4.10% of her income. According to Table 4, Appellant, age 60 and living in Barnstable County, could have purchased private insurance for \$490.00 per month.
8. Private insurance was UNAFFORDABLE for the appellant in 2023 (Schedule HC for 2023).

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9. In 2023, Appellant had the following monthly expenses for basic necessities¹:

<u>Rent or Mortgage</u>	\$0.00	<u>Car Insurance</u>	\$0.00	<u>Medical/Dental</u>	\$0.00
<u>Property Taxes</u>	\$0.00	<u>Gas (Car)</u>	\$198.00	<u>Clothing</u>	\$10.00
<u>Cable/Internet</u>	\$159.00	<u>Food</u>	\$396.00	<u>Car</u>	\$400.00
<u>Heat</u>	\$134.00	<u>Cell Phone</u>	\$0.00	<u>Household & Toiletries</u>	\$25.00
<u>Electricity</u>	\$188.00			<u>Total:</u>	\$1,802.00

10. Upon examining the appellant's testimony, it was ascertained that her gross monthly income was \$2,704.67. Her necessary expenses were determined to be \$1,802.00 per month. After accounting for an approximation of federal and state taxes, this leaves a difference of \$459.46 in her monthly financial situation when considering Filing status, Adjusted Gross income and the number of Dependents in the 2023 tax year.
11. Appellant's statement of grounds for appeal was on the basis of:
- a. During 2023, the expense of purchasing health insurance would have caused a serious deprivation of food, shelter, clothing or other necessities. Provide proof to show additional expenses above and beyond that which your income would cover. If you were eligible to receive government subsidized insurance, explain why obtaining that would cause serious deprivation; (Testimony of Appellant, Exhibit 2).
12. Appellant did not incur significant and unexpected increases in essential expenses as a result of domestic violence; the death of a spouse, family member, or partner who shared household expenses; the sudden responsibility for providing full care for an aging parent or other family member; or fire, flood, or other natural or man-made disaster in 2023 (Testimony of Appellant).
13. Appellant did not fall more than thirty days behind in rent payments in 2023. Appellant did not receive any shut-off notices for basic utilities. There was no

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

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

14. In the appeal, the Appellant conveyed that the monthly cost for Health Insurance through her employer at the time was beyond her financial means.
15. The Appellant has been assessed a penalty for not having health insurance in 2023 for 12 months.

ANALYSIS AND CONCLUSIONS OF LAW

The issue on appeal is whether the tax penalty assessed by the Massachusetts Department of Revenue for 2023 should be waived in whole, in part, or not at all.

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

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

Appellant had no health insurance in 2023. She has been assessed a tax penalty for 12 months. She appealed the assessment. See Exhibits listed above. To determine if the penalty should be waived in whole or in part, we must consider whether affordable insurance which met minimum creditable coverage standards was available to the appellant through either (1) her employment, through (2) the private market, or through (3) a government-sponsored program. If affordable insurance was available, we must determine if such insurance was, in fact, not affordable to the appellant because he experienced a financial hardship as defined in 956 CMR 6.08.

Appellant’s Employment & Employer Based Insurance

The Appellant was offered health insurance in 2023, by her first employer, at an approximate monthly cost of \$880.00. (Appellant's Testimony). The Appellant testified that her second employer did not offer her Employer-Sponsored Insurance during the

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2023 tax year. (Appellant's Testimony).

The Appellant further testified that she experienced periods of unemployment during the year 2023. The Appellant was assessed a penalty of 12 months based on her lack of coverage over 12 months.

The penalty appears to have been partially levied in light of the Appellant's unemployment for 7 months. In light of the lack of coverage stemming from the Appellant's unemployment, the Appellant would have then become eligible for a Special Enrollment Period and could have contacted the Health Connector to obtain Health Insurance within 60 days of their termination event.

A Special Enrollment Period is a time outside of the open enrollment period that you and your family have a right to sign up for health coverage through the Health Connector. You may qualify for a special enrollment period of 60 days following certain qualifying events that involve a change in family status (for example, marriage or birth of a child), loss of other health coverage, or job loss.

In Massachusetts, the determination of affordability for employer-sponsored health plans, or Employer-Sponsored Insurance ("ESI"), is guided by state-specific guidelines. According to the 2023 Schedule HC instructions for the relevant tax year, the affordable premium is calculated based on a percentage of income that aligns with the individual's income range and filing status, as outlined in Table 3: Affordability, found on page HC-10. In this case, the maximum affordable amount for the Appellant, based on their income range and filing status, is 4.10%.

During the hearing, the Appellant testified, which I found credible, that the cost of insurance offered by her employer was \$880.00 per month. This cost must be assessed against the state-determined affordability threshold. For the plan year 2023, considering the Appellant's income and the guidelines set forth in Table 3, the employer-sponsored plan's coverage is deemed affordable if the employee's contribution for self-only coverage does not exceed 4.10% of the employee's projected household modified adjusted gross income.

After careful consideration of the evidence presented, it is the determination of this Hearing Officer that the Appellant's employer-sponsored health insurance coverage was not affordable based on the Appellant's reported income. The evidence suggests that the Appellant would have been able to allocate approximately \$110 per month towards health insurance premiums, rendering her employer-sponsored coverage unaffordable.

The Appellant has credibly testified that she did not enroll in her employer-sponsored health insurance from January through May due to the prohibitive cost of the premiums. The documented cost of the employer-sponsored insurance lends credence

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to the Appellant's assertions regarding the unaffordability of the coverage.

During the period of the Appellant's unemployment, she should have been eligible to obtain health insurance coverage through the Health Connector by means of a special enrollment period. The evidence indicates that the Appellant was either unemployed or faced with paying for unaffordable insurance during the time the penalty was assessed. Consequently, employer-sponsored insurance was unavailable to the Appellant and would not have precluded her from seeking to enroll in a Health Connector insurance plan.

ConnectorCare Eligibility

To be considered for ConnectorCare, with its state subsidies and tax credits, you can't be covered by affordable job-based insurance, as per the Affordable Care Act standards. See 956 CMR 12.05 and 45 CFR § 155.305(f)(1)(ii)(B). Only employer insurance that's affordable and meets minimum creditable coverage can disqualify you from getting assistance through the Health Connector to reduce your health plan cost. See 26 CFR § 1.36B-2(c)(3). Based on the information provided, the Appellant qualifies for ConnectorCare, specifically Plan Type 3A in tax year 2023.

In Massachusetts, you could get state help with ConnectorCare plans if your income is 300% of the FPL or less. In tax year 2023, the Appellant would qualify for Plan Type 3A through the ConnectorCare program. The coverage year 2023's lowest monthly premium for Plan Type 3A is \$93. To qualify for a ConnectorCare plan, the Appellant must also meet other state requirements.

The Appellant testified to not applying through the Health Connector in tax year 2023. Despite the requirement set by the individual mandate, due diligence in seeking health coverage through the Health Connector was not conducted. Notably, with an income level of 238.82% of the Federal Poverty Level, the appellant was eligible for subsidized coverage under ConnectorCare. This oversight in not applying for available subsidized coverage suggests a missed opportunity to obtain affordable health insurance.

If you make more than 300% but less than 400% of the FPL, you might get a tax credit to cut down your health plan costs. To get this Advance Premium Tax Credit, your expected income must be at least 100% but less than 400% of the FPL. (45 CFR 155.305 (f) (1) (i)). Based on these rules, The Appellant is not eligible for Advance Premium Tax Credits because their income is below 300% of the FPL.

Availability of Private Insurance

Private insurance was UNAFFORDABLE for the appellant on the open market during 2023. According to Tables 3 and 4 of the HC schedule for 2023, Appellant, with an adjusted gross income of \$32,456.00, was deemed unable to afford health insurance

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on the private market. According to Table 3, Appellant could have afforded to pay \$110.89 per month; according to Table 4, Appellant, who was 60 years old in 2023, lived in Barnstable County and filed her 2023 Massachusetts taxes as a Married Filing Separately with 0 dependents, would have had to pay \$490.00 for insurance on the private market. See 956 CMR 6.05 (1)(2), Schedule HC Tables 3 and 4, and Exhibit 1.

Considering the Appellant's gross income (\$2,704.67 per month), tax filing status, place of residence, and the expected affordable amount the Appellant could pay per the 2023 Schedule HC Tables (\$110.89 per month), private health insurance with a premium of \$490.00 per month was unaffordable for the Appellant. (2023 Schedule HC Tables).

Other Government-Sponsored Healthcare Programs

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

Financial Hardship Analysis

Since the Appellant is eligible for Plan Type 3A in 2023, a financial hardship analysis pursuant to 956 CMR 6.08 (1) is warranted.

Appellant has demonstrated a financial hardship. The appellant testified that in 2023 she incurred basic monthly expenses of approximately \$1,802.00. Managing finances is notably challenging when the monthly surplus between income and expenses is only \$459.46. In such circumstances, it would be unfair to expect the appellant to make an additional expenditure for health insurance.

Conclusion

The Appellant has demonstrated that the cost of purchasing health insurance would have caused them to experience a serious financial hardship. See 956 CMR 6.08(1)(e). The Appellant's 12 month penalty is therefore waived.

Appellant should note that the waiver of her penalty is based upon the facts that I have determined to be true for her 2023 appeal. She should not assume that a similar determination will be made in the future should she 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

CONNECTOR APPEALS UNIT



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 2023.

NOTIFICATION OF YOUR RIGHT TO APPEAL TO COURT

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

Hearing Officer

cc. Connector Appeals Unit

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

FINAL APPEAL DECISION

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

Hearing Issue: Appeal of the 2023 Tax Year Penalty

Hearing Date: April 24, 2024

Decision Date: Thursday, May 2, 2024

AUTHORITY

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

JURISDICTION

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

HEARING RECORD

The appellant appeared at the hearing which was held by telephone on April 24, 2024. The procedures to be followed during the hearing were reviewed with Appellant. He was sworn in. Exhibits were marked and admitted in evidence with no objection from the appellant. Appellant testified.

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

- | | | |
|------------|---|---------|
| Exhibit 1: | Appeals Case Information from Schedule HC | 1 page |
| Exhibit 2: | Appellant's Statement of Grounds for Appeal | 2 Pages |

CONNECTOR APPEALS UNIT



FINDINGS OF FACT

The record shows, and I so find:

1. Appellant was 23 years old in the beginning of 2023. Appellant filed his 2023 Massachusetts tax return as Single. The Appellant has no dependents (Exhibit 1).
2. Appellant lived in Bristol County, MA in 2023 (Exhibit 1).
3. Appellant's Federal Adjusted Gross Income for 2023 was \$29,441.00 (Exhibit 1, Appellant's Testimony). Appellant's Income was 217% of the Federal Poverty level and based on his income, if all other conditions were met, he would be ELIGIBLE for Plan Type 3A (200.1-250% FPL) for ConnectorCare.
4. In 2023, the Appellant was employed as a Chef at a Family Resturant in a full-time capacity. (Appellant's Testimony).
5. The Appellant was employed for the full year and did not have any job disruptions during the year 2023.
6. The Appellant was offered health insurance in 2023, by his employer, at an approximate monthly cost of \$180.00. (Appellant's Testimony)
7. I take administrative notice of the financial information set forth in Tables 1 through 6 in the DOR 2023 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 2023. Table 2 sets forth income at 300% of the Federal poverty level and Tables 5 and 6 set forth tax penalties in effect for 2023.
8. According to Table 3 of Schedule HC for 2023, The Appellant has no dependents, with an adjusted gross income of \$29,441.00 was deemed able to pay \$100.59 per month for health insurance, or 4.10% of his income. According to Table 4, Appellant, age 23 and living in Bristol County, could have purchased private insurance for \$312.00 per month.
9. Private insurance was UNAFFORDABLE for the appellant in 2023 (Schedule HC for 2023).
10. In 2023, Appellant had the following monthly expenses for basic necessities¹:

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

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<u>Rent or Mortgage</u>	\$0.00	<u>Car Insurance</u>	\$0.00	<u>Medical/Dental</u>	\$0.00
<u>Property Taxes</u>	\$0.00	<u>Gas (Car)</u>	\$0.00	<u>Clothing</u>	\$10.00
<u>Cable/Internet</u>	\$0.00	<u>Food</u>	\$120.00	<u>Household & Toiletries</u>	\$120.00
<u>Heat</u>	\$0.00	<u>Cell Phone</u>	\$108.00	<u>Electricity</u>	\$300.00
				<u>Total:</u>	\$658.00

11. Upon examining the appellant's testimony, it was ascertained that his gross monthly income was \$2,453.42. His necessary expenses were determined to be \$658.00 per month. After accounting for an approximation of federal and state taxes, this leaves a difference of \$1,394.92 in his monthly financial situation when considering Filing status, Adjusted Gross income and the number of Dependents in the 2023 tax year.
12. Appellant's statement of grounds for appeal was on the basis of:
 - a. During 2023, the expense of purchasing health insurance would have caused a serious deprivation of food, shelter, clothing or other necessities. Provide proof to show additional expenses above and beyond that which your income would cover. If you were eligible to receive government subsidized insurance, explain why obtaining that would cause serious deprivation; (Testimony of Appellant, Exhibit 2).
13. Appellant did not incur significant and unexpected increases in essential expenses as a result of domestic violence; the death of a spouse, family member, or partner who shared household expenses; the sudden responsibility for providing full care for an aging parent or other family member; or fire, flood, or other natural or man-made disaster in 2023 (Testimony of Appellant).
14. Appellant did not fall more than thirty days behind in rent payments in 2023. Appellant did not receive any shut-off notices for basic utilities. There was no evidence or indication of this during the Appellant's testimony. (Testimony of Appellant)
15. Appellant obtained health insurance coverage, via his Mother, in November 2022 and maintained said coverage until January 2023, at which time his mother's health insurance plan expired. (Appellant's Testimony).

context of the Appellant's annual budget and adjusted gross income.

CONNECTOR APPEALS UNIT



16. Subsequent to the expiration of his mother's health insurance, the Appellant credibly testified that the monthly premium for health insurance offered through his employer at that time was financially unsustainable given his income.
17. The Appellant has been assessed a penalty for not having health insurance in 2023 for 8 months.

ANALYSIS AND CONCLUSIONS OF LAW

The issue on appeal is whether the tax penalty assessed by the Massachusetts Department of Revenue for 2023 should be waived in whole, in part, or not at all.

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

The Appellant was unaware of the individual mandate, according to his testimony. Ignorance of the law is no excuse however. 'When statutes impose punishment out of considerations of public policy, lack of knowledge of the law or of the fact that the law has been violated does not exonerate the person who may have unwittingly violated the statute.' Franklin Office Park Realty Corp. v. Commissioner of Dep't of Env'tl. Protection, 466 Mass. 454, 465 n.14 (2013).

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

Appellant had health insurance for 1 month(s) in 2023. He has been assessed a tax penalty for 8 months. He appealed the assessment. See Exhibits listed above. To determine if the penalty should be waived in whole or in part, we must consider whether affordable insurance which met minimum creditable coverage standards was available to the appellant through either (1) his employment, through (2) the private market, or through (3) a government-sponsored program. If affordable insurance was available, we must determine if such insurance was, in fact, not affordable to the appellant because he experienced a financial hardship as defined in 956 CMR 6.08.

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Appellant's Employment & Employer Based Insurance

The Appellant was offered health insurance in 2023, by his employer, at an approximate monthly cost of \$180.00. (Appellant's Testimony) The Appellant was employed for the full year and did not have any job disruptions during the year 2023. (Appellant's Testimony). The Appellant was assessed a penalty of 8 months based on his lack of coverage over 11 months. The penalty was not levied in light of any period of unemployment for the Appellant.

In Massachusetts, the determination of affordability for employer-sponsored health plans, or Employer-Sponsored Insurance ("ESI"), is guided by state-specific guidelines. According to the 2023 Schedule HC instructions for the relevant tax year, the affordable premium is calculated based on a percentage of income that aligns with the individual's income range and filing status, as outlined in Table 3: Affordability, found on page HC-10. In this case, the maximum affordable amount for the Appellant, based on his income range and filing status, is 4.10%.

During the hearing, the Appellant testified, which I found credible, that the cost of insurance offered by his employer was \$180.00 per month. This cost must be assessed against the state-determined affordability threshold. For the plan year 2023, considering the Appellant's income and the guidelines set forth in Table 3, the employer-sponsored plan's coverage is deemed affordable if the employee's contribution for self-only coverage does not exceed 4.10% of the employee's projected household modified adjusted gross income.

The health insurance offered by the Appellant's employer is not deemed to be affordable for the Appellant based on it being more than 4.10% of the Appellant-employee's projected household modified adjusted gross income, as per Massachusetts state-specific guidelines. The employer's offering was 7.34% of the employee's income.

ConnectorCare Eligibility

To be considered for ConnectorCare, with its state subsidies and tax credits, you can't be covered by affordable job-based insurance, as per the Affordable Care Act standards. See 956 CMR 12.05 and 45 CFR § 155.305(f)(1)(ii)(B). Only employer insurance that's affordable and meets minimum creditable coverage can disqualify you from getting assistance through the Health Connector to reduce your health plan cost. See 26 CFR § 1.36B-2(c)(3). Based on the information provided, the Appellant qualifies for ConnectorCare, specifically Plan Type Plan Type 3A in tax year 2023.

In Massachusetts, you could get state help with ConnectorCare plans if your income is 300% of the FPL or less. In tax year 2023, the Appellant would qualify for Plan Type 3A through the ConnectorCare program. The coverage year 2022's lowest monthly

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premium for Plan Type 3A is \$90. To qualify for a ConnectorCare plan, the Appellant must also meet other state requirements.

The Appellant testified to not applying through the Health Connector in tax year 2023. Despite the requirement set by the individual mandate, due diligence in seeking health coverage through the Health Connector was not conducted. Notably, with an income level of 216.64% of the Federal Poverty Level, the appellant was eligible for subsidized coverage under ConnectorCare. This oversight in not applying for available subsidized coverage suggests a missed opportunity to obtain affordable health insurance.

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

Availability of Private Insurance

Private insurance was UNAFFORDABLE for the appellant on the open market during 2023. According to Tables 3 and 4 of the HC schedule for 2023, Appellant, with an adjusted gross income of \$29,441.00, was deemed unable to afford health insurance on the private market. According to Table 3, Appellant could have afforded to pay \$100.59 per month; according to Table 4, Appellant, who was 23 years old in 2023, lived in Bristol County and filed his 2023 Massachusetts taxes as a Single with 0 dependents, would have had to pay \$312.00 for insurance on the private market. See 956 CMR 6.05 (1)(2), Schedule HC Tables 3 and 4, and Exhibit 1.

Considering the Appellant's gross income (\$2,453.42 per month), tax filing status, place of residence, and the expected affordable amount the Appellant could pay per the 2023 Schedule HC Tables (\$100.59 per month), private health insurance with a premium of \$312.00 per month was unaffordable for the Appellant. (2023 Schedule HC Tables).

Other Government-Sponsored Healthcare Programs

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

Financial Hardship Analysis

Since the Appellant is eligible for Plan Type 3A in 2023, a financial hardship analysis pursuant to 956 CMR 6.08 (1) is warranted.

The evidence presented by the appellant in this case is insufficient to establish a

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financial hardship as defined by law. The appellant testified that in 2022 they incurred basic monthly expenses of approximately \$658.00. With a monthly difference of \$1,394.92 between income and expenses, it appears that affording a healthcare plan should be manageable for the Appellant.

Conclusion

The Appellant has not demonstrated a financial hardship as defined by law. See 956 CMR 6.08(1)(e). Therefore, the 8-month penalty is upheld.

Appellant should note that the waiver of his penalty is based upon the facts that I have determined to be true for his 2023 appeal. He should not assume that a similar determination will be made in the future should he again be assessed a penalty for failure to have health insurance which meets the Commonwealth's minimum creditable coverage standards.

PENALTY ASSESSED

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

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 2023.

NOTIFICATION OF YOUR RIGHT TO APPEAL TO COURT

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

Hearing Officer

cc. Connector Appeals Unit

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

Massachusetts Health Connector Appeals Unit

FINAL APPEAL DECISION: PA 23-52

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

Hearing Issue: Appeal of the 2023 Tax Year Penalty

Hearing Date: May 9, 2024

Decision Date: May 15, 2024

AUTHORITY

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

JURISDICTION

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

HEARING RECORD

Appellant appeared at the hearing, which was held by telephone, on May 9, 2024. The hearing record consists of the testimony of Appellant, and the following documents, which were admitted into evidence:

Exhibit 1: Health Connector Hearing Notice (2 pages)

Exhibit 2: Appeal Case Information sheet¹ (1 page)

Exhibit 3: Statement of Grounds (4 pages)

FINDINGS OF FACT

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

1. Appellant was 34 at the end of 2023. Exhibit 2.
2. Appellant lived in Bristol County in 2023. Exhibit 2.
3. Appellant filed his taxes as a single person with no dependents. Exhibit 2.
4. Appellant's household income in 2023, as reported on his 2023 state income tax returns and confirmed at the hearing, equaled \$58,082.

¹ Exhibit 2 is a computer printout containing information extracted from the Schedule HC that Appellant submitted as part of his 2023 Massachusetts tax return. The Schedule HC is the form on which Massachusetts taxpayers report information relevant to the individual mandate penalty, which is the subject of this appeal.

5. Appellant reported in the Schedule HC that he filed with his 2023 state income taxes, and confirmed at the hearing, that he did not have health insurance at any point in 2023. Exhibit 2.
6. At the start of 2023, Appellant started a new job. This job did not provide him with health insurance.
7. Appellant believed that he was covered in his previous employer's plan under COBRA, a federal law that provides for continuity of coverage to individuals who lose or leave a job. However, due to an administrative problem, he was not enrolled in that plan.
8. Appellant went to an emergency room in February and realized that he was not insured.
9. Appellant then tried to apply for coverage through the Health Connector. However, he encountered various problems in logging into his account, apparently because the account was linked to two different email addresses.
10. Appellant tried to fix the problem by calling customer assistance, but several attempts did not resolve the problem.
11. Eventually, with the assistance of a patient advocate at a hospital, Appellant was able to enroll in health insurance. This occurred at the end of 2023. Appellant was insured as of the date of the hearing.

In addition to the foregoing, I take administrative notice of the 2023 Schedule HC Instructions and Worksheets, available at <https://www.mass.gov/doc/2023-schedule-hc-instructions/download>, which, as discussed below, include the Affordability Schedule and other financial information used in making 2023 individual mandate tax penalty determinations.

ANALYSIS AND CONCLUSIONS OF LAW

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

Because Appellant did not have health insurance in 2023, he is subject to a penalty under M.G.L. c. 111M if he could have afforded to purchase such insurance. In order to determine whether he had access to affordable health insurance, I must consider whether he could have obtained affordable insurance from any of the following three sources: (1) employment-based insurance; (2) government-subsidized insurance; or (3) unsubsidized insurance purchased on the non-group market. See 2023 Schedule HC instructions at pages HC 7-9

During 2023, Appellant worked at a job that did not offer health insurance. As a result, Appellant could not have obtained insurance through employment during 2023.

Further, Appellant would not have been eligible to receive Connector Care, which is government-subsidized health insurance in Massachusetts. To be eligible for Connector Care, an individual must have household income below 300 percent of the federal poverty limit. See 956 C.M.R. § 12.04 (Connector Care eligibility requirements.) In 2023, 300 percent of the federal poverty limit for a

household of one person like Appellant's was \$40,770. (I obtain the figure of \$40,770 from Table 2 to the instructions for the 2023 Schedule HC.) In this case, Appellant's household income during 2023 was \$58,082 and therefore he was not income-eligible for Connector Care.

However, Appellant could have afforded to obtain insurance on the private, non-group market under state affordability standards established by the Health Connector Board pursuant to M.G.L. c. 111M. Under those standards, an individual like Appellant who was in a household of one person and had annual income of \$58,082 was deemed able to afford 7.45 percent of income on insurance. (I obtain that figure from Table 3 of the 2023 instructions for the Schedule HC.) In this case, that amounts to \$4,327 annually or \$360 a month. During 2023, a person like Appellant who lived in Bristol County and was 34 years of age could have obtained health insurance for a monthly premium of \$326. (I obtain the premium figure from Table 4 to the instructions for the 2023 Schedule HC). Thus, under state standards, this amount would have been affordable.

Because Appellant could have obtained affordable insurance in 2023, but didn't, I am required to consider whether he has stated grounds sufficient to waive the penalty under Health Connector regulations. 956 C.M.R. § 6.08. I conclude that he has. Appellant tried to purchase insurance in the non-group market by seeking to log into his Health Connector account several times in 2023. He was unable to do so because of administrative problems that he was unable to resolve on his own. He made efforts to resolve those problems, but he did not succeed until he got the assistance of a patient advocate. Thus, although Appellant could have afforded to purchase insurance in the non-group market, he was functionally unable to do so. When he was able to do so, he did obtain insurance at the start of 2024 and was insured as of the date of the hearing.

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

PENALTY ASSESSED

Number of Months Appealed: 12

Number of Months Assessed: 0

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

NOTIFICATION OF YOUR RIGHT TO APPEAL TO COURT

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

Hearing Officer

Cc: Connector Appeals Unit

Massachusetts Health Connector Appeals Unit

FINAL APPEAL DECISION: PA 23-53

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

Hearing Issue: Appeal of the 2023 Tax Year Penalty

Hearing Date: May 9, 2024

Decision Date: May 15, 2024

AUTHORITY

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

JURISDICTION

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

HEARING RECORD

Appellant appeared at the hearing, which was held by telephone, on May 9, 2024. The hearing record consists of the testimony of Appellant, and the following documents, which were admitted into evidence:

- Exhibit 1: Health Connector Hearing Notice (2 pages)
- Exhibit 2: Appeal Case Information sheet¹ (1 page)
- Exhibit 3: Statement of Grounds (with attachments) (13 pages)

FINDINGS OF FACT

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

1. Appellant was 53 at the end of 2023. Exhibit 2.
2. Appellant lived in Worcester County in 2023. Exhibit 2.
3. Appellant filed her taxes as a single person with no dependents. Exhibit 2.
4. Appellant's household income in 2023, as reported on her 2023 state income tax returns and confirmed at the hearing, equaled \$31,751.

¹ Exhibit 2 is a computer printout containing information extracted from the Schedule HC that Appellant submitted as part of her 2023 Massachusetts tax return. The Schedule HC is the form on which Massachusetts taxpayers report information relevant to the individual mandate penalty, which is the subject of this appeal.

5. Appellant reported in the Schedule HC that she filed with her 2023 state income taxes, and confirmed at the hearing, that she did not have health insurance from January through November 2023, but that she did have such insurance in December 2023. Exhibit 2.
6. In 2023, Appellant worked for an employer who offered insurance, which cost about \$150 a month. She considered that too expensive and so did not take the insurance.
7. Appellant experienced financial difficulties throughout the year and as a result fell into arrears on her rent.
8. She was served with an eviction notice in January 2023. Her landlord then began eviction proceedings in court in April 2023. See attachments to Exhibit 3.
9. Eventually, Appellant agreed to vacate the apartment and moved out in June 2023. See attachments to Exhibit 3.
10. After that date, Appellant did not have a fixed address and used a post office box to receive mail.
11. Appellant started a new job in December 2023. That job did offer insurance that Appellant could afford and as a result, she became insured as of December 2023. She was still insured as of the date of the hearing.

In addition to the foregoing, I take administrative notice of the 2023 Schedule HC Instructions and Worksheets, available at <https://www.mass.gov/doc/2023-schedule-hc-instructions/download>, which, as discussed below, include the Affordability Schedule and other financial information used in making 2023 individual mandate tax penalty determinations.

ANALYSIS AND CONCLUSIONS OF LAW

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

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

Because Appellant did not have health insurance in 2023, she is subject to a penalty under M.G.L. c. 111M if she could have afforded to purchase such insurance. In order to determine whether she had access to affordable health insurance, I must consider whether she could have obtained affordable insurance from any of the following three sources: (1) employment-based insurance; (2) government-subsidized insurance; or (3) unsubsidized insurance purchased on the non-group market. See 2023 Schedule HC instructions at pages HC 7-9

During 2023, Appellant worked at a job that offered insurance that cost about \$150 a month. However, this amount would not have been affordable for Appellant using affordability standards established by the Health Connector Board under M.G.L. c. 111M. Under those standards, an individual like Appellant who was in a household of one person and had annual income of \$31,751 was deemed able to afford 4.1 percent of income on insurance. (I obtain that figure from Table 3 of the 2023 instructions for the Schedule HC.) In this case, that amounts to \$1,301 annually or \$108 a month. Thus, under state affordability standards, the insurance offered by her employer in 2023 was not affordable.

Similarly, Appellant could not have afforded to obtain insurance on the private, non-group market under state affordability standards. During 2023, a person like Appellant who lived in Worcester County and was 53 years of age would have had to pay a monthly premium of \$475 for health insurance on the non-group market. (I obtain the premium figure from Table 4 to the instructions for the 2023 Schedule HC). As stated above, under the Health Connector's affordability standards, Appellant was able to afford only \$108 a month for health insurance. Thus, under state standards, insurance on the non-group market would not have been affordable for Appellant.

However, Appellant would have been eligible to receive Connector Care, which is government-subsidized health insurance in Massachusetts. To be eligible for Connector Care, an individual must have household income below 300 percent of the federal poverty limit. See 956 C.M.R. § 12.04 (Connector Care eligibility requirements.) In 2023, 300 percent of the federal poverty limit for a household of one person like Appellant's was \$40,770. (I obtain the figure of \$40,770 from Table 2 to the instructions for the 2023 Schedule HC.) In this case, Appellant's household income during 2023 was \$31,751 and therefore she was income-eligible for Connector Care.

Because Appellant could have obtained affordable insurance in 2023, but didn't, I am required to consider whether she has stated grounds sufficient to waive the penalty under Health Connector regulations. 956 C.M.R. § 6.08. I conclude that she has. Appellant testified credibly and provided corroborating evidence that she was evicted from her apartment during 2023. Under the Health Connector's regulations, receiving an eviction notice or being homeless constitutes a hardship sufficient to waive the individual mandate penalty. See 956 C.M.R. § 6.08(1)(a). Because Appellant experienced that hardship, she is entitled to a waiver of the penalty. Accordingly, I will allow this appeal and waive the penalty.

PENALTY ASSESSED

Number of Months Appealed: 8

Number of Months Assessed: 0

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

NOTIFICATION OF YOUR RIGHT TO APPEAL TO COURT

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

Hearing Officer

Cc: Connector Appeals Unit

Massachusetts Health Connector Appeals Unit

FINAL APPEAL DECISION: PA 23-54

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

Hearing Issue: Appeal of the 2023 Tax Year Penalty

Hearing Date: May 9, 2024

Decision Date: May 15, 2024

AUTHORITY

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

JURISDICTION

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

HEARING RECORD

Appellant appeared at the hearing, which was held by telephone, on May 9, 2024. The hearing record consists of the testimony of Appellant, and the following documents, which were admitted into evidence:

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

FINDINGS OF FACT

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

1. Appellant was 34 at the end of 2023. Exhibit 2.
2. Appellant lived in Middlesex County in 2023. Exhibit 2.
3. Appellant filed his taxes as a single person with no dependents. Exhibit 2.
4. Appellant's household income in 2023, as reported on his 2023 state income tax returns and confirmed at the hearing, equaled \$86,538.

¹ Exhibit 2 is a computer printout containing information extracted from the Schedule HC that Appellant submitted as part of his 2023 Massachusetts tax return. The Schedule HC is the form on which Massachusetts taxpayers report information relevant to the individual mandate penalty, which is the subject of this appeal.

5. Appellant reported in the Schedule HC that he filed with his 2023 state income taxes, and confirmed at the hearing, that he did not have health insurance at any point in 2023. Exhibit 2.
6. Appellant moved to Massachusetts at the start of 2022. That was his first time living in the state. When he moved here, he did not know that Massachusetts has a law requiring residents to obtain health insurance if it is affordable to them.
7. Appellant's employer offered to help pay for the cost of health insurance. However, he declined that offer because he did not believe he needed health insurance.
8. When Appellant filed his 2022 income taxes in 2023, he learned that he was subject to a tax penalty for not having health insurance. He eventually paid that penalty which was over \$1,500.
9. At that point, Appellant tried to purchase health insurance. However, he was unable to do so because he had missed the annual open enrollment season. Open enrollment ended on January 23, 2023.
10. As a result, Appellant was unable to purchase insurance until the next open enrollment period. He did so and enrolled in insurance effective January 1, 2024. He was insured as of the date of the hearing.

In addition to the foregoing, I take administrative notice of the 2023 Schedule HC Instructions and Worksheets, available at <https://www.mass.gov/doc/2023-schedule-hc-instructions/download>, which, as discussed below, include the Affordability Schedule and other financial information used in making 2023 individual mandate tax penalty determinations.

ANALYSIS AND CONCLUSIONS OF LAW

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

Because Appellant did not have health insurance in 2023, he is subject to a penalty under M.G.L. c. 111M if he could have afforded to purchase such insurance. In order to determine whether he had access to affordable health insurance, I must consider whether he could have obtained affordable insurance from any of the following three sources: (1) employment-based insurance; (2) government-subsidized insurance; or (3) unsubsidized insurance purchased on the non-group market. See 2023 Schedule HC instructions at pages HC 7-9

Appellant would not have been eligible to receive Connector Care, which is government-subsidized health insurance in Massachusetts. To be eligible for Connector Care, an individual must have household income below 300 percent of the federal poverty limit. See 956 C.M.R. § 12.04 (Connector Care eligibility requirements.) In 2023, 300 percent of the federal poverty limit for a household of one person like Appellant's was \$40,770. (I obtain the figure of \$40,770 from Table 2 to the instructions for the 2023 Schedule HC.) In this case, Appellant's household income during 2023 was \$86,538 and therefore he was not income-eligible for Connector Care.

However, Appellant could have obtained affordable health insurance through employment and on the non-group market. During 2023, Appellant's employer offered him health insurance. The offer consisted of payments in an amount that covered the entire cost of health insurance. Thus, Appellant could have obtained affordable insurance through work.

Additionally, Appellant could have afforded to purchase health insurance in the non-group market under affordability standards established by the Health Connector Board pursuant to M.G.L. c. 111M. Under those standards, an individual like Appellant who was in a household of one person and had annual income of \$86,529 was deemed able to afford 8 percent of income on insurance. (I obtain that figure from Table 3 of the 2023 instructions for the Schedule HC.) In this case, that amounts to \$6,922 annually or \$576 a month. During 2023, a person like Appellant who lived in Middlesex County and was 34 years of age could have obtained health insurance for a monthly premium of \$326. (I obtain the premium figure from Table 4 to the instructions for the 2023 Schedule HC). Thus, under state standards, this amount would have been affordable.

Because Appellant could have obtained affordable insurance in 2023, but didn't, I am required to consider whether he has stated grounds sufficient to waive the penalty under Health Connector regulations. 956 C.M.R. § 6.08. I conclude that he has. Appellant was unaware when he moved to Massachusetts that he was required to purchase health insurance. When he learned about that requirement at the time he filed his 2022 taxes, it was already too late to purchase insurance in 2023 because he had missed the open enrollment period. Thus, he was unable to purchase health insurance for most of 2023. Further, Appellant has already been subject to a considerable penalty for not having health insurance in 2022. Thus, a further penalty is not necessary to encourage him to sign up for health insurance. In fact, he has already signed up and was enrolled as of the date of the hearing.

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

PENALTY ASSESSED

Number of Months Appealed: 12

Number of Months Assessed: 0

If the number of months assessed is zero (0) because your penalty has been overturned, the Connector has notified the Department of Revenue that you should NOT be assessed a penalty for Tax Year 2023.

NOTIFICATION OF YOUR RIGHT TO APPEAL TO COURT

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

Hearing Officer

Cc: Connector Appeals Unit

Massachusetts Health Connector Appeals Unit

FINAL APPEAL DECISION: PA 23-55

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

Hearing Issue: Appeal of the 2023 Tax Year Penalty

Hearing Date: May 9, 2024

Decision Date: May 15, 2024

AUTHORITY

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

JURISDICTION

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

HEARING RECORD

Appellant appeared at the hearing, which was held by telephone, on May 9, 2024. The hearing record consists of the testimony of Appellant, and the following documents, which were admitted into evidence:

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

FINDINGS OF FACT

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

1. Appellant was 32 at the end of 2023. Exhibit 2.
2. Appellant lived in Middlesex County in 2023. Exhibit 2.
3. Appellant filed his taxes as a single person with no dependents. Exhibit 2.
4. Appellant's household income in 2023, as reported on his 2023 state income tax returns and confirmed at the hearing, equaled \$55,503.

¹ Exhibit 2 is a computer printout containing information extracted from the Schedule HC that Appellant submitted as part of his 2023 Massachusetts tax return. The Schedule HC is the form on which Massachusetts taxpayers report information relevant to the individual mandate penalty, which is the subject of this appeal.

5. Appellant reported in the Schedule HC that he filed with his 2023 state income taxes, and confirmed at the hearing, that he had health insurance from January through July of 2023, but did not have health insurance for the remaining five months. Exhibit 2.
6. At the start of 2023, Appellant was working at a job through which he obtained health insurance.
7. He lost that job in July and as a result, his health insurance ended that month.
8. Appellant considered getting continued coverage through COBRA, a federal law that provides for continuity of coverage for persons who lose or leave a job. However, this coverage would have cost him about \$1,000 a month, which he felt was too expensive.
9. Starting in August 2023, Appellant was on unemployment. He was making about \$675 a week in unemployment compensation. At that amount, he was having trouble paying his regular bills.
10. At some point, Appellant sought health insurance through the Health Connector. However, he was unable to purchase health insurance at that time because it was outside the annual open enrollment period and he was applying more than 60 days after he had lost insurance through work. Further, he felt he couldn't afford to purchase insurance that was available to him.
11. In February of 2024, Appellant applied again. At that point, his income had been reduced because he was no longer receiving unemployment compensation. He qualified for subsidized insurance and enrolled. He was covered as of the date of the hearing.

In addition to the foregoing, I take administrative notice of the 2023 Schedule HC Instructions and Worksheets, available at <https://www.mass.gov/doc/2023-schedule-hc-instructions/download>, which, as discussed below, include the Affordability Schedule and other financial information used in making 2023 individual mandate tax penalty determinations.

ANALYSIS AND CONCLUSIONS OF LAW

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

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

Because Appellant did not have health insurance for part of 2023, he is subject to a penalty under M.G.L. c. 111M if he could have afforded to purchase such insurance. In order to determine whether he had access to affordable health insurance, I must consider whether he could have obtained affordable insurance from any of the following three sources: (1) employment-based insurance; (2) government-

subsidized insurance; or (3) unsubsidized insurance purchased on the non-group market. See 2023 Schedule HC instructions at pages HC 7-9

Appellant was unemployed during the part of 2023 when he was uninsured. Therefore, he could not obtain insurance through employment.

Further, Appellant would not have been eligible to receive Connector Care, which is government-subsidized health insurance in Massachusetts. To be eligible for Connector Care, an individual must have household income below 300 percent of the federal poverty limit. See 956 C.M.R. § 12.04 (Connector Care eligibility requirements.) In 2023, 300 percent of the federal poverty limit for a household of one person like Appellant's was \$40,770. (I obtain the figure of \$40,770 from Table 2 to the instructions for the 2023 Schedule HC.) In this case, Appellant's household income during 2023 was \$55,503 and therefore he was not income-eligible for Connector Care.

However, Appellant could have afforded to purchase health insurance the non-group market under affordability standards established by the Health Connector Board pursuant to M.G.L. c. 111M. Under those standards, an individual like Appellant who was in a household of one person and had annual income of \$55,503 was deemed able to afford 8 percent of income on insurance. (I obtain that figure from Table 3 of the 2023 instructions for the Schedule HC.) In this case, that amounts to \$4,440 annually or \$370 a month. During 2023, a person like Appellant who lived in Middlesex County and was 32 years of age could have obtained health insurance for a monthly premium of \$326. (I obtain the premium figure from Table 4 to the instructions for the 2023 Schedule HC). Thus, under state standards, this amount would have been affordable.

Because Appellant could have obtained affordable insurance in 2023, but didn't, I am required to consider whether he has stated grounds sufficient to waive the penalty under Health Connector regulations. 956 C.M.R. § 6.08. I conclude that he has. In this case strict application of the affordability standards would be inequitable. Although Appellant's income over the course of 2023 was \$55,503, his income was significantly reduced during the five months that he was uninsured. During that period, he was getting only \$675 a week or the equivalent of \$2,700 a month in unemployment compensation. If that amount were annualized, it would amount to \$32,400; a person earning that amount is deemed able to afford only 4.1 percent of income on health insurance. See Table 3 of the instructions for the 2023 Schedule HC. This would amount to \$1,328 annually or \$110 a month. That amount would be insufficient to afford insurance, which as stated above would cost at least \$326 a month in premium. Further, as a practical matter, Appellant was unable to purchase health insurance when he tried to by applying through the Health Connector because it was outside the annual open enrollment period and because it was more than 60 days since he had lost his previous insurance. Finally, I take into account the fact that Appellant did sign up for insurance in 2024 and was covered as of the date of the hearing.

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

PENALTY ASSESSED

Number of Months Appealed: 2

Number of Months Assessed: 0

If the number of months assessed is zero (0) because your penalty has been overturned, the Connector has notified the Department of Revenue that you should NOT be assessed a penalty for Tax Year 2023.

NOTIFICATION OF YOUR RIGHT TO APPEAL TO COURT

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

Hearing Officer

Cc: Connector Appeals Unit

Massachusetts Health Connector Appeals Unit

FINAL APPEAL DECISION: PA 23-57

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

Hearing Issue: Appeal of the 2023 Tax Year Penalty

Hearing Date: May 9, 2024

Decision Date: May 15, 2024

AUTHORITY

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

JURISDICTION

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

HEARING RECORD

Appellant appeared at the hearing, which was held by telephone, on May 9, 2024. The hearing record consists of the testimony of Appellant, and the following documents, which were admitted into evidence:

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

FINDINGS OF FACT

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

1. Appellant was 44 at the end of 2023. Exhibit 2.
2. Appellant lived in Middlesex County in 2023. Exhibit 2.
3. Appellant filed his taxes as a single person with no dependents. Exhibit 2.
4. Appellant's household income in 2023, as reported on his 2023 state income tax returns and confirmed at the hearing, equaled \$53,170.

¹ Exhibit 2 is a computer printout containing information extracted from the Schedule HC that Appellant submitted as part of his 2023 Massachusetts tax return. The Schedule HC is the form on which Massachusetts taxpayers report information relevant to the individual mandate penalty, which is the subject of this appeal.

5. Appellant reported in the Schedule HC that he filed with his 2023 state income taxes, and confirmed at the hearing, that he had health insurance from January through May of 2023, but did not have health insurance for the remaining seven months. Exhibit 2.
6. At the start of 2023, Appellant was covered through MassHealth, which is the Medicaid program for low-income people in Massachusetts. At the time Appellant initially applied for MassHealth, he was not working and so qualified based on low-income.
7. In the spring of 2023, Appellant's eligibility for MassHealth was redetermined. At that time, he was working and as a result his income was too high to qualify for MassHealth. He was notified that he had lost MassHealth.
8. Appellant was offered insurance through work, but it cost about \$400 a month, which he considered to be unaffordable.
9. After he lost MassHealth coverage, Appellant went without health insurance until sometime in 2024 when he was able to obtain coverage through his partner's employee health insurance.

In addition to the foregoing, I take administrative notice of the 2023 Schedule HC Instructions and Worksheets, available at <https://www.mass.gov/doc/2023-schedule-hc-instructions/download>, which, as discussed below, include the Affordability Schedule and other financial information used in making 2023 individual mandate tax penalty determinations.

ANALYSIS AND CONCLUSIONS OF LAW

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

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

Because Appellant did not have health insurance for part of 2023, he is subject to a penalty under M.G.L. c. 111M if he could have afforded to purchase such insurance. In order to determine whether he had access to affordable health insurance, I must consider whether he could have obtained affordable insurance from any of the following three sources: (1) employment-based insurance; (2) government-subsidized insurance; or (3) unsubsidized insurance purchased on the non-group market. See 2023 Schedule HC instructions at pages HC 7-9

Appellant was offered insurance through work. However, it cost \$400 a month, which was not affordable under state affordability standards established by the Health Connector Board pursuant to M.G.L. c. 111M. Under those standards, an individual like Appellant who was in a household of one person and had annual income of \$53,170 was deemed able to afford 7.6 percent of income on insurance. (I obtain that figure from Table 3 of the 2023 instructions for the Schedule HC.) In this case, that amounts to \$4,040 annually or \$336 a month. This is less than the \$400 a month charged for insurance through his employer. Thus, Appellant could not obtain affordable insurance through employment.

Further, Appellant would not have been eligible to receive Connector Care, which is government-subsidized health insurance in Massachusetts. To be eligible for Connector Care, an individual must have household income below 300 percent of the federal poverty limit. See 956 C.M.R. § 12.04 (Connector Care eligibility requirements.) In 2023, 300 percent of the federal poverty limit for a household of one person like Appellant's was \$40,770. (I obtain the figure of \$40,770 from Table 2 to the instructions for the 2023 Schedule HC.) In this case, Appellant's household income during 2023 was \$53,170 and therefore he was not income-eligible for Connector Care.

Finally, Appellant could not have afforded to purchase health insurance the non-group market under affordability standards. As stated above, under those standards, Appellant is considered able to afford only \$336 a month for health insurance. During 2023, a person like Appellant who lived in Middlesex County and was 44 years of age would have had to pay a premium of at least \$358 a month to obtain health insurance. (I obtain the premium figure from Table 4 to the instructions for the 2023 Schedule HC). Thus, under state standards, this amount would not have been affordable.

In sum, Appellant could not have obtained affordable insurance through employment, through government-subsidized insurance, or through the non-group market. Because Appellant could not have obtained affordable insurance during the time that he was uninsured in 2023, he should not have been subject to the individual mandate penalty. Therefore, I am not required to consider whether he has stated grounds sufficient to waive the penalty under Health Connector regulations. 956 C.M.R. § 6.08. Instead, I will allow the appeal and waive the penalty in full.

PENALTY ASSESSED

Number of Months Appealed: 4

Number of Months Assessed: 0

If the number of months assessed is zero (0) because your penalty has been overturned, the Connector has notified the Department of Revenue that you should NOT be assessed a penalty for Tax Year 2023.

NOTIFICATION OF YOUR RIGHT TO APPEAL TO COURT

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

Hearing Officer

Cc: Connector Appeals Unit

FINAL APPEAL DECISION

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

Hearing Issue: Appeal of the 2021 Tax Year Penalty

Hearing Date: February 9, 2023

Decision Date: Monday, April 1, 2024

AUTHORITY

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

JURISDICTION

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

HEARING RECORD

The appellant appeared at the hearing which was held by telephone on February 9, 2023. The procedures to be followed during the hearing were reviewed with Appellant. He was sworn in. Exhibits were marked and admitted in evidence with no objection from the appellant. Appellant testified.

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

Exhibit 1:	Appeals Case Information from Schedule HC	1 page
Exhibit 2:	Appellant's Statement of Grounds for Appeal	2 Pages
Exhibit 3	USAA Renter's Insurance Policy from September of 2021	2 Pages

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through September of 2022

FINDINGS OF FACT

The record shows, and I so find:

1. Appellant was 33 years old in the beginning of 2021. Appellant filed his 2021 Massachusetts tax return as Single. The Appellant has no dependents (Exhibit 1).
2. Appellant lived in Suffolk County, MA in 2021 (Exhibit 1).
3. Appellant's Federal Adjusted Gross Income for 2021 was \$28,449.00 (Exhibit 1, Appellant's Testimony). Appellant's Income was 209% of the Federal Poverty level and based on his income, if all other conditions were met, he would be ELIGIBLE for Plan Type 3A (200.1-250% FPL) for ConnectorCare.
4. In 2021, the Appellant was employed as an Intern at Health Care Company Contractor in a full-time capacity. (Appellant's Testimony).
5. The Appellant was employed for the full year and did not have any job disruptions during the year 2021.
6. The Appellant was offered health insurance in 2021, by his employer, at an approximate monthly cost of an unspecified amount. (Appellant's Testimony)
7. The Appellant does currently have Health Insurance. (Appellant's Testimony).
8. I take administrative notice of the financial information set forth in Tables 1 through 6 in the DOR 2021 Massachusetts Schedule HC Health Care Instructions and Worksheets. Tables 3 and 4 incorporate affordability and premium schedules adopted by the Board of Directors for the Commonwealth Health Insurance Connector Authority for 2021. Table 2 sets forth income at 300% of the Federal poverty level and Tables 5 and 6 set forth tax penalties in effect for 2021.
9. According to Table 3 of Schedule HC for 2021, The Appellant has no dependents, with an adjusted gross income of \$28,449.00 was deemed able to pay \$99.57 per month for health insurance, or 4.20% of his income. According to Table 4, Appellant, age 33 and living in Suffolk County, could have purchased private insurance for \$268.00 per month.
10. Private insurance was UNAFFORDABLE for the appellant in 2021 (Schedule HC for 2021).
11. Appellant's statement of grounds for appeal was on the basis of:

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- a. Other. During 2022 other circumstances, such as: applying the affordability tables and schedule HC to you, is an equitable (for example because of family size); that you were unable to obtain government subsidize insurance, even though your income, qualified you; or you didn't reside in Massachusetts during your period of uninsurance.(Testimony of Appellant, Exhibit 2).
12. Appellant did not incur significant and unexpected increases in essential expenses as a result of domestic violence; the death of a spouse, family member, or partner who shared household expenses; the sudden responsibility for providing full care for an aging parent or other family member; or fire, flood, or other natural or man-made disaster in 2021 (Testimony of Appellant).
13. Appellant did not fall more than thirty days behind in rent payments in 2021. Appellant did not receive any shut-off notices for basic utilities. There was no evidence or indication of this during the Appellant's testimony. (Testimony of Appellant)
14. During the administrative appeal hearing, the appellant provided testimony that initially stated he did not reside in Massachusetts at any point during 2021. However, later in the hearing, the appellant's testimony contradicted his earlier statement, as he mentioned moving into a Boston apartment in August 2021.
15. To support his claim of not living in Massachusetts for the entirety of 2021, the appellant submitted documentation as an exhibit, which included a renters insurance policy for an apartment located in Portland, Maine. This policy was effective from September 2021 to September 2022.
16. At that time the hearing was held, the decision was made to leave the record open for the Appellant to provide him with an opportunity to submit documentation supporting his claim of non-residency.
17. The Appellant expressed his belief that this documentation would clearly demonstrate that he was not a resident of Massachusetts in 2021 and that this information was essential for reaching a fair and accurate resolution in this matter.
18. No documentation was ever received by the Health Connector after the Open Record request was left open.
19. The Appellant has been assessed a penalty for not having health insurance in 2021 for 12 months.

ANALYSIS AND CONCLUSIONS OF LAW

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The issue on appeal is whether the tax penalty assessed by the Massachusetts Department of Revenue for 2021 should be waived in whole, in part, or not at all.

G.L.c. 111M, § 2, also called the “individual mandate,” requires every adult resident of Massachusetts to obtain insurance coverage “[s]o long as it is deemed affordable” under the schedule set by the board of directors for the Commonwealth Health Insurance Connector Authority. The Appellant was unaware of the individual mandate, according to his testimony. Ignorance of the law is no excuse however. ‘When statutes impose punishment out of considerations of public policy, lack of knowledge of the law or of the fact that the law has been violated does not exonerate the person who may have unwittingly violated the statute.’ Franklin Office Park Realty Corp. v. Commissioner of Dep’t of Env’tl. Protection, 466 Mass. 454, 465 n.14 (2013).

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

Appellant had no health insurance in 2021. He has been assessed a tax penalty for 12 months. He appealed the assessment. See Exhibits listed above. To determine if the penalty should be waived in whole or in part, we must consider whether affordable insurance which met minimum creditable coverage standards was available to the appellant through either (1) his employment, through (2) the private market, or through (3) a government-sponsored program. If affordable insurance was available, we must determine if such insurance was, in fact, not affordable to the appellant because he experienced a financial hardship as defined in 956 CMR 6.08.

Appellant’s Employment & Employer Based Insurance

The Appellant testified that he was offered health insurance in 2021, by his employer, at an approximate monthly cost of an unspecified amount. (Appellant’s Testimony). The Appellant was employed for the full year and did not have any job disruptions during the year 2021. (Appellant’s Testimony). The Appellant was assessed a penalty of 12 months based on their lack of coverage over 12 months. The penalty was not levied in light of any period of unemployment for the Appellant.

In Massachusetts, the determination of affordability for employer-sponsored health plans, or Employer-Sponsored Insurance (“ESI”), is guided by state-specific guidelines.

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According to the 2021 Schedule HC instructions for the relevant tax year, the affordable premium is calculated based on a percentage of income that aligns with the individual's income range and filing status, as outlined in Table 3: Affordability, found on page HC-10. In this case, the maximum affordable amount for the Appellant, based on their income range and filing status, is 4.20%.

During the hearing, the appellant shared that he had enrolled in employer-provided insurance with Blue Cross Blue Shield in 2021. He mentioned his employment status as an intern at the time and aimed to prove his enrollment in this insurance plan. However, despite his efforts, he faced challenges in providing concrete evidence to support his claims. Specifically, he was unable to present details regarding the costs associated with the insurance enrollment or the specifics of the coverage, including the date he enrolled. This lack of detailed information made it difficult to fully substantiate his claims regarding the insurance enrollment during the year in question.

Because the appellant was unable to substantiate his claims about having insurance and could not provide any details surrounding this, I will assume for the purposes of this appeal that Employer-Sponsored Insurance was unavailable to him.

Appellant's Credibility

During the administrative appeal hearing, the witness provided conflicting statements regarding his residency in Massachusetts during 2021. Initially, he claimed not to have lived in the state at any point during the year. However, he later admitted to moving into a Boston apartment in August 2021, contradicting his earlier assertion. The witness seemed uncertain about the exact date of his move and did not appear to be entirely forthcoming throughout the hearing. Despite being given the opportunity, he failed to submit any additional documents to support his claims.

As evidence, the witness provided information about a renters insurance policy that began in September 2021 and extended through September 2022. However, this does not align with his admission of moving into a Boston apartment in August 2021, one month prior to the policy's start date. These inconsistencies raise significant credibility concerns.

The witness also stated that he had employer-sponsored insurance through his internship in 2021, specifically mentioning Empire Blue Cross Blue Shield. However, it is important to note that the witness's appeal was not based on having insurance coverage, but rather on his claim of not residing in the state. The reasoning provided in the statement of grounds appears to be focused on his residency dispute, which he contradicted during the course of the hearing.

This pattern of contradictory statements and the lack of substantial evidence provided by the Appellant to support his claims significantly undermines his credibility. The

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inconsistencies between his initial claims and later admissions, coupled with the failure to produce corroborating documentation when prompted, cast doubt on the reliability of his testimony. The focus of the appeal on residency, rather than on insurance coverage, further complicates his position, as the credibility of his residency claim is pivotal to the appeal's outcome.

ConnectorCare Eligibility

To be considered for ConnectorCare, with its state subsidies and tax credits, you can't be covered by affordable job-based insurance, as per the Affordable Care Act standards. See 956 CMR 12.05 and 45 CFR § 155.305(f)(1)(ii)(B). Only employer insurance that's affordable and meets minimum creditable coverage can disqualify you from getting assistance through the Health Connector to reduce your health plan cost. See 26 CFR § 1.36B-2(c)(3). Based on the information provided, the Appellant qualifies for ConnectorCare, specifically Plan Type Plan Type 3A in tax year 2021.

In Massachusetts, you could get state help with ConnectorCare plans if your income is 300% of the FPL or less. In tax year 2021, the Appellant would qualify for Plan Type 3A through the ConnectorCare program. The coverage year 2022's lowest monthly premium for Plan Type 3A is \$90. To qualify for a ConnectorCare plan, the Appellant must also meet other state requirements.

The Appellant testified to not applying through the Health Connector in tax year 2021. Despite the requirement set by the individual mandate, due diligence in seeking health coverage through the Health Connector was not conducted. Notably, with an income level of 209.34% of the Federal Poverty Level, the appellant could have been eligible for subsidized coverage under ConnectorCare.

This oversight in not applying for available subsidized coverage suggests a missed opportunity to obtain affordable health insurance. A lack of supporting documentation notably hampers the Appellant's ability to substantiate their claims and appears indicative of insufficient engagement with the Health Connector's processes.

If you make more than 300% but less than 400% of the FPL, you might get a tax credit to cut down your health plan costs. To get this Advance Premium Tax Credit, your expected income must be at least 100% but less than 400% of the FPL. (45 CFR 155.305 (f) (1) (i)). Based on these rules, The Appellant is not eligible for Advance Premium Tax Credits because their income is below 300% of the FPL.

Availability of Private Insurance

Private insurance was UNAFFORDABLE for the appellant on the open market during 2021. According to Tables 3 and 4 of the HC schedule for 2021, Appellant, with an adjusted gross income of \$28,449.00, was deemed unable to afford health insurance

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on the private market. According to Table 3, Appellant could have afforded to pay \$99.57 per month; according to Table 4, Appellant, who was 33 years old in 2021, lived in Suffolk County and filed his 2021 Massachusetts taxes as a Single with 0 dependents, would have had to pay \$268.00 for insurance on the private market. See 956 CMR 6.05 (1)(2), Schedule HC Tables 3 and 4, and Exhibit 1.

Considering the Appellant's gross income (\$2,370.75 per month), tax filing status, place of residence, and the expected affordable amount the Appellant could pay per the 2021 Schedule HC Tables (\$99.57 per month), private health insurance with a premium of \$268.00 per month was unaffordable for the Appellant. (2021 Schedule HC Tables).

Other Government-Sponsored Healthcare Programs

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

Appellant's Claims of Inequity

In their appeal, the appellant argued that using the affordability tables for the tax year in question would not be fair to them. The appellant shared during the hearing that they did not reside in Massachusetts at any point in 2021. However, their testimony later revealed a contradiction, indicating they moved into an apartment in Boston in August 2021. To support their initial claim, the appellant presented documentation for renters insurance for a property in Portland, Maine, covering September 2021 to September 2022.

While I recognize and understand the appellant's point of view, I find the argument against the application of the affordability tables to their situation unconvincing. The conflicting testimony and evidence provided suggest a different factual scenario than initially presented by the appellant.

Financial Hardship Analysis

The Connector's regulations allow for a waiver of the tax penalty under certain conditions, specifically in cases of proven financial hardship, as detailed in 956 CMR 6.08. However, during the hearing, the appellant did not claim financial hardship, nor did he provide any supporting evidence when directly requested. Given the absence of evidence for financial hardship, this underscores the correctness of applying the standard affordability tables in this case.

Conclusion

In conclusion, the decision to uphold the tax penalty against the appellant is

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supported by the absence of documentation provided during the open records session and the questions surrounding the credibility of the appellant's claims regarding their residency in Massachusetts for the 2021 tax year. The inability to furnish necessary documentation and the inconsistencies observed in the appellant's testimony about their residency status have been critical factors in this determination. Thus, considering the evidence and testimonies presented, the application of the standard affordability tables and the associated tax penalty is deemed appropriate and will be maintained.

The Appellant's tax penalty is upheld.

PENALTY ASSESSED

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

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

NOTIFICATION OF YOUR RIGHT TO APPEAL TO COURT

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

Hearing Officer

cc. Connector Appeals Unit

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

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Exhibit 4	Lease Agreement, dated 8/15/2022 - 30 Willbrook Park, Dublin	3 pages
Exhibit 5	Utility Bill (dated 1/27/2023)	6 pages
Exhibit 6:	2022 Form MA 1099-HC	1 page
Exhibit 7:	Updated 2022 Form MA 1099-HC, as of March 2024	1 page

FINDINGS OF FACT

The record shows, and I so find:

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

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10. I take administrative notice of the financial information set forth in Tables 1 through 6 in the DOR 2022 Massachusetts Schedule HC Health Care Instructions and Worksheets. Tables 3 and 4 incorporate affordability and premium schedules adopted by the Board of Directors for the Commonwealth Health Insurance Connector Authority for 2022. Table 2 sets forth income at 300% of the Federal poverty level and Tables 5 and 6 set forth tax penalties in effect for 2022.
11. According to Table 3 of Schedule HC for 2022, The Appellant has 2 dependents. As the Appellant has a dependent, their affordability calculations have been adjusted to reflect that they would pay the rate of a family for private health insurance per the affordability tables in the Schedule HC., with an adjusted gross income of \$248,140.00 was deemed able to pay \$1,654.27 per month for health insurance, or 8.00% of his income. According to Table 4, Appellant, age 46 and living in Plymouth County, could have purchased private insurance for \$951.00 per month.
12. Private insurance was AFFORDABLE for the appellant in 2022 (Schedule HC for 2022).
13. Appellant's statement of grounds for appeal was on the basis of:
 - a. Other. During 2022 other circumstances, such as: applying the affordability tables and schedule HC to you, is an equitable (for example because of family size); that you were unable to obtain government subsidize insurance, even though your income, qualified you; or you didn't reside in Massachusetts during your period of uninsurance.(Testimony of Appellant, Exhibit 2).
14. Appellant did not incur significant and unexpected increases in essential expenses as a result of domestic violence; the death of a spouse, family member, or partner who shared household expenses; the sudden responsibility for providing full care for an aging parent or other family member; or fire, flood, or other natural or man-made disaster in 2022 (Testimony of Appellant).
15. Appellant did not fall more than thirty days behind in rent payments in 2022. Appellant did not receive any shut-off notices for basic utilities. There was no evidence or indication of this during the Appellant's testimony. (Testimony of Appellant)
16. The Appellant testified that he had proper Employer-Sponsored Insurance from January through the Summer and that his tax penalty should be waived. (Appellant's Testimony).
17. Appellant further testified that he signed up for his Employer-Sponsored Insurance and he was unsure why he was being penalized. (Appellant's

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Testimony).

18. During the hearing an open records request was made, leaving the Appellant's case open for 60 days to allow him to provide proof of his Employer-Sponsored Insurance. Specifically, the Appellant indicated he could provide his Form 1099 HC in order to corroborate his statements relating to having Employer-Sponsored Insurance that meet minimum creditable coverage. (Appellant's Testimony).
19. During the hearing, the appellant shared that at the start of 2022, he was employed full-time with the Abington public school system and received health insurance through his job.
20. The Appellant testified that in August 2022, he moved to live outside the country, showing a lease for a house in Dublin, Ireland, as proof. (See Exhibit 4). The issue at hand is that he's been penalized for not having health insurance that met minimum creditable coverage standards from January to August.
 - a. It appears that, mistakenly, the appellant indicated, on his Statement of Grounds for his Appeal Form, that he didn't live in Massachusetts during his period of uninsurance.
21. The appellant provided, after the open records request, his 2022 MA 1099 HC form, a tax document that tracks health care coverage.
 - a. According to this form, he did have the required insurance from July to December 2022, covering them for six months within the year, which meets the minimum creditable coverage standards.
 - b. The same form however indicates that he did not have Health Insurance that met minimum creditable coverage from between January and June in 2022.
 - c. This discovery means that the initial information from the Health Connector, suggesting he lacked coverage for eight (8) months, was not accurate. (Exhibit 1).
 - i. The form shows he had two extra months of coverage not initially accounted for, reducing his penalty from five months to three months. (Exhibit 6).
 - ii. This adjustment is crucial in correctly assessing his situation and the penalties applied.
22. Upon review of the original decision issued in February 2024, it has come to my attention that the appellant subsequently provided updated documentation pertinent to the case. Following the initial decision, the appellant contacted his

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employer and procured a revised copy of his 1099-HC form for the 2022 tax year. This updated form indicates that the appellant maintained minimum creditable coverage through Blue Cross Blue Shield of Massachusetts from January to June 2022.

23. Despite the submission of this documentation after the initial decision was rendered, the appellant promptly informed the Health Connector and furnished them with the updated information. In light of this newly acquired evidence, I have determined that it is appropriate to reconsider the original decision issued in February 2024.
24. After careful consideration of the appellant's late submission of the pertinent records, I have concluded that it is in the interest of fairness and accuracy to accept this additional documentation. Consequently, I hereby revise the initial decision and incorporate the appellant's updated information into the official record.
25. The Appellant has been assessed a penalty for not having health insurance in 2022 for 5 months.

ANALYSIS AND CONCLUSIONS OF LAW

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

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

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

Appellant had health insurance for 6 month(s) in 2022. He has been assessed a tax penalty for 5 months. He appealed the assessment. See Exhibits listed above. To determine if the penalty should be waived in whole or in part, we must consider

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whether affordable insurance which met minimum creditable coverage standards was available to the appellant through either (1) his employment, through (2) the private market, or through (3) a government-sponsored program. If affordable insurance was available, we must determine if such insurance was, in fact, not affordable to the appellant because he experienced a financial hardship as defined in 956 CMR 6.08.

Open Records Request

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

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

Appellant's Employment & Employer Based Insurance

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

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

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

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

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

ConnectorCare Eligibility

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

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

Availability of Private Insurance

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

In light of the Appellant's gross income (\$20,678.33 per month), tax filing status, place

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of residence, and the expected affordable amount the Appellant could pay per the 2022 Schedule HC Tables (\$1,654.27 per month), the Appellant could have afforded private health insurance with a premium of \$951.00 per month. (2022 Schedule HC Tables).

Other Government-Sponsored Healthcare Programs

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

Financial Hardship Analysis

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

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

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

Updated Open Records Submission from March of 2024

In light of the new information provided by the appellant, which demonstrates that he had health insurance meeting the minimum creditable coverage standards from January through June 2022, I have reconsidered the initial decision, which was rendered in February of 2024.

The updated 1099-HC form supplied by the appellant after the open records period confirms that he maintained appropriate health insurance coverage for six (6) months during the 2022 tax year. This documentation provides sufficient evidence to warrant a revision of the original determination.

After careful review and consideration of the newly submitted evidence, I have decided to waive the tax penalty entirely. The appellant has successfully demonstrated that he had the required minimum creditable coverage for half of the year in question, which satisfies the criteria for avoiding the penalty.

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Consequently, the three (3) month penalty previously imposed is hereby rescinded, and the appellant shall not be subject to any tax penalty for the 2022 tax year. This decision has been reached based on the totality of the information now available, including the updated documentation provided by the appellant during the post-decision period.

Conclusion

Based on the updated information provided by the appellant, which confirms that they had health insurance meeting the minimum creditable coverage standards for six (6) months during the 2022 tax year, the previous conclusion must be revised.

The appellant has successfully demonstrated that they maintained appropriate health insurance coverage for half of the year in question, thereby satisfying the criteria for avoiding the tax penalty. In light of this new evidence, the appellant has shown that they were in compliance with the state's health insurance requirements for a significant portion of the year.

Consequently, the five (5) month penalty originally imposed is hereby waived in its entirety. The appellant shall not be subject to any tax penalty for the 2022 tax year, as they have provided sufficient documentation to establish their compliance with the minimum creditable coverage standards for six (6) months.

This revised conclusion is based on a thorough review of all the information now available, including the updated 1099-HC form submitted by the appellant after the initial decision was rendered. The Health Connector acknowledges the appellant's proactive efforts to provide the necessary documentation and has made this determination in the interest of fairness and accuracy.

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

PENALTY ASSESSED

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

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

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NOTIFICATION OF YOUR RIGHT TO APPEAL TO COURT

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

Hearing Officer

cc. Connector Appeals Unit

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

Appeal Decision: The penalty is upheld.

Hearing Issue: Appeal of the 2022 Tax Year Penalty

Hearing Date: April 17, 2024

Decision Date: April 26, 2024

AUTHORITY

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

JURISDICTION

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

HEARING RECORD

The Appellant and Spouse (“Appellant”) appeared at the hearing, which was held by telephone on April 17, 2024. The procedures to be followed during the hearing were reviewed with the Appellant who was then sworn in. Exhibits were marked and admitted in evidence with no objection from the Appellant. The Appellant testified.

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

Exhibit 1:	Appeal Case Information from Schedule HC.	(1 P).
Exhibit 2:	Statement of Grounds for Appeal 2022 Signed by Appellant on 11/28/2023.	(2 PP).
Exhibit 2(a):	Appellant’s Statement in Support of Appeal dated 11/28/2023.	(1 P).
Exhibit 3:	Health Connector’s Notice of Hearing dated 3/13/2024.	(2 PP).

The record shows, and I so find:

1. The Appellant, married filing jointly filed a 2022 Massachusetts tax return filed with a family size of 3, were ages 30 and 32 in 2022, lived in Middlesex County, and had zero (0) dependents. (Exhibit 1).
2. The Appellants’ Federal Adjusted Gross Income for 2022 was \$397,417. (Exhibit 1).
3. The Appellant, who is being penalized for three (3) months, testified that his Spouse and family moved to Massachusetts in 2022 and that he was not offered Employer Sponsored Insurance (“ESI”). (Testimony).

4. The Appellant's Spouse, who is not being penalized, did not have access to Employer Sponsored Insurance("ESI"). (Testimony).
5. The Appellant's Spouse testified she obtained Connectorcare for her and the Appellant's child at the cost of approximately \$900 a month. (Testimony).
6. I do not give substantial weight to the Appellant Spouse testimony that it would have been an additional \$500 to add the Appellant to the family plan. (Testimony).
7. The Appellant obtained Connectorcare in 2023 and now has ESI (Testimony).
8. I do not give substantial weight to the Appellant's testimony that he was not familiar with the mandate to have insurance where his Spouse purchased Connector for her and her child. (Testimony, Exhibit 2(a)).
9. According to Table 3 Appellant could have afforded \$2,649.44 per month for health insurance in 2022. According to Table 4 Appellant could have purchased a family plan insurance for 741.00 per month. (See Tables 3 and 4 of Schedule HC 2022).
10. The Appellant would not have been eligible for ConnectorCare coverage in 2022 because the Appellant's income was more than 300% of the poverty level, which was \$38,640.00 for a family of (1). (See Table 2 of Schedule HC 2022).
11. The Appellant testified they were moving to a new area and had substantial expenses including rent and childcare totally approximately \$7,000, as well as student loans. (Testimony, Exhibit 2(a)).
12. In addition to the foregoing, I take administrative notice of the 2022 Schedule HC Instructions and Worksheets, available at <http://www.mass.gov/dor/docs/dor/health-care/2022>, and in particular, Tables 1-6 which, as discussed below, include the Affordability Schedule and other financial information used in making 2022 individual mandate tax penalty determinations.

ANALYSIS AND CONCLUSIONS OF LAW

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

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

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

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

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

The evidence provided by the Appellant established that his income for 2022, \$397,417 was more than 300% of the federal poverty level, which for 2022 was \$38,640.00 for a family of three(3). According to Table 3 of Schedule HC for 2022, the Appellant could have afforded \$2,649.44.04 per month. According to Table 4, Appellant, ages 30 and 32 in Middlesex County during the time they were being penalized for not having insurance, could have purchased a family insurance plan for \$741 per month. Individual coverage was affordable through the individual market for the Appellant in 2022 (Schedule HC for 2022).

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

I find credible that the Appellant were not eligible for ESI, however, where private insurance was affordable for the Appellant during the time he was unenrolled, and where his Spouse had purchased a plan for her and their child, it was not clear why he was not included in the purchase of a plan. Accordingly, the Appellant should have realized that he would need health insurance as part of the Massachusetts mandate if his ESI was going to end. I find the Appellant should have investigated and obtained private insurance for the months he was unenrolled. However, where the Appellant was uninsured for five (5) months in 2022, is now insured, and in order to mitigate the harshness of a full

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

PENALTY ASSESSED

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

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

NOTIFICATION OF YOUR RIGHT TO APPEAL TO COURT

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

Cc: Connector Appeals Unit

Hearing Officer

ADDENDUM

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

FINAL APPEAL DECISION: PA22-1538

Appeal Decision: The penalty is overturned in part.

Hearing Issue: Appeal of the 2022 Tax Year Penalty

Hearing Date: April 17, 2024

Decision Date: April 26, 2024

AUTHORITY

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

JURISDICTION

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

HEARING RECORD

The Appellant appeared at the hearing, which was held by telephone on April 17, 2024. The procedures to be followed during the hearing were reviewed with the Appellant who was then sworn in. Exhibits were marked and admitted in evidence with no objection from the Appellant. The Appellant testified.

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

Exhibit 1:	Appeal Case Information from Schedule HC.	(1 P).
Exhibit 2:	Statement of Grounds for Appeal 2022 Signed by Appellant on 12/11/2023.	(2 PP).
Exhibit 2(a):	Appellant's Statement in Support of Appeal dated 11/15/202.	(1 P).
Exhibit 2(b):	Documents including handbook parts 1 Staff Health Insurance Fund.	(65 PP).
Exhibit 2(c):	Documents including handbook parts 2: Schedule of Benefits.	(10 PP).
Exhibit 3:	Health Connector's Notice of Hearing dated 3/13/2024.	(2 PP).

FINDINGS OF FACT

The record shows, and I so find:

1. The Appellant filed a 2022 Massachusetts tax return, was single, age 22 in 2022, had 0 dependents in 2022, and lived in Plymouth County. (Exhibit 1).
2. The Appellant testified his Employer offered Employer Sponsored Insurance (ESI) but he had superior coverage under his Father's retired employer's plan (Plan) that did not meet the meet minimal credible coverage ("MCC") standards for Massachusetts residents. (Appellant Testimony, Exhibit 2(b)).
3. The Appellant was enrolled in a non-minimal credible coverage ESI 2022 with the cost of approximately \$260 per month. (Testimony of Appellant, Exhibit 2(a)).
4. The Appellant testified that the Plan is not on the list of approved providers and that it is possible for him to pay more than the maximum amount defined by the State [of Massachusetts]. (Testimony of Appellant, Exhibit 2(a)-(c)).
5. The Plan is through the Staff Health Insurance Plan (SHIF) of the International Labour Organization in Geneva Switzerland. (Exhibit 2(a-c)).

6. The Appellant referenced a summary of benefits of the Plan from 2018 including 80% coverage for medical, prescriptions, dental and optical coverage, “insurance everywhere, select providers and facilities.” (Exhibit 2(a)).
7. The Appellant’s Federal Adjusted Gross Income for 2022 was \$30,760. (Exhibit 1).
8. The Appellant has been assessed a tax penalty for twelve (12) months in 2022. The Appellant has appealed this assessment (Exhibits 1, 2).
9. According to Table 3, the Appellant could have afforded \$107.66 per month for health insurance in 2022. According to Table 4, the Appellant could have purchased insurance for \$277 per month.
10. The Appellant’s testified this was not a financial hardship issue. (Appellant’s Testimony, Exhibit 2(a)).
11. In addition to the foregoing, I take administrative notice of the 2022 Schedule HC Instructions and Worksheets, available at <http://www.mass.gov.dor/docs/dor/health-care/2022>, and in particular, Tables 1-6 which, as discussed below, include the Affordability Schedule and other financial information used in making 2022 individual mandate tax penalty determinations.

ANALYSIS AND CONCLUSIONS OF LAW

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

The Appellant submitted grounds with his appeal that during 2022: he had health insurance that didn’t meet minimum creditable coverage standards and that e he had adequate and better coverage through his Father’s retirement health plan, and his circumstances prevented him from buying other insurance that met the requirements. ((Exhibits 2, 2(a)-(c) and Appellants’ Testimony).

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

The Connector’s regulations define Health Benefit Plan as any policy of health issued in any state within the United States or America other than the Commonwealth by an insurer that is licensed or other statutorily authorized to transact business in another state. See 956 CMR 6.05, Heath Benefit Plan.

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

The evidence provided by the Appellant established that his income for 2022, \$30,766 was less than 300% of the federal poverty level, which for 2022 was \$ 38,640 for an individual with a family size of one (1). According to Table 3 of Schedule HC for 2022, the Appellant could have afforded \$107.66 per month. According to Table 4, the Appellant, age 22, and with 0 dependents and living in Plymouth County during the time he was being penalized for not having insurance, could have purchased insurance for \$277.00 per month. Individual coverage was not affordable through the individual market for the Appellant in 2022 (Schedule HC for 2022).

The next issue to consider is whether the Appellant had access to affordable employer health insurance (“ESI”). The Appellant credibly testified that health insurance was offered through his employer, but that he did not know the cost. (Appellant’s Testimony). See 956 CMR 12.05 and 45 CFR section 155.305 (f)(1)(ii)(B). Pursuant to 26 IRC section 36B and 45 CFR section 155.305(f), applicants are eligible for an Advanced Premium Tax Credit (APTC) if they meet qualifying income levels and other eligibility requirements. Massachusetts residents may also be eligible for additional state premium assistance through the Health Connector’s ConnectorCare program if: a) their household income does not exceed 300 percent of the Federal Poverty Level (FPL) and b) they are eligible for an APTC. 956 CMR 12.09(1). An applicant who has access to other qualifying health insurance, including insurance through an employer, will be blocked from eligibility for an APTC if the coverage is affordable and meets minimum value standards, as those terms are defined by the law. See 26 CFR section 1.36B-2(c)(3). Coverage for plan year 2022 is considered to be affordable if the employee’s contribution for an individual plan is 9.61 percent or less of the employee’s projected household modified adjusted income (MAGI). Based upon the facts summarized above, I find that the Appellant had access to ESI.

As referenced above, the Appellant testified that purchasing ESI or other affordable public insurance was not a hardship issue, and that the coverage he was receiving under his father’s retirement plan was superior than other health insurance plans. (Exhibit 2(a)-(c)). However, I find that the Appellant has not met his burden that the coverage he was receiving met the regulations that the policy was issued in any state within the United States or America other than the Commonwealth by an insurer that is licensed or other statutorily authorized to transact business in another state. See 956 CMR 6.05, Heath Benefit Plan. However, in order to mitigate the harshness of a full penalty, and based based upon the facts summarized and on the totality of the evidence, it is concluded that the Appellant’s request for a waiver from the penalty is **approved in part**. 956 CMR 6.08 (1), (a), (e) & (3).

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

PENALTY ASSESSED

Number of Months Appealed: 12 Number of Months Assessed: 2

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

NOTIFICATION OF YOUR RIGHT TO APPEAL TO COURT

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

Cc: Connector Appeals Unit

Hearing Officer

ADDENDUM

If the Appellant still does not have health insurance, and if his income and employment have not changed, 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.

Appeal Decision: The penalty is overturned in full

Hearing Issue: Appeal of the 2022 Tax Year Penalty

Hearing Date: April 17, 2024

Decision Date: April 24, 2024

AUTHORITY

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

JURISDICTION

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

HEARING RECORD

The Appellant appeared at the hearing, which was held by telephone on April 17, 2024. The procedures to be followed during the hearing were reviewed with the Appellant who was then sworn in. Exhibits were marked and admitted in evidence with no objection from the Appellant. The Appellant testified.

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

Exhibit 1:	Appeal Case Information from Schedule HC.	(1 P).
Exhibit 2:	Statement of Grounds for Appeal 2022 Signed by Appellant on 12/19/2023.	(2 PP).
Exhibit 2(a):	Appellant's Statement in Support of Appeal	(1 P).
Exhibit 3:	Health Connector's Notice of Hearing dated 3/13/2024.	(2 PP).

The record shows, and I so find:

1. Appellant, who filed a 2022 Massachusetts tax return filed head of household single with a family size of 2, was age 50 in 2022, lived in Essex County, and had one (1) dependent. (Exhibit 1).
2. Appellant's Federal Adjusted Gross Income for 2022 was \$44,784. (Exhibit 1).
3. Appellant testified he was the only employee and did not have access to Employer Sponsored Insurance ("ESI"). (Appellant's Testimony).

4. The Appellant testified he looked into obtaining Connectorcare and public insurance but it was too expensive (approximately \$700 a month) given he had other financial obligations and bills that he had to pay that would preclude him from purchasing health insurance. (Appellant's Testimony).
5. The Appellant's testified that he has attempted to obtain MassHealth but makes too much money. (Appellant's Testimony).
6. According to Table 3 Appellant could have afforded \$276.16 per month for health insurance in 2022. According to Table 4 Appellant could have purchased insurance for \$422.00 per month.
7. The Appellant would have been eligible for ConnectorCare coverage in 2022 because the Appellant's income was less than 300% of the poverty level, which was \$52,250.00 for a family size of two(2). (See Table 2 of Schedule HC 2022, Appellant's Testimony).
8. The Appellant's testified that his monthly living expenses in 2022 included: Mortgage and Escrows for taxes and insurance: \$2,144, Utilities \$260 (Heat-Electric), Car Insurance: \$216, Transportation Costs: \$40 a day for gas: \$1,200 a month, total \$3,820. (Appellant's Testimony).
9. The Appellant testified his approximate monthly net take home pay was \$2,300 or \$2,400 depending on the number of hours he worked at \$20 per hour. (Appellant's Testimony).
10. The Appellant indicated that he has received shutoff notices for essential utilities, and is constantly in arrears owing substantial balances, makes partial payments and has managed to not have the utilities shut off. (Exhibit 2(a), Appellant Testimony).
11. In addition to the foregoing, I take administrative notice of the 2022 Schedule HC Instructions and Worksheets, available at <http://www.mass.gov.dor/docs/dor/health-care/2022>, and in particular, Tables 1-6 which, as discussed below, include the Affordability Schedule and other financial information used in making 2022 individual mandate tax penalty determinations.

ANALYSIS AND CONCLUSIONS OF LAW

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

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

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

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

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

The evidence provided by the Appellant established that his income for 2022, \$44,784 was less than 300% of the federal poverty level, which for 2022 was \$52,260.00 for a head of household with one (1) dependent. According to Table 3 of Schedule HC for 2022, the Appellant could have afforded \$ 276.16 per month. According to Table 4, Appellant, age 50 and living in Essex County during the time he was being penalized for not having insurance, could have purchased insurance for \$422 per month. Individual coverage was not affordable through the individual market for the Appellant in 2022 (Schedule HC for 2022).

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

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

I find the Appellant’s testimony credible that he was not able to purchase insurance at \$276.16 per month given his net monthly income of approximately \$2,300 and the cost of his monthly basic necessities of approximately \$2,620, excluding the gas and transportation costs of \$40 a day for gas,

which would increase his monthly expenses to \$3,820. (Appellant Testimony). Accordingly, I find that the Appellant met the hardship criteria, and that purchasing health insurance would have caused the Appellant to experience financial hardship. 956 CMR 6.08 (1) (e) & (3). Accordingly, the Appellant's assessed tax penalty of twelve (12) months is waived in full for these reasons.

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

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

PENALTY ASSESSED

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

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

NOTIFICATION OF YOUR RIGHT TO APPEAL TO COURT

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

Cc: Connector Appeals Unit

Hearing Officer

ADDENDUM

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

FINAL APPEAL DECISION: PA23-5

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

Hearing Issue: Appeal of the 2023 Tax Year Penalty

Hearing Date: April 16, 2024

Decision Date: April 27, 2024

AUTHORITY

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

JURISDICTION

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

HEARING RECORD

Appellant filed his 2023 tax return as Single with no dependents. Appellant appeared at the hearing. The Hearing was held by telephone, on April 16, 2024. The procedures to be followed during the hearing were reviewed with Appellant who was then sworn in. Exhibits were marked and admitted into evidence with no objection from Appellant. The hearing record consists of the Appellant's testimony and the following documents which were admitted into evidence:

- Exhibit 1: Health Connector Appeals Unit Notice of Hearing dated March 13, 2024.
- Exhibit 2: Appeal Case Information from Schedule HC 2023.
- Exhibit 3: Statement of Grounds for Appeal dated February 15, 2024 with attachments.

FINDINGS OF FACT

The record shows, and I so find:

1. Appellant was age 33 in January 2023, and he filed his Federal Income Tax return as Single with no Dependents (Exhibit 2).
2. The Appellant lived in Bristol County in 2023 (Exhibit 2, 3 and Appellant Testimony).
3. The Appellant's Federal Adjusted Gross Income for 2023 was \$31,430 (Exhibit 2).
4. Appellant has been assessed a six-month tax penalty for 2023 (Exhibit 2).
5. I take administrative notice of the financial information set forth in Tables 1 through 6 in the DOR 2023 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 2023. Table 2 sets forth income at 300% of the Federal poverty level and Tables 5 and 6 set forth tax penalties in effect for 2023.

6. In accordance with Table 3 of Schedule HC for 2023, the Appellant filing his Federal Tax return as Single with no dependents, with an annual adjusted gross income of \$31,430 could afford to pay \$107 per month for health insurance. In accordance with Table 4, Appellant, age 33 living in Bristol County, could have purchased private insurance for \$326 per month. Private insurance was not affordable for Appellant.
7. Appellant testified that he was employed full time until March of 2023 and his employer provided a health insurance plan. He lost health insurance and began collecting unemployment compensation insurance upon the loss of his full-time employment. He stated his unemployment compensation insurance ended sometime in October of 2023. He testified that he did inquire to the Massachusetts HealthConnector website, but found the quotes too expensive based on his income. He further added that he did not inquire as to MassHealth eligibility. He further testified that he does not currently have health insurance (Appellant Testimony and Exhibit 3).
8. The Appellant's income was less than 300% of the federal poverty level, which was \$40,770 for a household of one in 2023 (See Table 2 of Schedule HC-2023 and 956 CMR 12.04). (Exhibit 2).
9. Appellant estimated his monthly living expenses in 2023 approached \$2,000 - including rent. He testified that his income was low while on unemployment compensation insurance, which left very little of his take home income for living expenses, thus paying for health insurance was not an option for him (Appellant Testimony).

ANALYSIS AND CONCLUSIONS OF LAW

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

Any health insurance policy must also satisfy the Massachusetts Minimum Credible Coverage (MCC) requirement to avoid the tax penalty. Mass. Gen. Laws c. 111M, sec. 2(b). In addition to financial

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

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

In accordance with Table 3 of Schedule HC for 2023, the Appellants filing his Federal tax return as Single, with no dependents claimed and with an adjusted gross income of \$31,430, could afford to pay \$107 per month for health insurance. According to Table 4, Appellant age 33, living in Bristol County, could have purchased a private insurance plan for \$326 a month. See Schedule HC for 2023. Private insurance was not affordable for the Appellants in tax year 2023.

The Appellant would have been eligible for ConnectorCare coverage based upon his income that was less than 300% of the federal poverty level which was \$40,770 for a household of one in 2023. See Table 2 of Schedule HC 2023 and 956 CMR 12.04 for eligibility criteria. Appellant would not have qualified for MassHealth based on the income requirements in 2023.

Appellant testified credibly that he had health insurance for some of 2023 and lost his full-time job in March of 2023. He further stated that he collected unemployment compensation until October of 2023. Appellant testified that in 2023 he had monthly living expenses close to \$2,000, which consumed most of his net income. He provided evidence to support his monthly bills including a weekly estimate of expenses, a rent increase letter from his landlord, and documents to support his monthly income. He credibly testified that he searched the HealthConnector site, but did not pursue this option due to not being able to afford any health insurance plan premium quotes he received. Private insurance was not an option for him due to its expense versus what he could afford (\$326 and \$107 respectively).

In light of these facts, I find that purchasing a health insurance policy by Appellant in 2023 would have resulted in an economic hardship. The penalty for 2023 of six months is therefore waived in its entirety.

The Appellants should note that the waiver of their penalty is based upon the facts that I have determined to be true in 2023. The Appellant should not assume that a similar determination will be made for subsequent tax years should they again be assessed a penalty for failure to have health insurance.

PENALTY ASSESSED

Number of Months Appealed: 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 2023.

NOTIFICATION OF YOUR RIGHT TO APPEAL TO COURT

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

Cc: Connector Appeals Unit

FINAL APPEAL DECISION: PA23-6

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

Hearing Issue: Appeal of the 2023 Tax Year Penalty

Hearing Date: April 16, 2024

Decision Date: April 27, 2024

AUTHORITY

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

JURISDICTION

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

HEARING RECORD

Appellant filed his 2023 tax return as Single with no dependents. Appellant appeared at the hearing. The Hearing was held by telephone, on April 16, 2024. The procedures to be followed during the hearing were reviewed with Appellant who was then sworn in. Exhibits were marked and admitted into evidence with no objection from Appellant. The hearing record consists of the Appellant's testimony and the following documents which were admitted into evidence:

Exhibit 1: Health Connector Appeals Unit Notice of Hearing dated March 13, 2024.

Exhibit 2: Appeal Case Information from Schedule HC 2023.

Exhibit 3: Statement of Grounds for Appeal dated February 16, 2024.

FINDINGS OF FACT

The record shows, and I so find:

1. Appellant was age 59 in January 2023, and he filed his Federal Income Tax return as Single with no Dependents (Exhibit 2).
2. The Appellant lived in Suffolk County in 2023 (Exhibit 2, 3 and Appellant Testimony).
3. The Appellant's Federal Adjusted Gross Income for 2023 was \$112,987 (Exhibit 2).
4. Appellant has been assessed a twelve-month tax penalty for 2023 (Exhibit 2).
5. I take administrative notice of the financial information set forth in Tables 1 through 6 in the DOR 2023 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 2023. Table 2 sets forth income at 300% of the Federal poverty level and Tables 5 and 6 set forth tax penalties in effect for 2023.

6. In accordance with Table 3 of Schedule HC for 2023, the Appellant filing his Federal Tax return as Single with no dependents, with an annual adjusted gross income of \$112,987 could afford to pay \$753 per month for health insurance. In accordance with Table 4, Appellant, age 59 living in Suffolk County, could have purchased private insurance for \$490 per month. Private insurance was affordable for Appellant.
7. Appellant testified that he was employed full time in 2023 and estimated his salary from this position at \$72,000 to \$73,000. He said the remainder of his Adjusted Gross Income consisted of gambling winnings in 2023. He credibly testified that his gambling losses were significantly more in 2023, but he was not allowed to claim all of his losses. He testified that his employer provided a health insurance plan and he chose not to participate, because it was too costly (\$400 to \$600 a month). He said he did inquire to the Massachusetts HealthConnector website, but was informed by letter that he did not qualify due to his income. He stated he does not currently have health insurance. He further stated he is living in a friend's recreational vehicle, for which he pays rent, after being asked to leave his apartment by his roommate for failure to pay rent (Appellant Testimony).
8. The Appellant's income was more than 300% of the federal poverty level, which was \$40,770 for a household of one in 2023 (See Table 2 of Schedule HC-2023 and 956 CMR 12.04). (Exhibit 2).
9. Appellant estimated that his monthly living expenses in 2023 exceeded \$2,000 - including rent. He testified that he paid the Internal Revenue Service over \$2,000 for tax year 2023. He further testified to personal problems over the past year and anticipates losing his job in the near future – due to his employer relocating (Appellant Testimony).

ANALYSIS AND CONCLUSIONS OF LAW

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

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

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

In accordance with Table 3 of Schedule HC for 2023, the Appellants filing his Federal tax return as Single, with no dependents claimed and with an adjusted gross income of \$112,987, could afford to pay \$753 per month for health insurance. According to Table 4, Appellant age 59, living in Suffolk County, could have purchased a private insurance plan for \$490 a month. See Schedule HC for 2023. Private insurance was affordable for the Appellants in tax year 2023.

The Appellant would not have been eligible for ConnectorCare coverage based upon his income that was more than 300% of the federal poverty level which was \$40,770 for a household of one in 2023. See Table 2 of Schedule HC 2023 and 956 CMR 12.04 for eligibility criteria. Appellant would not have qualified for MassHealth based on the income requirements in 2023.

Appellant testified that his employer provided a health care benefit to employees that he chose not to participate in and which he estimated the cost at \$400 to \$600 monthly. He testified further that he inquired to the HealthConnector and was told he was not eligible due to his salary. He said he did not make inquires into private sector health insurance.

Appellant testified that he had gambling winnings and losses in 2023 which reflect a larger AGI than his full-time salary. He further testified to personal problems that resulted in his losing his apartment and moving into a friend's recreational vehicle. He also stated that he had a large debt to the IRS and had monthly expenses in excess of \$2,000 in 2023.

Appellant could have opted to participate in his employer's health insurance benefit, but chose not to. He could afford private health insurance, but chose not to purchase any. He did not testify to any circumstances that would demonstrate a financial hardship by purchasing a health care plan. However, he did testify to circumstances that demonstrate overall hardship and could affect his ability to prioritize important life decisions.

In light of these facts, I am exercising my discretion as the Hearing Officer and partially waiving the penalty. The penalty for 2023 of twelve months is reduced to nine months.

The Appellants should note that the partial waiver of his penalty is based upon the facts that I have determined to be true in 2023. The Appellant should not assume that a similar determination will be

made for subsequent tax years should he again be assessed a penalty for failure to have health insurance.

PENALTY ASSESSED

Number of Months Appealed: 12 Number of Months Assessed: 9

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 2023.

NOTIFICATION OF YOUR RIGHT TO APPEAL TO COURT

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

Cc: Connector Appeals Unit

FINAL APPEAL DECISION: PA23-7

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

Hearing Issue: Appeal of the 2023 Tax Year Penalty

Hearing Date: April 16, 2024

Decision Date: April 30, 2024

AUTHORITY

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

JURISDICTION

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

HEARING RECORD

Appellant filed her 2023 tax return as Head of Household with two dependents. Appellant appeared at the hearing. The Hearing was held by telephone, on April 16, 2024. The procedures to be followed during the hearing were reviewed with Appellant who was then sworn in. Exhibits were marked and admitted into evidence with no objection from Appellant. The hearing record consists of the Appellant's testimony and the following documents which were admitted into evidence:

Exhibit 1: Health Connector Appeals Unit Notice of Hearing dated March 13, 2024.

Exhibit 2: Appeal Case Information from Schedule HC 2023.

Exhibit 3: Statement of Grounds for Appeal dated February 17, 2024.

FINDINGS OF FACT

The record shows, and I so find:

1. Appellant was age 48 in January 2023, and he filed her Federal Income Tax return as Head of Household with two Dependents (Exhibit 2).
2. The Appellant lived in Plymouth County in 2023 (Exhibit 2, 3 and Appellant Testimony).
3. The Appellant's Federal Adjusted Gross Income for 2023 was \$73,145 (Exhibit 2).
4. Appellant has been assessed a twelve-month tax penalty for 2023 (Exhibit 2).
5. I take administrative notice of the financial information set forth in Tables 1 through 6 in the DOR 2023 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 2023. Table 2 sets forth income at 300% of the Federal poverty level and Tables 5 and 6 set forth tax penalties in effect for 2023.

6. In accordance with Table 3 of Schedule HC for 2023, the Appellant filing her Federal Tax return as Head of Household with two dependents, with an annual adjusted gross income of \$73,145 could afford to pay \$454 per month for health insurance. In accordance with Table 4, Appellant, age 48 living in Plymouth County, could have purchased private insurance for \$1,000 per month (Family plan). Private insurance was not affordable for Appellant.
7. Appellant testified that she was employed full time in 2023 and stated her employer did provide a health insurance benefit to employees, but it was too expensive for her (\$400 a month). She said she did inquire to the Massachusetts HealthConnector website (although she said it could have been MassHealth), but said the quote she received (\$274) was unaffordable for her. She stated she does now have health insurance, as does her 12 year old daughter through the HealthConnector (Appellant Testimony and Exhibit 3).
8. The Appellant's income was more than 300% of the federal poverty level, which was \$69,090 for a household of three in 2023 (See Table 2 of Schedule HC-2023 and 956 CMR 12.04). (Exhibit 2).
9. Appellant testified her income fluctuated from pay period to pay period and estimated that her monthly living expenses in 2023 exceeded \$3,000 - including a mortgage payment. She further testified that her parents moved into her home toward the end of 2023 and contribute a small amount towards expenses. (Appellant Testimony).

ANALYSIS AND CONCLUSIONS OF LAW

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

Any health insurance policy must also satisfy the Massachusetts Minimum Credible Coverage (MCC) requirement to avoid the tax penalty. Mass. Gen. Laws c. 111M, sec. 2(b). In addition to financial hardship, the Connector may also consider the extent to which insurance obtained deviated from or

substantially met minimum creditable coverage standards when determining if a penalty should be waived. See 956 CMR 6.08(2)(d).

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

In accordance with Table 3 of Schedule HC for 2023, the Appellants filing her Federal tax return as Head of Household, with two dependents claimed and with an adjusted gross income of \$73,145, could afford to pay \$454 per month for health insurance. According to Table 4, Appellant age 48, living in Plymouth County, could have purchased a private insurance plan for \$1,000 a month. See Schedule HC for 2023. Private insurance was not affordable for the Appellant in tax year 2023.

The Appellant would not have been eligible for ConnectorCare coverage based upon her income that was more than 300% of the federal poverty level which was \$69,090 for a household of three in 2023. See Table 2 of Schedule HC 2023 and 956 CMR 12.04 for eligibility criteria. Appellant would not have qualified for MassHealth based on the income requirements in 2023.

Appellant testified that her employer provided a health care benefit to employees that she chose not to participate in and which she estimated the cost at \$400 monthly. She testified further that she inquired to the HealthConnector and was provided a quote she could not afford and stated she searched the internet for affordable plans and found none.

Appellant testified that her elderly parents moved into her home with her in 2023 and although they contribute a small amount towards expenses it has added financial burdens on her. In addition, she stated she has a twelve year old daughter for whom she has full custody.

Appellant testified credibly that she found her employer's plan too expensive as well as the quote she received from the Health Connector in 2023. She added that this year she finally purchased a health insurance plan through the HealthConnector after many years of being uninsured. She testified to monthly expenses over \$3,000 and that her parents moved in with her in 2023.

In light of these facts, I have determined that none of the health insurance options available to Appellant were affordable, thus purchasing a health insurance plan by Appellant would result in an economic hardship. The penalty for 2023 of twelve months is waived in its entirety.

The Appellant should note that the partial waiver of her penalty is based upon the facts that I have determined to be true in 2023. The Appellant should not assume that a similar determination will be made for subsequent tax years should she again be assessed a penalty for failure to have health insurance.

PENALTY ASSESSED

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

If the number of months assessed is zero (0) because your penalty has been overturned, the Connector has notified the Department of Revenue that you should NOT be assessed a penalty for Tax Year 2023.

NOTIFICATION OF YOUR RIGHT TO APPEAL TO COURT

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

Cc: Connector Appeals Unit

Massachusetts Health Connector Appeals Unit

Tax Penalty Appeal Decision—Docket No. PA23-23

Appeal Decision: Appeal Approved -- 2023 tax penalty overturned.

Hearing Issue: Appeal of the 2023 Tax Year Penalty

Hearing Date: May 2, 2024

Decision Date: May 5, 2024

AUTHORITY

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

JURISDICTION

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

HEARING RECORD

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

1. DOR Appeal Case Information from Schedule HC (1 page);
2. Appellant’s Statement of Grounds for Appeal – 2023; and
3. Health Connector’s Notice of Hearing (2 pages).

FINDINGS OF FACT

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

1. The Appellant appealed from the Department of Revenue’s assessment of a 3 month penalty for 2023. The basis for the penalty was that the Appellant was

insured for the months of January – June (6 months) but was not insured for the months of July – December 2023 (6 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 6 months insured = 6 months uninsured minus 3-month administrative grace period = 3 penalty months.)

2. The Appellant filed a Massachusetts personal income tax return for 2023 as a Head of Household with 2 dependents. The Appellant’s federal adjusted gross income (AGI) for 2023 was \$61,271. Exhibit 1.
3. The Appellant was 41 years old at the beginning of 2023 and resided in [name of city or town omitted] in Plymouth 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 2023. DOR Table 1.
5. The Appellant’s 2023 AGI (\$61,271) was less than 300% of the federal poverty level (\$69,090 for a three-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. (I note that the Health Connector did not participate in the appeal, so I do not have any factual information from the Health Connector beyond the information set forth by the Department of Revenue in Exhibit 1, above. The Appellant did not supply any documents or narrative to support the appeal, so her testimony at the appeal hearing is the only source of information apart from the DOR Tables.)
6. Based on DOR Table 3 (married filing jointly with two or more dependents) the Appellant could afford to pay 5.85 % of her income -- or \$299 per month -- for health insurance coverage in 2023. (The calculation is 5.85% multiplied by \$61,271 AGI = \$ 3,584.35 per year divided by 12 months = \$298.69 per month.)
7. Based on DOR Table 4 (Region 2) the Appellant could obtain individual health insurance coverage at her age and location for \$358 per month in 2023. There would be an additional monthly premium to insure her two children (a son in high school and a daughter in college).

8. The Appellant was insured through the Health Connector for the months of January - June 2023. The Appellant was unable to pay the premium for the following months coverage. At some point the Appellant's tender of the monthly premium was rejected by the Health Connector. The Health Connector informed the Appellant that she would have to wait until the next open enrollment period to resume her health insurance coverage. The Appellant's understanding was that she would be required to pay \$500. Testimony. (See my parenthetical note at paragraph 5, above).
9. The Appellant's living expenses include \$1,800 per month for rent. She is not behind in her gas and electric utility payments. She owes \$585 per month for car payments (she had to replace her car after an accident) and \$140 per month for car insurance. Groceries are a major expense (\$300 per week) with a teenage son and recent price increases. Her two credit cards are limited to \$203 and \$320 per month. Testimony.
10. Except as set forth in the foregoing findings of fact, I adopt the facts set forth in Exhibit 1 as my own findings of fact. Exhibit 1 is a computer printout prepared by the Massachusetts Department of Revenue (DOR) that extracts information submitted by the Appellant on Schedule HC as part of the Appellant's 2023 Massachusetts income tax return.
11. I take administrative notice of the financial information set forth in Tables 1 through 6 of the DOR 2023 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 2023. 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 2023 income eligibility standard for the ConnectorCare government subsidized health insurance program. Tables 5 and 6 set forth the tax penalties in effect for 2023. (The DOR instructions are published online at <http://www.mass.gov/dor/2023ScheduleHCInstructions> 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 2023.)

ANALYSIS AND CONCLUSIONS OF LAW

The case is before me on the Appellant's appeal from the state Department of Revenue's (DOR) assessment of a 3 month tax penalty because the Appellant did not have health insurance coverage in 2023. 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 – 2023 that the Appellant signed and filed in this case. See Exhibit 2.

In this case, the Appellant was insured at the beginning of 2023 (January – June) when she fell behind in her monthly premium payments that she felt she could not afford to pay. The Health Connector then declined to accept her late payment and informed the Appellant that she could not renew her coverage until after the open enrollment period in late 2023.

The Appellant could not afford health insurance under the objective standards set forth in DOR Tables 3 and 4. On her income the Appellant could afford to pay \$299 per month for health insurance that would cost \$358 per month for individual coverage for herself (and more for her children). See Findings of Fact, Nos. 6 and 7, above. See also Findings of Fact, No. 5, above.

The grocery bills for her teenage son place a stress on the Appellant’s budget, though she has generally stayed up-to-date with her living expenses. The low maximums on her two credit cards reflect her tight budget. See Findings of Fact, No. 9, above.

After considering all the circumstances, I conclude that it is appropriate to waive the entire penalty assessed against the Appellant for 2023. See, e.g., 956 Code Mass. Regs. 6.08 (1) (e). The Appellant needs to develop a plan so that she can obtain health insurance in future periods, as required by law. **See my Recommendation below.**

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 2023 for the amount equal to one half of the lowest cost health insurance plan available to you for each month you have been assessed the penalty, as listed above, plus applicable interest back to the due date of the return without regard to extension.

OR

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

NOTIFICATION OF YOUR RIGHT TO APPEAL TO COURT

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

Hearing Officer

Cc: Massachusetts Health Connector Appeals Unit

RECOMMENDATION. As you describe them, your efforts to reinstate insurance coverage with the Health Connector have not been successful to date.

My suggestion is that you obtain advice from HEALTH CARE FOR ALL, a private, non-profit organization that is separate from the government. You can use the free telephone hotline at 1-800-272-4232 and/or the website at www.hcfama.org. Make sure you gather the relevant papers and information to share with HCFA. After this consultation you should be prepared to return to the Health Connector.

FINAL APPEAL DECISION: PA 23-60

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

Hearing Issue: Appeal of the 2023 Tax Year Penalty

Hearing Date: May 6, 2024

Decision Date: May 30, 2024

AUTHORITY

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

JURISDICTION

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

HEARING RECORD

The Appellant’s household consists of a Husband and Spouse (“Appellant or Appellants”) who both appeared at the hearing, which was held by telephone on May 6, 2024. The procedures to be followed during the hearing were reviewed with the Appellant and her Spouse who were then sworn in. Exhibits were marked and admitted in evidence with no objection from the Appellant. The Appellants 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 2023 Signed by Appellant on 3/2/2024. (2 PP).
- Exhibit 2(a): Appellant’s Statement in Support of Appeal dated 3/2/2024. (1 P).
- Exhibit 2(b): Documents including Expenses submitted in Support of Appeal. 3/2/2024 (1 P).
- Exhibit 3: Health Connector’s Notice of Hearing dated 4/17/2024. (2 PP).

The record shows, and I so find:

1. Appellants, married filing filed a 2023 Massachusetts tax return filed with a family size of 2, were ages 36 and 30 a in 2023, lived in Hampen County, and had zero (0) dependents. (Exhibit 1).
2. Appellants’ Federal Adjusted Gross Income for 2023 was \$30,345. (Exhibit 1).
3. The Appellant Husband testified they moved to Massachusetts in August 2023 for his education and that his Spouse (who is being penalized for two (2) months) was unable to find a job. (Appellant Testimony, Exhibits 1, 2(a)).

4. The Appellant Husband testified that he had coverage under his VA Health Insurance Employer Health Insurance for no cost, but his Spouse was not eligible. (Appellant Testimony, Exhibit 2(a)).
5. The Appellant testified that his Spouse had ESI prior to moving to Massachusetts. (Appellant Husband Testimony).
6. The Appellant testified that he and his Spouse, who is being penalized, did not investigate obtaining coverage through the Connector. (Appellant Husband Testimony).
7. According to Table 3 Appellant could have afforded \$103.68 per month for health insurance in 2023. According to Table 4 Appellant could have purchased an individual plan insurance for \$351.00 per month. (See Tables 3 and 4 of Schedule HC 2023).
8. The Appellants would have been eligible for ConnectorCare coverage in 2023 because the Appellants income was less than 300% of the poverty level, which was \$52,260.00 for a family of (2). (See Table 2 of Schedule HC 2023).
9. The Appellants testified that their monthly living expenses in 2022 included: Rent: \$2,000, Utilities \$200, Car Insurance: \$330, Transportation Costs: \$300: Food: \$500, and Cell Phone: \$70, totaling \$3,400. (Appellants' Testimony).
10. The Appellant testified their monthly net take home pay was \$3,200 and they had to use their savings to pay their basic monthly expenses. (Appellant Husband's Testimony).
11. In addition to the foregoing, I take administrative notice of the 2023 Schedule HC Instructions and Worksheets, available at <http://www.mass.gov.dor/docs/dor/health-care/2023>, and in particular, Tables 1-6 which, as discussed below, include the Affordability Schedule and other financial information used in making 2023 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 2023 should be waived, either in whole or in part. Appellant Spouse has been assessed a tax penalty for two (2) months in 2023. Appellants have appealed the penalty. (See Exhibits 1 and 2).

The Appellants submitted a statement of grounds for appeal (Ex. 2) with the appeal that during 2023 that the individual mandate did not apply to them because the expense of purchasing health insurance during 2022 would have caused them a deprivation of food and other necessities and a financial hardship as defined in 956 CMR 6.08. (Appellants' Testimony, Exhibits 2(a)).

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

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

To determine if 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 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 Appellants established that their income for 2023, \$30,345 was less than 300% of the federal poverty level, which for 2023 was \$40,770 for a family of two (2). According to Table 3 of Schedule HC for 2023, the Appellants could have afforded \$103.68 per month. According to Table 4, Appellants, ages 30 and 36 and living in Hampden County during the time they were being penalized for not having insurance, could have purchased an individual insurance plan for the Spouse at \$351 per month. Individual coverage was not affordable through the individual market for the Appellants in 2023 (Schedule HC for 2023).

The next issue to consider is whether the Appellants had access to affordable employer health insurance (“ESI”) in 2023. The Appellant Husband testified that he had access to VA Health Insurance but his Spouse did not, and that his Spouse was unable to find employment. (Appellants’ Testimony, Exhibit 2). Pursuant to 26 IRC section 36B and 45 CFR section 155.305(f), applicants are eligible for an Advanced Premium Tax Credit (APTC) if they meet qualifying income levels and other eligibility requirements. Massachusetts residents may also be eligible for additional state premium assistance through the Health Connector’s ConnectorCare program if: a) their household income does not exceed 300 percent of the Federal Poverty Level (FPL) and b) they are eligible for an APTC. 956 CMR 12.09(1) An applicant who has access to other qualifying health insurance, including insurance through an employer, will be blocked from eligibility for an APTC if the coverage is affordable and meets minimum value standards, as those terms are defined by the law. See 26 CFR section 1.36B-2(c)(3). Coverage for plan year 2023 is considered to be affordable if the employee’s contribution for an individual plan is 9.12 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 Spouse did not have access to affordable ESI (Appellant Testimony, Exhibit 2(a)).

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

I find the Appellants' testimony credible that they were not able to purchase insurance at \$103.68 per month given their net monthly income of approximately \$3,200 and the cost of their monthly basic necessities of approximately \$3,400. (Appellants' Testimony). Accordingly, I find that the Appellants met the hardship criteria, and that purchasing health insurance would have caused the Appellants to experience financial hardship. 956 CMR 6.08 (1) (e) & (3). Accordingly, the Appellants' assessed tax penalty of two (2) months is waived in full for these reasons.

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

Appellant should note that any waiver granted here is for 2023 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. The Appellants are advised to contact the Health Connector regarding obtaining affordable coverage.

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 2023 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, they are 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 23-61

Appeal Decision: The penalty is upheld in part.

Hearing Issue: Appeal of the 2023 Tax Year Penalty

Hearing Date: May 6, 2024

Decision Date: May 30, 2024

AUTHORITY

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

JURISDICTION

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

HEARING RECORD

The Appellant (“Appellant”) appeared at the hearing, which was held by telephone on May 6, 2024. The Appellant’s Spouse did not appear. 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 2023 Signed by Appellant on 2/26/2024. (2 PP).
- Exhibit 2(a): Appellant’s Statement in Support of Appeal dated //2024. (1 P).
- Exhibit 2(b): Summary of Appellant’s and Employer Health Insurance Benefits/Costs (1 P).
- Exhibit 2(c): 1095 reflecting coverage for the Appellant’s Child (2 PP).
- Exhibit 2(d): Appellant’s Spouse’s Coverage Cost (1 P).
- Exhibit 3: Health Connector’s Notice of Hearing dated 4/17/2024. (2 PP).

The record shows, and I so find:

1. The Appellant, married filing jointly filed a 2023 Massachusetts tax return filed with a family size of 3, were ages 29 and 35 in 2023, lived in Hampden County, and had one (1) dependent. (Exhibit 1).
2. The Appellants’ Federal Adjusted Gross Income for 2023 was \$85,340. (Exhibit 1).

3. The Appellant, who is being penalized for seven (7) months, testified that she and her Spouse were both offered Employer Sponsored Insurance (“ESI”). (Testimony).
4. The Appellant’s Spouse, who is not being penalized, was covered by his Employer’s ESI. (Exhibit 1, Testimony).
5. The Appellant’s testified that their daughter was able to obtain coverage on her Spouse’s ESI after being notified that MassHealth was no longer available. (Testimony).
6. The Appellant testified it was too expensive to obtain ESI from her employer as the individual plan was approximately \$396 per month. (Testimony, Exhibits 2(a), (b), and (d)).
7. The Appellant testified she attempted to obtain coverage through her Spouse’s ESI at the time their daughter became enrolled but was unable to because she did not have a qualifying event and had to wait until 2024. (Testimony).
8. The Appellant did investigate obtaining Connectorcare in 2023 during the time she was uninsured, but the cost was about the same as her Spouse’s plan and she waited for coverage under her Spouse’s plan. (Testimony).
9. I do not give substantial weight to the Appellant’s testimony that she was not familiar with the mandate to have insurance where her daughter was on MassHealth where her Spouse had ESI, and later their child was covered under the Spouse’s ESI. (Testimony, Exhibit 2(a)).
10. According to Table 3 Appellant could have afforded \$540.49 per month for health insurance in 2023. According to Table 4 Appellant could have purchased an individual plan insurance for \$327.00 per month. (See Tables 3 and 4 of Schedule HC 2023).
11. The Appellant would not have been eligible for ConnectorCare coverage in 2023 because the Appellant’s income was more than 300% of the poverty level, which was \$69,090.00 for a family of three (3). (See Table 2 of Schedule HC 2023).
12. The Appellant testified she has insurance in 2024 through her Spouse’s ESI and the premium for a family plan is approximately \$210 Biweekly, or \$455 per month. (Testimony).
13. In addition to the foregoing, I take administrative notice of the 2023 Schedule HC Instructions and Worksheets, available at <http://www.mass.gov/dor/docs/dor/health-care/2023>, and in particular, Tables 1-6 which, as discussed below, include the Affordability Schedule and other financial information used in making 2023 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 2023 should be waived, either in whole or in part. Appellant has been assessed a tax penalty for seven (7) months in 2023. Appellant has appealed the penalty. (See Exhibits 1 and 2).

The Appellant submitted a statement of grounds for appeal (Ex. 2) with the appeal that during 2023 that the individual mandate did not apply to her because of other circumstances. (Exhibits 2(a)-(d), and Appellant Testimony).

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

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

The evidence provided by the Appellant established that their income for 2023, \$85,340 was more than 300% of the federal poverty level, which for 2023 was \$69,090 for a family of three (3). According to Table 3 of Schedule HC for 2023, the Appellant could have afforded \$540.49 per month. According to Table 4, Appellant, ages 29 and 35 in Hampden County during the time they were being penalized for not having insurance, could have purchased an individual insurance plan for \$327 per month. Individual coverage was affordable through the individual market for the Appellant in 2023 (Schedule HC for 2023).

The next issue to consider is whether the Appellant had access to affordable employer health insurance (“ESI”) in 2023. The Appellant testified that she was eligible for ESI from at a cost of \$396 per month from her employer as well as her Spouse’s employer at \$210 biweekly, or \$455 per month. (Testimony, Exhibits 2(a),(b), and (d))). 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 2023 is considered to be affordable if the employee's contribution for an individual plan is 9.12 percent or less of the employee's projected household modified adjusted income (MAGI). In this case, the employee's coverage is \$396 per month, which is less than 9.12% of the Appellant's Adjusted Gross Income of \$85,340. (Testimony). The coverage is considered to meet minimum value standards if it has an actuarial value of at least 60 percent. In this case, as referenced above, the Appellant was eligible for ESI (Appellant Testimony).

I find credible that the Appellant was eligible for affordable ESI, and where her Spouse had purchased a plan for him and their child, the Appellant did not adduce substantial evidence as to why she did not obtain affordable ESI coverage from her, or her Spouse's Employer. Accordingly, the Appellant should have realized that she would need health insurance as part of the Massachusetts mandate. However, where the Appellant was uninsured for seven (7) months in 2023, and is now insured, and in order to mitigate the harshness of a full penalty and based upon the facts summarized and on the totality of the evidence, it is concluded that the Appellant's request for a waiver from the penalty is **denied**. In part

PENALTY ASSESSED

Number of Months Appealed: 7 Number of Months Assessed: 3

The Connector has notified the Department of Revenue that pursuant to its decision, you should be assessed a penalty for Tax Year 2023 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: PA23-62

Appeal Decision: The penalty is overturned in part.

Hearing Issue: Appeal of the 2023 Tax Year Penalty

Hearing Date: May 6, 2024

Decision Date: May 31, 2024

AUTHORITY

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

JURISDICTION

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

HEARING RECORD

The Appellant appeared at the hearing, which was held by telephone on May 6, 2024. The procedures to be followed during the hearing were reviewed with the Appellant who was then sworn in. Exhibits were marked and admitted in evidence with no objection from the Appellant. The Appellant testified.

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

Exhibit 1:	Appeal Case Information from Schedule HC.	(1 P).
Exhibit 2:	Statement of Grounds for Appeal 2023 Signed by Appellant on 6/15/2023.	(2 PP).
Exhibit 2(a):	Appellant's Statement in Support of Appeal dated 3/5/2024.	(1 P).
Exhibit 2(b):	2023 1095 A.	(1 P).
Exhibit 3:	Health Connector's Notice of Hearing dated 4/17/2024.	(2 PP).

The record was left open until May 27, 2024, for the Appellant to submit proof of documentation from her Mother's Employer or Insurer and any other documents showing proof of MCC compliant ESI coverage.

FINDINGS OF FACT

The record shows, and I so find:

1. The Appellant filed a 2023 Massachusetts tax return, was single, age 21 in 2023 had 0 dependents in 2023 and lived in Plymouth County. (Exhibit 1).
2. The Appellant testified she had coverage under her mother's two Employer Sponsored Insurance (ESI) Plan. (Appellant's Testimony, Exhibit 2(b)).
3. The Appellant testified that her mother was changing insurance plans in 2023. (Appellant's Testimony).
4. The Appellant's Federal Adjusted Gross Income for 2023 was \$50,209. (Exhibit 1).
5. The Appellant has been assessed a tax penalty for twelve (12) months in 2023. The Appellant has appealed against this assessment (Exhibits 1, 2).

6. The Appellant credibly testified that she worked at two restaurants and that health insurance was not offered through her employers. (Appellant's Testimony).
7. The Appellant credibly testified that she did not investigate the Connectorcare because she thought she had coverage. ((Appellant's Testimony).
8. According to Table 3, the Appellant could have afforded \$317.99 per month for health insurance in 2023. According to Table 4, the Appellant could have purchased insurance for \$312 per month.
9. The Appellant's testified she lived at home in 2023 and this was not a financial hardship issue. (Appellant's Testimony, Exhibit 2).
10. The Appellant was advised to contact the Connector about obtaining insurance in 2024 if she is not covered by her mother's health insurance.
11. In addition to the foregoing, I take administrative notice of the 2023 Schedule HC Instructions and Worksheets, available at <http://www.mass.gov/dor/docs/dor/health-care/2023> and in particular, Tables 1-6 which, as discussed below, include the Affordability Schedule and other financial information used in making 2023 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 2023 should be waived, either in whole or in part. Appellant has been assessed a tax penalty for twelve (12) months in 2023. Appellant has appealed the penalty. (See Exhibits 1 and 2).

The Appellant submitted grounds with his appeal that during 2023: she had health insurance that met minimum creditable coverage standards through her Mother's ESI. ((Exhibits 2, 2(a)-(c) and Appellants' Testimony).

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

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

The evidence provided by the Appellant established that her income for 2023: \$50,209 was more than 300% of the federal poverty level, which for 2023 was \$40,770 for an individual with a family size of one (1). According to Table 3 of Schedule HC for 2023 the Appellant could have afforded \$317.99 per month. According to Table 4, the Appellant, age 21, and with 0 dependents and living in Plymouth County during the time she was being penalized

for not having insurance, could have purchased insurance for \$312.00 per month. Individual coverage was affordable through the individual market for the Appellant in 2023 (Schedule HC for 2023).

The next issue to consider is whether the Appellant had access to affordable employer health insurance (“ESI”). The Appellant credibly testified that she worked at two restaurants and that health insurance was not offered through her employer. (Appellant’s Testimony). See 956 CMR 12.05 and 45 CFR section 155.305 (f)(1)(ii)(B). 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 2023 is considered to be affordable if the employee’s contribution for an individual plan is 9.12 percent or less of the employee’s projected household modified adjusted income (MAGI). Based upon the facts summarized above, I find that the Appellant did not have access to ESI.

As referenced above, the Appellant testified that purchasing ESI or other affordable public insurance was not a hardship issue, and that she was receiving coverage under her mother’s ESI. (Exhibit 2(a)-(c)). I find that the Appellant has not corroborated that she had coverage under her mother’s plan. However, in order to mitigate the harshness of a full penalty and based upon the facts summarized and on the totality of the evidence, it is concluded that the Appellant’s request for a waiver from the penalty is **approved in part**. 956 CMR 6.08 (1), (a), (e) & (3).

The Appellant was advised to contact the Connector about obtaining insurance in 2024 in the event that she is not covered by her mother’s insurance. Appellant should note that any waiver granted here is for 2023 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: 1

The Connector has notified the Department of Revenue that pursuant to its decision, you should be assessed a penalty for Tax Year 2023 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

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

Hearing Issue: Appeal of the 2023 Tax Year Penalty

Hearing Date: May 13, 2024

Decision Date: Friday, May 31, 2024

AUTHORITY

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

JURISDICTION

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

HEARING RECORD

The appellant appeared at the hearing which was held by telephone on May 13, 2024. The procedures to be followed during the hearing were reviewed with Appellant. He was sworn in. Exhibits were marked and admitted in evidence with no objection from the appellant. Appellant testified.

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

- | | | |
|------------|---|---------|
| Exhibit 1: | Appeals Case Information from Schedule HC | 1 page |
| Exhibit 2: | Appellant's Statement of Grounds for Appeal | 2 Pages |

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Exhibit 3	1095 B Form (2023)	1 page
Exhibit 4	Correspondence from the Appellant.	1 page
Exhibit 5	Correspondence from the Employer, dated 3/6/2024	1 page
Exhibit 6:	W2 (2023)	2 pages
Exhibit 7:	Residential lease for the property at 265 Arlington St. in Acton Massachusetts (April 1, 2023 through March 31, 2024)	8 pages
Exhibit 8:	Paystub from appellant's employer	6 pages

FINDINGS OF FACT

The record shows, and I so find:

1. Appellant was 31 years old in the beginning of 2023. Appellant filed his 2023 Massachusetts tax return as Single. The Appellant has no dependents (Exhibit 1).
2. Appellant lived in Middlesex County, MA in 2023 (Exhibit 1).
3. Appellant's Federal Adjusted Gross Income for 2023 was \$53,168.00 (Exhibit 1, Appellant's Testimony). Appellant's Income was 391% of the Federal Poverty level and based on his income, if all other conditions were met, he MAY BE ELIGIBLE for Advance Premium Tax Credits (300.1-400% FPL) for ConnectorCare.
4. In 2023, the Appellant was employed as a Store Clerk at a Farm (April - December) in a full-time capacity. (Appellant's Testimony).
5. The Appellant was offered health insurance in 2023, by his employer, at an approximate monthly cost of \$132.00. (Appellant's Testimony)
6. The Appellant does not currently have Health Insurance. (Appellant's Testimony).
7. I take administrative notice of the financial information set forth in Tables 1 through 6 in the DOR 2023 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 2023. Table 2 sets forth income at 300% of the Federal poverty level and Tables 5 and 6 set forth tax penalties in effect for 2023.

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8. According to Table 3 of Schedule HC for 2023, The Appellant has no dependents, with an adjusted gross income of \$53,168.00 was deemed able to pay \$336.73 per month for health insurance, or 7.60% of his income. According to Table 4, Appellant, age 31 and living in Middlesex County, could have purchased private insurance for \$326.00 per month.
9. Private insurance was AFFORDABLE for the appellant in 2023 (Schedule HC for 2023).
10. In 2023, Appellant had the following monthly expenses for basic necessities¹:

<u>Rent or Mortgage</u>	\$1,275.00	<u>Car Insurance</u>	\$0.00	<u>Clothing</u>	\$100.00
<u>Property Taxes</u>	\$0.00	<u>Gas (Car)</u>	\$0.00		
<u>Cable/Internet</u>	\$25.00	<u>Food</u>	\$400.00		
<u>Heat</u>	\$0.00	<u>Cell Phone</u>	\$83.00		
<u>Electricity</u>	\$350.00	<u>Household & Toiletries</u>	\$150.00		
			0	<u>Clothing</u>	\$100.00
				<u>Total:</u>	\$2,383.00

11. Upon examining the appellant's testimony, it was ascertained that his gross monthly income was \$4,430.67. His necessary expenses were determined to be \$2,383.00 per month. After accounting for an approximation of federal and state taxes, this leaves a difference of \$1,205.68 in his monthly financial situation when considering Filing status, Adjusted Gross income and the number of Dependents in the 2023 tax year.
12. Appellant's statement of grounds for appeal was on the basis of:
 - a. During 2023, the expense of purchasing health insurance would have caused a serious deprivation of food, shelter, clothing or other necessities. Provide proof to show additional expenses above and beyond that which your income would cover. If you were eligible to receive government

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

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subsidized insurance, explain why obtaining that would cause serious deprivation; and

- b. Other. During 2023 other circumstances, such as: applying the affordability tables and schedule HC to you, is an equitable (for example because of family size); that you were unable to obtain government subsidize insurance, even though your income, qualified you; or you didn't reside in Massachusetts during your period of uninsurance; and Other. During 2023 other circumstances, such as: applying the affordability tables and schedule HC to you, is an equitable (for example because of family size); that you were unable to obtain government subsidize insurance, even though your income, qualified you; or you didn't reside in Massachusetts during your period of uninsurance. (Testimony of Appellant, Exhibit 2).
13. Appellant did not incur significant and unexpected increases in essential expenses as a result of domestic violence; the death of a spouse, family member, or partner who shared household expenses; the sudden responsibility for providing full care for an aging parent or other family member; or fire, flood, or other natural or man-made disaster in 2023 (Testimony of Appellant).
14. Appellant did not fall more than thirty days behind in rent payments in 2023. Appellant did not receive any shut-off notices for basic utilities. There was no evidence or indication of this during the Appellant's testimony. (Testimony of Appellant)
15. The Appellant relocated from Florida to Massachusetts in April 2023. (Appellant's Testimony and Exhibit 7).
16. Upon commencing employment in Massachusetts, the Appellant was offered an employer-sponsored health insurance plan. (Appellant's Testimony). The Appellant determined that the premiums for the employer-sponsored health insurance plan were financially burdensome, based on their assessment of the costs.
17. Although the Appellant has stated that they could have potentially afforded the premiums, they were in the process of adjusting to the higher cost of living in their new area of residence at the time the coverage was offered. (Appellant's Testimony).
18. The Appellant did not enroll in the employer-sponsored health insurance plan due to the perceived high cost of premiums and their ongoing adjustment to the higher cost of living in Massachusetts.
19. The Appellant has been assessed a penalty for not having health insurance in 2023 for 12 months.

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ANALYSIS AND CONCLUSIONS OF LAW

The issue on appeal is whether the tax penalty assessed by the Massachusetts Department of Revenue for 2023 should be waived in whole, in part, or not at all.

G.L.c. 111M, § 2, also called the “individual mandate,” requires every adult resident of Massachusetts to obtain insurance coverage “[s]o long as it is deemed affordable” under the schedule set by the board of directors for the Commonwealth Health Insurance Connector Authority. The Appellant was unaware of the individual mandate, according to his testimony. Ignorance of the law is no excuse however. 'When statutes impose punishment out of considerations of public policy, lack of knowledge of the law or of the fact that the law has been violated does not exonerate the person who may have unwittingly violated the statute.' Franklin Office Park Realty Corp. v. Commissioner of Dep't of Env'tl. Protection, 466 Mass. 454, 465 n.14 (2013).

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

Appellant had health insurance for 3 month(s) in 2023, while he resided in Florida. He has been assessed a tax penalty for 12 months. He appealed the assessment. See Exhibits listed above. To determine if the penalty should be waived in whole or in part, we must consider whether affordable insurance which met minimum creditable coverage standards was available to the appellant through either (1) his employment, through (2) the private market, or through (3) a government-sponsored program. If affordable insurance was available, we must determine if such insurance was, in fact, not affordable to the appellant because he experienced a financial hardship as defined in 956 CMR 6.08.

Residency

Based on the evidence presented and the appellant's credible testimony, I find that the appellant established residency in the Commonwealth of Massachusetts in April 2023. The documentary evidence, including the 1095-C form, demonstrates that the appellant was employed at a supermarket in Lakeland, Florida, for at least the months of January and February 2023. The record indicates that the appellant was initially assessed a 12-month penalty, which appears to be erroneous given the established

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date of residency. There is no evidence to suggest that the appellant resided in Massachusetts prior to April 2023. Therefore, I conclude that the appellant's residency in Massachusetts commenced in April 2023.

Appellant's Employment & Employer Based Insurance

The Appellant was offered health insurance in 2023, by his employer in Massachusetts, at an approximate monthly cost of \$132.00. (Appellant's Testimony). In Massachusetts, the determination of affordability for employer-sponsored health plans, or Employer-Sponsored Insurance ("ESI"), is guided by state-specific guidelines. According to the 2023 Schedule HC instructions for the relevant tax year, the affordable premium is calculated based on a percentage of income that aligns with the individual's income range and filing status, as outlined in Table 3: Affordability, found on page HC-10. In this case, the maximum affordable amount for the Appellant, based on their income range and filing status, is 7.60%.

During the hearing, the Appellant testified, which I found credible, that the cost of insurance offered by his employer was \$132.00 per month. This cost must be assessed against the state-determined affordability threshold. For the plan year 2023, considering the Appellant's income and the guidelines set forth in Table 3, the employer-sponsored plan's coverage is deemed affordable if the employee's contribution for self-only coverage does not exceed 7.60% of the employee's projected household modified adjusted gross income.

According to Massachusetts state-specific guidelines, the health insurance offered by the Appellant's employer was deemed to be affordable for the Appellant based on it being less than 7.60% of the Appellant-employee's projected household modified adjusted gross income. The employer's offering was 2.98% of the employee's income. Because the appellant was employed and offered health insurance by their employer during the time of the tax penalty, they are likely blocked from obtaining subsidized insurance through Connector Care.

ConnectorCare Eligibility

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

Availability of Private Insurance

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Private insurance was AFFORDABLE for the appellant on the open market during 2023. According to Tables 3 and 4 of the HC schedule for 2023, Appellant, with an adjusted gross income of \$53,168.00, was deemed to be able to afford health insurance on the private market. According to Table 3, Appellant could have afforded to pay \$336.73 per month; according to Table 4, Appellant, who was 31 years old in 2023, lived in Middlesex County and filed his 2023 Massachusetts taxes as a Single with 0 dependents, would have had to pay \$326.00 for insurance on the private market. See 956 CMR 6.05 (1)(2), Schedule HC Tables 3 and 4, and Exhibit 1.

In light of the Appellant's gross income (\$4,430.67 per month), tax filing status, place of residence, and the expected affordable amount the Appellant could pay per the 2023 Schedule HC Tables (\$336.73 per month), the Appellant could have afforded private health insurance with a premium of \$326.00 per month. (2023 Schedule HC Tables).

Other Government-Sponsored Healthcare Programs

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

Financial Hardship Analysis

Since affordable insurance was available to the Appellant through their employer and the private market, in 2023, it must be determined whether the Appellant experienced a financial hardship pursuant to 956 CMR 6.08 (1).

The evidence presented by the appellant in this case is insufficient to establish a financial hardship as defined by law. The appellant testified that in 2023 they incurred basic monthly expenses of approximately \$2,383.00. With a monthly surplus of \$1,205.68 between income and expenses, and considering they testified that Employer-Sponsored Insurance would have cost them \$132 per month, it appears that affording a healthcare plan should be manageable for the Appellant.

Conclusion

After reviewing the evidence and the appellant's testimony, I find that the initial 12-month penalty was incorrect because the appellant only moved to Massachusetts in April 2023. The law allows for a three-month grace period to get health insurance after moving to the state.

Therefore, the penalty will be reduced from 12 months to 6 months, counting from April 2023. This shorter penalty reflects the time the appellant actually lived in Massachusetts without health insurance.

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However, the appellant has not shown that they experienced financial hardship as defined by law. As a result, the 6-month penalty still applies, even though it is shorter than the original 12-month penalty.

In summary, the penalty is reduced to 6 months because the appellant moved to Massachusetts in April 2023, but the 6-month penalty remains in place because no financial hardship was proven.

Appellant should note that the waiver of his penalty is based upon the facts that I have determined to be true for his 2023 appeal. He should not assume that a similar determination will be made in the future should he again be assessed a penalty for failure to have health insurance which meets the Commonwealth's minimum creditable coverage standards.

PENALTY ASSESSED

Number of Months Appealed: 12 Number of Months Assessed: 6

If the number of months assessed is zero (0) because your penalty has been overturned, the Connector has notified the Department of Revenue that you should NOT be assessed a penalty for Tax Year 2023.

NOTIFICATION OF YOUR RIGHT TO APPEAL TO COURT

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

Hearing Officer

cc. Connector Appeals Unit

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

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Exhibit 3 1095-C (2023)

1 page

FINDINGS OF FACT

The record shows, and I so find:

1. Appellant was 26 years old in the beginning of 2023. Appellant filed his 2023 Massachusetts tax return as Single. The Appellant has no dependents (Exhibit 1).
2. Appellant lived in Hampshire County, MA in 2023 (Exhibit 1).
3. Appellant's Federal Adjusted Gross Income for 2023 was \$28,476.00 (Exhibit 1, Appellant's Testimony). Appellant's Income was 210% of the Federal Poverty level and based on his income, if all other conditions were met, he would be ELIGIBLE for Plan Type 3A (200.1-250% FPL) for ConnectorCare.
4. In 2023, the Appellant was employed as a Loading Dock Supervisor (Full-Time), from January through May, in a full-time capacity. (Appellant's Testimony).
 - a. Later in 2023, the Appellant obtained a second position as a Parking Enforcement Officer, in a Part Time capacity, from June-December. (Appellant's Testimony).
 - b. The Appellant, also began another position as a Parking Enforcement Officer, in a Full Time capacity, for a different employer, from September through December).
5. The Appellant was employed in various capacities for the entirety of 2023. (Appellant's Testimony). The Appellant did have a job transition in May of 2023, but found employment shortly after. (Appellant's Testimony). By the end of the year the Appellant was employed in a full and part time capacity, with two separate employers.
6. The Appellant was offered health insurance in 2023, by his employer(s) in both of his full time positions, but not his part-time position. The Appellant did not recall the amount his Employer-Sponsored Insurance(s) would cost per month. (Appellant's Testimony)
7. The Appellant does currently have Health Insurance. (Appellant's Testimony).
8. I take administrative notice of the financial information set forth in Tables 1 through 6 in the DOR 2023 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 2023. Table 2 sets forth income at

CONNECTOR APPEALS UNIT



300% of the Federal poverty level and Tables 5 and 6 set forth tax penalties in effect for 2023.

9. According to Table 3 of Schedule HC for 2023, The Appellant has no dependents, with an adjusted gross income of \$28,476.00 was deemed able to pay \$97.29 per month for health insurance, or 4.10% of his income. According to Table 4, Appellant, age 26 and living in Hampshire County, could have purchased private insurance for \$327.00 per month.

10. Private insurance was UNAFFORDABLE for the appellant in 2023 (Schedule HC for 2023).

11. In 2023, Appellant had the following monthly expenses for basic necessities¹:

<u>Rent or Mortgage</u>	\$0.00	<u>Car Insurance</u>	\$100.00	<u>Medical/Dental</u>	\$0.00
<u>Property Taxes</u>	\$0.00	<u>Gas (Car)</u>	\$70.00	<u>House Maintenance</u>	\$0.00
<u>Cable/Internet</u>	\$27.00	<u>Food</u>	\$352.00	<u>Clothing</u>	\$10.00
<u>Heat</u>	\$84.00	<u>Cell Phone</u>	\$50.00	<u>Gas/Transportation Costs</u>	70
<u>Electricity</u>	\$50.00	<u>Household & Toiletries</u>	\$150.00	<u>Car</u>	\$226.00
				<u>Total:</u>	\$1,119.00

12. Upon examining the appellant's testimony, it was ascertained that his gross monthly income was \$2,373.00. His necessary expenses were determined to be \$1,119.00 per month. After accounting for an approximation of federal and state taxes, this leaves a difference of \$867.17 in his monthly financial situation when considering Filing status, Adjusted Gross income and the number of Dependents in the 2023 tax year.

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

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

CONNECTOR APPEALS UNIT



- a. During 2023, you purchased health insurance that didn't meet minimum creditable coverage standards, because that is what your employer offered, and you felt that your circumstances prevented you from buying other insurance that met the requirements. (Testimony of Appellant, Exhibit 2).
14. Appellant alleged that they did incur significant and unexpected increases in essential expenses as a result of domestic violence; the death of a spouse, family member, or partner who shared household expenses; the sudden responsibility for providing full care for an aging parent or other family member; or fire, flood, or other natural or man-made disaster in 2023 (Testimony of Appellant).
15. Appellant did not fall more than thirty days behind in rent payments in 2023. Appellant did not receive any shut-off notices for basic utilities. There was no evidence or indication of this during the Appellant's testimony. (Testimony of Appellant)
16. The appellant was offered employer-sponsored insurance (ESI) during their employment with the University from January through May but was unable to complete the enrollment process. (Appellant's Testimony).
17. Subsequently, the appellant was offered ESI again while employed in their third job, which was also with the University. The appellant indicated that they obtained this coverage; however, they never received a Form MA 1099-HC and could not confirm whether the ESI met the minimum creditable coverage standards. (Appellant's Testimony).
18. The appellant provided a 2023 Form 1095-C, which indicates that they made contributions to the health insurance plan in February, March, April, October, November, and December. (Exhibit 3).
19. The hearing officer offered to keep the record open for 60 days to allow the appellant to obtain and submit their Form MA 1099-HC, but the appellant declined, stating that they did not believe they would be able to recover the form. (Appellant's Testimony).
20. Additionally, the appellant expressed concerns regarding the costs associated with the health insurance coverage.
21. The Appellant has been assessed a penalty for not having health insurance in 2023 for 12 months.

ANALYSIS AND CONCLUSIONS OF LAW

The issue on appeal is whether the tax penalty assessed by the Massachusetts Department of Revenue for 2023 should be waived in whole, in part, or not at all.

CONNECTOR APPEALS UNIT



G.L.c. 111M, § 2, also called the “individual mandate,” requires every adult resident of Massachusetts to obtain insurance coverage “[s]o long as it is deemed affordable” under the schedule set by the board of directors for the Commonwealth Health Insurance Connector Authority. The Appellant was unaware of the individual mandate, according to his testimony. Ignorance of the law is no excuse however. ‘When statutes impose punishment out of considerations of public policy, lack of knowledge of the law or of the fact that the law has been violated does not exonerate the person who may have unwittingly violated the statute.’ Franklin Office Park Realty Corp. v. Commissioner of Dep’t of Env’tl. Protection, 466 Mass. 454, 465 n.14 (2013).

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

Appellant had no health insurance in 2023 that met minimum creditable coverage standards. He has been assessed a tax penalty for 12 months. He appealed the assessment. See Exhibits listed above. To determine if the penalty should be waived in whole or in part, we must consider whether affordable insurance which met minimum creditable coverage standards was available to the appellant through either (1) his employment, through (2) the private market, or through (3) a government-sponsored program. If affordable insurance was available, we must determine if such insurance was, in fact, not affordable to the appellant because he experienced a financial hardship as defined in 956 CMR 6.08.

Appellant’s Employment & Employer Based Insurance

The Appellant was offered health insurance in 2023, by his employer, at an unspecified amount per month. (Appellant's Testimony). The Appellant was assessed a penalty of 12 months based on their lack of coverage over 12 months. The penalty was not levied in light of any period of unemployment for the Appellant. Applicant was not terminated from his employment. (Appellant’s Testimony).

In Massachusetts, the determination of affordability for employer-sponsored health plans, or Employer-Sponsored Insurance (“ESI”), is guided by state-specific guidelines. According to the 2023 Schedule HC instructions for the relevant tax year, the affordable premium is calculated based on a percentage of income that aligns with the individual's income range and filing status, as outlined in Table 3: Affordability, found

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on page HC-10. In this case, the maximum affordable amount for the Appellant, based on their income range and filing status, is 4.10%.

Based on the testimony of the Appellant, it appears that although he was employed and offered health insurance by the employer, he did not take the necessary steps required by law to sign up for it or engage with their employer to ensure they were enrolled. Because the Appellant was also unable to provide information relating to the costs associated with his Employer-Sponsored Insurance, I will find for the purposes of this appeal, that the Appellant would not have been blocked from signing up for Health Insurance from the Health Connector, as there is no evidence that his Employer-Sponsored Insurance was affordable.

ConnectorCare Eligibility

To be considered for ConnectorCare, with its state subsidies and tax credits, you can't be covered by affordable job-based insurance, as per the Affordable Care Act standards. See 956 CMR 12.05 and 45 CFR § 155.305(f)(1)(ii)(B). Only employer insurance that's affordable and meets minimum creditable coverage can disqualify you from getting assistance through the Health Connector to reduce your health plan cost. See 26 CFR § 1.36B-2(c)(3). Based on the information provided, the Appellant qualifies for ConnectorCare, specifically Plan Type Plan Type 3A in tax year 2023.

In Massachusetts, you could get state help with ConnectorCare plans if your income is 300% of the FPL or less. In tax year 2023, the Appellant would qualify for Plan Type 3A through the ConnectorCare program. The coverage year 2022's lowest monthly premium for Plan Type 3A is \$90. To qualify for a ConnectorCare plan, the Appellant must also meet other state requirements.

The Appellant testified to not applying through the Health Connector in tax year 2023. Despite the requirement set by the individual mandate, due diligence in seeking health coverage through the Health Connector was not conducted. Notably, with an income level of 209.54% of the Federal Poverty Level, the appellant was eligible for subsidized coverage under ConnectorCare. This oversight in not applying for available subsidized coverage suggests a missed opportunity to obtain affordable health insurance.

If you make more than 300% but less than 400% of the FPL, you might get a tax credit to cut down your health plan costs. To get this Advance Premium Tax Credit, your expected income must be at least 100% but less than 400% of the FPL. (45 CFR 155.305 (f) (1) (i)). Based on these rules, The Appellant is not eligible for Advance Premium Tax Credits because their income is below 300% of the FPL.

Availability of Private Insurance

Private insurance was UNAFFORDABLE for the appellant on the open market during

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2023. According to Tables 3 and 4 of the HC schedule for 2023, Appellant, with an adjusted gross income of \$28,476.00, was deemed to be unable to afford health insurance on the private market. According to Table 3, Appellant could have afforded to pay \$97.29 per month; according to Table 4, Appellant, who was 26 years old in 2023, lived in Hampshire County and filed his 2023 Massachusetts taxes as a with 0 dependents, would have had to pay \$327.00 for insurance on the private market. See 956 CMR 6.05 (1)(2), Schedule HC Tables 3 and 4, and Exhibit 1.

Considering the Appellant's gross income (\$2,373.00 per month), tax filing status, place of residence, and the expected affordable amount the Appellant could pay per the 2023 Schedule HC Tables (\$97.29 per month), private health insurance with a premium of \$327.00 per month was unaffordable for the Appellant. (2023 Schedule HC Tables).

Other Government-Sponsored Healthcare Programs

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

Financial Hardship Analysis

Since the Appellant appears to have been eligible for Plan Type 3A in 2023, a financial hardship analysis pursuant to 956 CMR 6.08 (1) is warranted.

The evidence presented by the appellant in this case is insufficient to establish a financial hardship as defined by law. The appellant testified that in 2023 they incurred basic monthly expenses of approximately \$1,119.00. With a monthly surplus of \$867.17 between income and expenses, and considering the lowest monthly premium for the Appellant's qualifying ConnectorCare plan, based on their income, could have been as low as \$93 per month, it appears that affording a healthcare plan should be manageable for the Appellant.

Conclusion

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

Appellant should note that the waiver of his penalty is based upon the facts that I have determined to be true for his 2023 appeal. He should not assume that a similar determination will be made in the future should he again be assessed a penalty for failure to have health insurance which meets the Commonwealth's minimum creditable coverage standards.

PENALTY ASSESSED

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

If the number of months assessed is zero (0) because your penalty has been overturned, the Connector has notified the Department of Revenue that you should NOT be assessed a penalty for Tax Year 2023.

NOTIFICATION OF YOUR RIGHT TO APPEAL TO COURT

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

Hearing Officer

cc. Connector Appeals Unit

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

FINAL APPEAL DECISION

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

Hearing Issue: Appeal of the 2023 Tax Year Penalty

Hearing Date: May 13, 2024

Decision Date: Friday, May 31, 2024

AUTHORITY

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

JURISDICTION

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

HEARING RECORD

The appellant appeared at the hearing which was held by telephone on May 13, 2024. The procedures to be followed during the hearing were reviewed with Appellant. He was sworn in. Exhibits were marked and admitted in evidence with no objection from the appellant. Appellant testified.

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

- | | | |
|------------|---|---------|
| Exhibit 1: | Appeals Case Information from Schedule HC | 1 page |
| Exhibit 2: | Appellant's Statement of Grounds for Appeal | 2 Pages |

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Exhibit 3 Correspondence from the Appellant.

1 page

FINDINGS OF FACT

The record shows, and I so find:

1. Appellant was 59 years old in the beginning of 2023. Appellant filed his 2023 Massachusetts tax return as Single. The Appellant has no dependents (Exhibit 1).
2. Appellant lived in Barnstable County, MA in 2023 (Exhibit 1).
3. Appellant's Federal Adjusted Gross Income for 2023 was \$79,784.00 (Exhibit 1, Appellant's Testimony). Appellant's Income was 587% of the Federal Poverty level and based on his income, if all other conditions were met, he would be INELIGIBLE based on income for ConnectorCare.
4. In 2023, the Appellant was employed as a Mason Foreman at a Masonry Company in a full-time capacity. (Appellant's Testimony).
5. The Appellant was employed for the full year and did not have any job disruptions during the year 2023.
6. The Appellant was offered health insurance in 2023, by his employer, at an approximate monthly cost of \$500.00. (Appellant's Testimony)
7. The Appellant does not currently have Health Insurance. (Appellant's Testimony).
8. I take administrative notice of the financial information set forth in Tables 1 through 6 in the DOR 2023 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 2023. Table 2 sets forth income at 300% of the Federal poverty level and Tables 5 and 6 set forth tax penalties in effect for 2023.
9. According to Table 3 of Schedule HC for 2023, The Appellant has no dependents, with an adjusted gross income of \$79,784.00 was deemed able to pay \$531.89 per month for health insurance, or 8.00% of his income. According to Table 4, Appellant, age 59 and living in Barnstable County, could have purchased private insurance for \$490.00 per month.
10. Private insurance was AFFORDABLE for the appellant in 2023 (Schedule HC for 2023).

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11. In 2023, Appellant had the following monthly expenses for basic necessities¹:

<u>Rent or Mortgage</u>	\$1,250.00	<u>Car Insurance</u>	\$0.00	<u>Medical/Dental</u>	\$0.00
<u>Property Taxes</u>	\$0.00	<u>Gas (Car)</u>	\$0.00	<u>House Maintenance</u>	
<u>Cable/Internet</u>	\$85.00	<u>Food</u>	\$880.00	<u>Credit Cards</u>	
<u>Heat</u>		<u>Cell Phone</u>	\$50.00	<u>Other:</u>	
<u>Electricity</u>	\$225.00	<u>Household & Toiletries</u>	\$150.00	<u>Car</u>	\$0.00
<u>Child Care Costs</u>		<u>Gas/Transportation Costs</u>	0	<u>Clothing</u>	\$100.00
<u>Car Repairs</u>	0			<u>Total:</u>	\$2,740.00

12. Upon examining the appellant's testimony, it was ascertained that his gross monthly income was \$6,648.67. His necessary expenses were determined to be \$2,740.00 per month. After accounting for an approximation of federal and state taxes, this leaves a difference of \$2,811.56 in his monthly financial situation when considering Filing status, Adjusted Gross income and the number of Dependents in the 2023 tax year.

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

- a. During 2023, the expense of purchasing health insurance would have caused a serious deprivation of food, shelter, clothing or other necessities. Provide proof to show additional expenses above and beyond that which your income would cover. If you were eligible to receive government subsidized insurance, explain why obtaining that would cause serious deprivation; and
- b. Other. During 2023 other circumstances, such as: applying the affordability tables and schedule HC to you, is an equitable (for example because of family size); that you were unable to obtain government

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

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subsidize insurance, even though your income, qualified you; or you didn't reside in Massachusetts during your period of uninsurance. (Testimony of Appellant, Exhibit 2).

14. Appellant did not incur significant and unexpected increases in essential expenses as a result of domestic violence; the death of a spouse, family member, or partner who shared household expenses; the sudden responsibility for providing full care for an aging parent or other family member; or fire, flood, or other natural or man-made disaster in 2023 (Testimony of Appellant).
15. Appellant did not fall more than thirty days behind in rent payments in 2023. Appellant did not receive any shut-off notices for basic utilities. There was no evidence or indication of this during the Appellant's testimony. (Testimony of Appellant)
16. The appellant expressed opposition to the governmental mandate requiring the purchase of health insurance. (Appellant's Testimony). He conveyed a general dislike for doctors and articulated a belief that his infrequent illnesses do not necessitate health insurance, noting he seeks medical care only when injured. (Appellant's Testimony).
17. Furthermore, the appellant asserted that the cost of health insurance is beyond his financial means.
18. The Appellant has been assessed a penalty for not having health insurance in 2023 for 12 months.

ANALYSIS AND CONCLUSIONS OF LAW

The issue on appeal is whether the tax penalty assessed by the Massachusetts Department of Revenue for 2023 should be waived in whole, in part, or not at all.

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

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

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

Appellant had no health insurance in 2023. He has been assessed a tax penalty for 12 months. He appealed the assessment. See Exhibits listed above. To determine if the penalty should be waived in whole or in part, we must consider whether affordable insurance which met minimum creditable coverage standards was available to the appellant through either (1) his employment, through (2) the private market, or through (3) a government-sponsored program. If affordable insurance was available, we must determine if such insurance was, in fact, not affordable to the appellant because he experienced a financial hardship as defined in 956 CMR 6.08.

Religious Exemption

The appellant wrote in his correspondence and testified that he is seeking a religious exemption from the requirement to maintain minimum creditable coverage (MCC) in accordance with Massachusetts law. (Appellant's Testimony).

The appellant stated that they did not fill out the 'MASSACHUSETTS CERTIFICATE OF EXEMPTION 2023 APPLICATION' form, which is required to claim a religious exemption. This form, when completed and submitted by December 1, 2023, allows individuals to apply for an exemption from the MCC requirement based on their sincerely held religious beliefs.

During the hearing, the appellant was asked about their religious beliefs and how they relate to their decision not to obtain health insurance coverage. The appellant's testimony appeared to indicate that, despite their religious beliefs, they would seek and receive medical assistance from a hospital or doctor in the event of an injury. The appellant did not assert that their religion would prevent them from obtaining necessary medical care in an emergency situation. It is important to note that the sincerity of the appellant's religious beliefs is not being questioned or challenged in this finding.

However, based on the appellant's testimony and the legislative framework under M.G.L. c. 111M, § 2, it appears that their beliefs, as described during the hearing, do not preclude them from seeking and receiving medical treatment in cases of acute illness or injury. Therefore, while the appellant's religious beliefs are not in dispute, the evidence presented does not support a finding that their beliefs would prevent them from obtaining necessary medical care, which is the basis for granting a religious exemption from the MCC requirement.

According to the guidelines, an individual is generally exempt from the penalty if they file a sworn affidavit with their personal income tax return stating their sincerely held religious beliefs are the basis for refusal to maintain coverage. However, the scope of

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exemption is limited to those whose beliefs would cause them to object to substantially all forms of medical treatment covered by insurance, which does not seem to apply in the appellant's case as indicated by their willingness to receive emergency medical care.

The Appellant's Theories about Health Insurance

The appellant's argument that he does not need health insurance because he seldom gets sick and only visits doctors when injured relies on a fundamental misunderstanding of the nature and purpose of health insurance.

Firstly, health insurance is not solely for everyday medical visits; it is primarily a safeguard against unexpected, potentially catastrophic health events that could result in overwhelming financial burden. The rarity of such incidents does not diminish their potential impact, much like how infrequent natural disasters do not negate the value of homeowner's insurance.

Secondly, the assertion that health insurance is unnecessary because one only seeks medical care when injured overlooks the financial protection it provides in such scenarios. Injuries can lead to substantial medical costs, which are often much higher than routine care, potentially resulting in significant debt or bankruptcy in the absence of coverage.

Furthermore, health insurance also covers preventive services, which are crucial for early detection of diseases that could become more serious and costly if left untreated. By participating in regular health screenings covered by insurance, individuals increase their chances of catching potentially serious conditions early, thereby potentially saving on future medical costs and improving long-term health outcomes.

Lastly, the notion of not needing health insurance because one cannot afford it fails to account for subsidies and other financial assistance programs designed to make health insurance more accessible. These programs can significantly lower the cost of premiums and out-of-pocket expenses, making it financially feasible for more people, including those with limited budgets.

While the appellant may believe that infrequent doctor visits and a generally healthy lifestyle negate the need for health insurance, this perspective does not account for the unpredictable nature of health emergencies, the benefits of preventive care, and the financial safeguards that insurance provides. These factors underscore the importance of maintaining health insurance coverage as a prudent financial and health decision.

Appellant's Employment & Employer Based Insurance

The Appellant was offered health insurance in 2023, by his employer, at an

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approximate monthly cost of \$500.00. (Appellant's Testimony). The Appellant was employed for the full year and did not have any job disruptions during the year 2023. (Appellant's Testimony). The Appellant was assessed a penalty of 12 months based on their lack of coverage over 12 months. The penalty was not levied in light of any period of unemployment for the Appellant.

In Massachusetts, the determination of affordability for employer-sponsored health plans, or Employer-Sponsored Insurance ("ESI"), is guided by state-specific guidelines. According to the 2023 Schedule HC instructions for the relevant tax year, the affordable premium is calculated based on a percentage of income that aligns with the individual's income range and filing status, as outlined in Table 3: Affordability, found on page HC-10. In this case, the maximum affordable amount for the Appellant, based on their income range and filing status, is 8.00%.

During the hearing, the Appellant testified, which I found credible, that the cost of insurance offered by his employer was \$500.00 per month. This cost must be assessed against the state-determined affordability threshold. For the plan year 2023, considering the Appellant's income and the guidelines set forth in Table 3, the employer-sponsored plan's coverage is deemed affordable if the employee's contribution for self-only coverage does not exceed 8.00% of the employee's projected household modified adjusted gross income.

According to Massachusetts state-specific guidelines, the health insurance offered by the Appellant's employer was deemed to be affordable for the Appellant based on it being less than 8.00% of the Appellant-employee's projected household modified adjusted gross income. The employer's offering was 7.52% of the employee's income. Because the appellant was employed and offered health insurance by their employer during the time of the tax penalty, they are likely blocked from obtaining subsidized insurance through Connector Care.

ConnectorCare Eligibility

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

Availability of Private Insurance

Private insurance was AFFORDABLE for the appellant on the open market during 2023. According to Tables 3 and 4 of the HC schedule for 2023, Appellant, with an

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adjusted gross income of \$79,784.00, was deemed to be able to afford health insurance on the private market. According to Table 3, Appellant could have afforded to pay \$531.89 per month; according to Table 4, Appellant, who was 59 years old in 2023, lived in Barnstable County and filed his 2023 Massachusetts taxes as a Single with 0 dependents, would have had to pay \$490.00 for insurance on the private market. See 956 CMR 6.05 (1)(2), Schedule HC Tables 3 and 4, and Exhibit 1.

In light of the Appellant's gross income (\$6,648.67 per month), tax filing status, place of residence, and the expected affordable amount the Appellant could pay per the 2023 Schedule HC Tables (\$531.89 per month), the Appellant could have afforded private health insurance with a premium of \$490.00 per month. (2023 Schedule HC Tables).

Other Government-Sponsored Healthcare Programs

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

Financial Hardship Analysis

Since affordable insurance was available to the Appellant through their employer and the private market, in 2023, it must be determined whether the Appellant experienced a financial hardship pursuant to 956 CMR 6.08 (1).

The evidence presented by the appellant in this case is insufficient to establish a financial hardship as defined by law. The appellant testified that in 2021 they incurred basic monthly expenses of approximately \$2,740.00. With a monthly surplus of \$2,811.56 between income and expenses, it appears that affording a healthcare plan should be manageable for the Appellant.

Conclusion

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

Appellant should note that the waiver of his penalty is based upon the facts that I have determined to be true for his 2023 appeal. He should not assume that a similar determination will be made in the future should he again be assessed a penalty for failure to have health insurance which meets the Commonwealth's minimum creditable coverage standards.

PENALTY ASSESSED

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

If the number of months assessed is zero (0) because your penalty has been overturned, the Connector has notified the Department of Revenue that you should NOT be assessed a penalty for Tax Year 2023.

NOTIFICATION OF YOUR RIGHT TO APPEAL TO COURT

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

Hearing Officer

cc. Connector Appeals Unit

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

Massachusetts Health Connector Appeals Unit

FINAL APPEAL DECISION: PA 23-99

Appeal Decision: The penalty is upheld in part.

Hearing Issue: Appeal of the 2023 Tax Year Penalty

Hearing Date: May 13, 2024

Decision Date: May 30, 2024

AUTHORITY

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

JURISDICTION

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

HEARING RECORD

The Appellant (“Appellant”) appeared at the hearing, which was held by telephone on May 13, 2024. 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 2023 Signed by Appellant on 3/14/2024. | (1 P). |
| Exhibit 3: | Health Connector’s Notice of Hearing dated 4/19/2024. | (2 PP). |

The record shows, and I so find:

1. The Appellant, single, filed a 2023 Massachusetts tax return filed with a family size of 1, was age 41 in 2023, lived in Barnstable County, and had zero (0) dependents. (Exhibit 1).
2. The Appellants’ Federal Adjusted Gross Income for 2023 was \$48,916. (Exhibit 1).
3. The Appellant, who is being penalized for twelve (12) months, testified that he was eligible for Employer Sponsored Insurance (“ESI”). (Testimony).
4. The Appellant testified ESI was approximately \$250 a month. (Testimony).
5. The Appellant testified he was unable to afford ESI from January through September 2023 where he was being paid \$20 an hour at 40 hours a week, and his net take home pay was approximately \$600 a week. (Testimony).

6. The Appellant credibly testified he received a raise and bonuses from his Employer in September 2023 and could have afforded ESI but did not obtain same. (Testimony).
7. According to Table 3 Appellant could have afforded \$309.80 per month for health insurance in 2023. According to Table 4 Appellant could have purchased an individual plan insurance for \$358.00 per month. (See Tables 3 and 4 of Schedule HC 2023).
8. The Appellant would not have been eligible for ConnectorCare coverage in 2023 because the Appellant's income was more than 300% of the poverty level, which was \$40,770.00 for a family of (1). (See Table 2 of Schedule HC 2023).
9. The Appellant's testified that his monthly living expenses in 2023 included: Rent: \$750, Car Insurance: \$130; Transportation Costs (Gas): \$100; Cell Phone: \$70, Food/Incidentals/Business Expenses: \$500, totalling \$1,550. (Appellant's Testimony).
10. In addition to the foregoing, I take administrative notice of the 2023 Schedule HC Instructions and Worksheets, available at <http://www.mass.gov/dor/docs/dor/health-care/2023>, and in particular, Tables 1-6 which, as discussed below, include the Affordability Schedule and other financial information used in making 2023 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 2023 should be waived, either in whole or in part. Appellant has been assessed a tax penalty for twelve (12) months in 2023. Appellant has appealed the penalty. (See Exhibits 1 and 2).

The Appellant submitted a statement of grounds for appeal (Ex. 2) with the appeal that during 2023 that the individual mandate did not apply to him because of other circumstances: unable to afford coverage even though his income qualified him for government sponsored insurance. The Appellant also adduced testimony that he could not afford health insurance from January-September 2023 because of a hardship (Exhibit 2 and Appellant Testimony).

G.L. c. 111M, § 2, also called the "individual mandate," requires every adult resident of Massachusetts to obtain insurance coverage "[s]o long as it is deemed affordable" under the schedule set by the board of directors for the Commonwealth Health Insurance Connector Authority. Residents who do not obtain insurance are subject to a tax penalty for "each of the months" that the individual did not have health insurance as required by the individual mandate. There is a three-month grace period to allow the taxpayer to obtain health insurance coverage or to make the transition between health insurance policies. See G. L. c. 111M, sec. 2(b) and for Tax Year 2010, Administrative Bulletin 03-10: Guidance Regarding M.G.L. c. 111M and M.G.L. c. 176Q, as implemented by 956 CMR 6.00, which interprets the 63-day gap in coverage to be three months. The Connector's regulations provide for a waiver of the tax penalty in the case of 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 2023, \$48,916 was more than 300% of the federal poverty level, which for 2023 was \$40,770 for a family of one (1). According to Table 3 of Schedule HC for 2023, the Appellant could have been paid \$309.80 per month. According to Table 4, Appellant, age 41 in Barnstable County during the time he was being penalized for not having insurance, could have purchased an individual insurance plan for \$358 per month. Individual coverage was not affordable through the individual market for the Appellant in 2023 (Schedule HC for 2023).

The next issue to consider is whether the Appellant had access to affordable employer health insurance (“ESI”) in 2023. The Appellant testified that he was eligible for ESI at a cost of \$250 per month. (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 2023 is considered to be affordable if the employee’s contribution for an individual plan is 9.12 percent or less of the employee’s projected household modified adjusted income (MAGI). In this case, the Appellant had an adjusted gross income of \$48,916 in 2022 and the ESI premium of \$250 per month was less than 9.12% of the employees MAGI (\$371.76 per month). The coverage is considered to meet minimum value standards if it has an actuarial value of at least 60 percent. In this case, as referenced above, the Appellant was eligible for affordable ESI (Appellant Testimony).

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

I find the Appellant could have afforded ESI at \$250 per month during the times he was being penalized given that his net monthly income of approximately \$2,400 from January through September compared to the cost of his monthly basic necessities of approximately \$1,550. Moreover, the Appellant’s income increased in September when he received a raise, additional hours, and a bonus (Testimony). Accordingly, I find that the Appellant has not met the hardship criteria, and that purchasing health insurance would not have caused the Appellant to experience financial hardship. 956 CMR 6.08 (1) (e) & (3). The Appellant was advised to obtain health insurance. In order to mitigate the harshness of a full penalty, the penalty is reduced to four (4) months.

Accordingly, in order to mitigate the harshness of a full penalty and based upon the facts summarized and on the totality of the evidence, it is concluded that the Appellant’s request for a waiver from the penalty is **approved in part**.

PENALTY ASSESSED

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

The Connector has notified the Department of Revenue that pursuant to its decision, you should be assessed a penalty for Tax Year 2023 for the amount equal to one half of the lowest cost health insurance plan available to you for each month you have been assessed the penalty, as listed above, plus applicable interest back to the due date of the return without regard to extension.

NOTIFICATION OF YOUR RIGHT TO APPEAL TO COURT

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

Cc: Connector Appeals Unit

Hearing Officer

ADDENDUM

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

Massachusetts Health Connector Appeals Unit

Tax Penalty Appeal Decision—Docket No. PA23-22

Appeal Decision: Appeal Approved -- 2023 tax penalty overturned.

Hearing Issue: Appeal of the 2023 Tax Year Penalty

Hearing Date: May 2, 2024

Decision Date: May 4, 2024

AUTHORITY

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

JURISDICTION

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

HEARING RECORD

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 – 2023;
3. Health Connector’s Notice of Hearing (2 pages);
4. Appellant’s Letter in Support of Appeal (1 page);
5. Student Health Center Membership Card (BC/BS);
6. Open Enrollment Information;
7. MA Department of Public Health – Verification of Pharmacist License (2/16/24);
8. Appellant’s Apartment Lease;
9. Curry College - \$9,900 Invoice (dated 8/21/23);
10. 2023 IRS Form 1098-T.

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 2023. The basis for the penalty was that the Appellant was not insured at any time in 2023. 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 2023 as a single person with no dependents. The Appellant's federal adjusted gross income (AGI) for 2023 was \$70,587. Exhibit 1.
3. The Appellant was 32 years old at the beginning of 2023 and resided in [name of city or town omitted] in Worcester County, Massachusetts. Exhibit 1.
4. The Appellant's AGI was more than 150% of the federal poverty level. On this basis I conclude that the Appellant was not automatically exempt from the assessment of a tax penalty in 2023. DOR Table 1.
5. The Appellant's 2023 AGI (\$70,587) was more than 300% of the federal poverty level (\$40,770 for a one-person household). DOR Table 2. On this basis I infer that it is likely that the Appellant would not satisfy the financial eligibility requirements for government-subsidized health insurance.
6. Based on DOR Table 3 the Appellant could afford to pay 8.00 % of his income -- or \$471 per month -- for health insurance coverage in 2023. (The calculation is 8.00 % multiplied by \$70,587 AGI = \$5,646.96 per year divided by 12 months = \$470.58 per month.)
7. Based on DOR Table 4 (Region 2) the Appellant could obtain individual health insurance coverage at his age and location for \$326 per month in 2023.
8. The Appellant was a college student 1999 – 2022. He graduated in May 2022 with a pharmacy degree. The Appellant's enrollment in a student health insurance plan ended in September 2022. Testimony and Exhibits 4 and 5.

9. After his graduation the Appellant had to prepare for two examinations that were administered on two separate dates in May 2023 and June 2023 in order to obtain his pharmacy license. As verified by the Massachusetts Department of Public Health in a letter dated 2/16/24 the Appellant's pharmacy license was issued on June 6, 2023, and expired on December 31, 2024. The license was required in order to be employed full-time as a pharmacist. Testimony and Exhibits 4 and 7.
10. In June 2023 the Appellant was employed with health insurance as a job benefit. The open enrollment period (April 10 – April 17) had expired before the Appellant's employment began in June 2023. Consequently, the Appellant's health insurance coverage did not take effect until the following year (2024). Testimony and Exhibits 4 and 6.
11. The Appellant returned to college in Fall 2023 to obtain a master's degree. His tuition for the fall semester was \$9,900, as set forth in the invoice that the Appellant received from the college. Testimony and Exhibits 4, 9 and 10.
12. The Appellant had substantial outstanding student loans, and he was behind in his \$1,195 monthly rent payments. Testimony. See also Exhibit 8.
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 2023 Massachusetts income tax return.
14. I take administrative notice of the financial information set forth in Tables 1 through 6 of the DOR 2023 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 2023. 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 2023 income eligibility standard for the ConnectorCare government subsidized health insurance program. Tables 5 and 6 set forth the tax

penalties in effect for 2023. (The DOR instructions are published online at <http://www.mass.gov/dor/2023ScheduleHCInstructions> 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 2023.)

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 2023. 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 – 2023 that the Appellant signed and filed in this case. See Exhibit 2.

The Appellant in this case was in transition between college and a professional license that affected his ability to obtain health insurance until 2024.

The Appellant was initially insured under a student health plan until September 2022, several months after his college graduation in May 2022. Although the Appellant had completed his college pharmacy studies he still had to complete two major exams before he could be licensed as a pharmacist. The Appellant successfully obtained his pharmacy license in June 2023.

Once he was licensed the Appellant was hired full-time as a pharmacist in June 2023. The job provided health insurance as a job benefit. However, the insurance effective date was delayed because the open enrollment period in April 2023 had expired shortly before the Appellant was licensed and hired. Consequently, the Appellant did not have health insurance until June 2024, and the state Department of Revenue assessed a 12 month penalty for 2023.

The Appellant had financial strains in 2023. He was behind in his rent payments, and he sought to catch up on his other bills now that he had a full-time job. The Appellant also had outstanding student loans since he was only one year removed from his college graduation (the exact amount is unclear). Finally, in Fall 2023 the Appellant returned to school to obtain a masters degree and owed \$9,900 for the first semester tuition payment.

After considering all the circumstances, I conclude that it is appropriate to waive the entire penalty assessed against the Appellant for 2023. 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 [her] to experience a serious deprivation of food, shelter, clothing or other necessities.”).

PENALTY ASSESSED

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

The Connector has notified the Department of Revenue that, pursuant to its decision, you should be assessed a penalty for Tax Year 2023 for the amount equal to one half of the lowest cost health insurance plan available to you for each month you have been

assessed the penalty, as listed above, plus applicable interest back to the due date of the return without regard to extension.

OR

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

NOTIFICATION OF YOUR RIGHT TO APPEAL TO COURT

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

Hearing Officer

Cc: Massachusetts Health Connector Appeals Unit

Massachusetts Health Connector Appeals Unit

Tax Penalty Appeal Decision—Docket No. PA23-24

Appeal Decision: Appeal Approved -- 2023 tax penalty overturned.

Hearing Issue: Appeal of the 2023 Tax Year Penalty

Hearing Date: May 2, 2024

Decision Date: May 6, 2024

AUTHORITY

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

JURISDICTION

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

HEARING RECORD

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

1. DOR Appeal Case Information from Schedule HC (1 page);
2. Appellant’s Statement of Grounds for Appeal – 2023;
3. Health Connector’s Notice of Hearing (2 pages); and
4. Appellant’s Statement in Support of Appeal (1 page).

FINDINGS OF FACT

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

1. The Appellant appealed from the Department of Revenue's assessment of a 12 month penalty for 2023. The basis for the penalty was that the Appellant was not insured at any time in 2023. 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 2023 as a single person with no dependents. The Appellant's federal adjusted gross income (AGI) for 2023 was \$71,751. Exhibit 1.
3. The Appellant was 29 years old at the beginning of 2023 and resided in [name of city or town omitted] in Middlesex County, Massachusetts. Exhibit 1.
4. The Appellant's AGI was more than 150% of the federal poverty level. On this basis I conclude that the Appellant was not automatically exempt from the assessment of a tax penalty in 2023. DOR Table 1.
5. The Appellant's 2023 AGI (\$71,751) was more than 300% of the federal poverty level (\$40,770 for a one-person household). DOR Table 2. On this basis I infer that it is likely that the Appellant would not satisfy the financial eligibility requirements for government-subsidized health insurance.
6. Based on DOR Table 3 the Appellant could afford to pay 8.00% of her income -- or \$478 per month -- for health insurance coverage in 2023. (The calculation is 8.00 % multiplied by \$71,751 AGI = \$5,740.18 per year divided by 12 months = \$478.34 per month.)
7. Based on DOR Table 4 (Region 2) the Appellant could obtain individual health insurance coverage at her age and location for \$312 per month in 2022.
8. The Appellant set forth the basis for her appeal in a handwritten statement that she added to the pre-printed Appellant's Statement of Grounds for Appeal – 2023. Exhibit 2. Her statement, which I have marked as Exhibit 4, said: "I worked for a temp agency. Hours varied each week. They did not offer health insurance."
9. In her appeal hearing testimony the Appellant explained that she was paid an hourly rate and that her hours varied greatly: sometimes as little as one day per week and sometimes four or five days per week. Testimony.

10. The Appellant applied to the Health Connector for health insurance in 2023. Her application was denied because she earned too much. The Appellant also sought coverage through Blue Cross/Blue Shield and Aetna, but she was not able to afford the \$700 premium that she recalls being quoted. Testimony.
11. The Appellant was insured in 2022 (and in prior years) before she started to work for the temp agency in 2023. She was also insured in 2024, leaving 2023 as the gap in her insurance coverage. Testimony. See also Exhibit 1.
12. The Appellant was insured starting in 2024 as a dependent on the health insurance that her fiancé had as an employment benefit (called a “domestic partner”). After the fact, the Appellant learned that she could have also been covered as a domestic partner in 2023. Testimony.
13. The Appellant’s living expenses included \$1,850 for rent (which she deemed “expensive”) and utilities in the approximate amount of \$400 per month. Her car loan was \$550 per month and her USAA car insurance was only \$100 per month.
14. The Appellant’s credit cards were not paid. Her cards were maxxed out and some were in collection. Her outstanding balance was approximately \$5,000. Testimony.
15. Except as set forth in the foregoing findings of fact, I adopt the facts set forth in Exhibit 1 as my own findings of fact. Exhibit 1 is a computer printout prepared by the Massachusetts Department of Revenue (DOR) that extracts information submitted by the Appellant on Schedule HC as part of the Appellant’s 2023 Massachusetts income tax return.
16. I take administrative notice of the financial information set forth in Tables 1 through 6 of the DOR 2023 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 2023. 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 2023 income eligibility standard for the ConnectorCare government subsidized health insurance program. Tables 5 and 6 set forth the tax penalties in effect for 2023. (The DOR instructions are published online at <http://www.mass.gov/dor/2023ScheduleHCInstructions> 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 2023.)

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 2023. 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 – 2023 that the Appellant signed and filed in this case. See Exhibit 2.

The Appellant in this appeal had been insured in the years before 2023, when the DOR assessed a 12 month penalty, and in 2024 the year after the penalty assessment. Looking ahead, it appeared likely that her insurance situation had stabilized through her fiancé.

The thrust of the Appellant’s reason why she should not be penalized is that her job situation at the temp agency in 2023 was too unstable to commit to health insurance: some weeks she would be asked to work nearly full-time, while in other weeks she was substantially unemployed. There was always the risk that she would be unemployed. The Appellant’s credit card situation highlights the weakness of her financial situation in 2023. See Findings of Fact, No. 15, above. The Appellant did make unsuccessful efforts to obtain health insurance in 2023 through the Health Connector (which denied her application) and two private insurers (the Appellant recalled premium quotes well above what she could afford to pay under DOR Table 4, above). Compare Findings of Fact, Nos. 7 and 10, above.

This is a close case because looking backward at the end of the year the Appellant’s federal adjusted gross income (AGI) was sufficient to afford health insurance. But the Appellant was living in the present, not in the past. After considering all the circumstances, I conclude that it is appropriate to waive the entire penalty assessed against the Appellant for 2023. See, e.g., 956 Code Mass. Regs. 6.08 (1) (e).

PENALTY ASSESSED

Number of Months Appealed: ____12____ Number of Months Assessed: ___-0-_____

The Connector has notified the Department of Revenue that, pursuant to its decision, you should be assessed a penalty for Tax Year 2023 for the amount equal to one half of the lowest cost health insurance plan available to you for each month you have been assessed the penalty, as listed above, plus applicable interest back to the due date of the return without regard to extension.

OR

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

NOTIFICATION OF YOUR RIGHT TO APPEAL TO COURT

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

Hearing Officer

Cc: Massachusetts Health Connector Appeals Unit

Massachusetts Health Connector Appeals Unit

Tax Penalty Appeal Decision—Docket No. PA23-26

Appeal Decision: Appeal Approved -- 2023 tax penalty overturned.

Hearing Issue: Appeal of the 2023 Tax Year Penalty

Hearing Date: May 2, 2024

Decision Date: May 7, 2024

AUTHORITY

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

JURISDICTION

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

HEARING RECORD

The Appellant appeared 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 – 2023;
3. Health Connector's Notice of Hearing (2 pages);
4. Appellant's Letter in Support of Appeal (1 page); and
5. 2023 IRS Form 1095 – C.

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 2023. The basis for the penalty was that the Appellant was not insured at any time in 2023. Exhibits 1 and 2.
2. Based on all the evidence submitted in support of the appeal, I find that the Appellant was insured for all 12 months in 2023. Testimony and Exhibits 4 and 5.
3. In 2023 the Appellant lived in western Massachusetts where he worked at a MacDonald's that provided him health insurance as a job benefit. The Appellant had previously been insured as a dependent on his Father's health insurance plan, as he was under 26 years old. Testimony and Exhibits 1, 4 and 5.
4. The Employer, which was located in Connecticut, provided the Appellant with a 2023 IRS Form 1095-C as evidence that he was insured. Exhibit 5. The IRS Form 1095-C showed that the Appellant was insured al 12 months in 2023 and that the Appellant paid a monthly premium in the amount of \$223.19. Exhibit 5. See also Exhibit 4 and Testimony. The Employer did not provide a 2023 Form MA 1099-HC, the form that is used in Massachusetts, and the Appellant was not aware of difference between the federal and Massachusetts forms. Testimony and Exhibits 4 and 5.
5. I also find that, based on his 2023 income, the Appellant could not afford health insurance.
6. The Appellant filed a Massachusetts personal income tax return for 2023 as a single person with no dependents. The Appellant's federal adjusted gross income (AGI) for 2023 was \$29,368. Exhibit 1.
7. The Appellant was 24 years old at the beginning of 2023 and resided in [name of city or town omitted] in Hampden County, Massachusetts. Exhibit 1.
8. The Appellant's 2023 AGI (\$29,368) was less than 300% of the federal poverty level (\$40,770 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 if he had not been insured through his Employer.

9. Based on DOR Table 3 the Appellant could afford to pay 4.10% of his income -- or \$100 per month -- for health insurance coverage in 2023. (The calculation is 4.10% multiplied by \$29,368 AGI = \$ 1,204.08 per year divided by 12 months = \$100.34 per month.)
10. Based on DOR Table 4 (Region 1) the Appellant could obtain individual health insurance coverage at his age and location for \$327 per month in 2023.
11. Except as set forth in the foregoing findings of fact, I adopt the facts set forth in Exhibit 1 as my own findings of fact. Exhibit 1 is a computer printout prepared by the Massachusetts Department of Revenue (DOR) that extracts information submitted by the Appellant on Schedule HC as part of the Appellant's 2023 Massachusetts income tax return.
12. I take administrative notice of the financial information set forth in Tables 1 through 6 of the DOR 2023 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 2023. 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 2023 income eligibility standard for the ConnectorCare government subsidized health insurance program. Tables 5 and 6 set forth the tax penalties in effect for 2023. (The DOR instructions are published online at <http://www.mass.gov/dor/2023ScheduleHCInstructions> 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 2023.)

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 2023. 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 – 2023 that the Appellant signed and filed in this case. See Exhibit 2.

There are two reasons why the Appellant should not be assessed a tax penalty in this case.

The first reason is that based on his income in 2023 (\$29,368 AGI) the Appellant could not afford health insurance in 2023. His income was less than 300% of the federal poverty level (see DOR Table 2) and the cost of insurance (\$327 per month under DOR Table 3) was more that he could afford (\$100 per month under DOR Table 4). See Findings of Fact, Nos. 8, 9 and 10, above. See also Mass. Gen. Law c. 111M, sec. 2(a) (“deemed affordable”).

The second reason is that the Appellant was actually insured through his Employer for all 12 months in 2023, as set forth in 2023 IRS Form 1095-C that the Employer provided to the Appellant as evidence that the Appellant was enrolled in health

insurance. The same IRS form shows that the Appellant paid a \$223.19 monthly premium for his insurance. See Findings of Fact, Nos. 3 and 4, above. See also Mass. Gen. c. 111M, sec. 2(a), above (“obtain and maintain” health insurance).

For the foregoing reasons I waive the entire 12 month penalty that the Massachusetts Department of Revenue assessed for 2023. **See my RECOMMENDATION below.**

PENALTY ASSESSED

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

The Connector has notified the Department of Revenue that, pursuant to its decision, you should be assessed a penalty for Tax Year 2023 for the amount equal to one half of the lowest cost health insurance plan available to you for each month you have been assessed the penalty, as listed above, plus applicable interest back to the due date of the return without regard to extension.

OR

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

NOTIFICATION OF YOUR RIGHT TO APPEAL TO COURT

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

Hearing Officer

Cc: Massachusetts Health Connector Appeals Unit

RECOMMENDATION. If you are still working for the same employer in the current year (2024) it is possible that that you will assessed another penalty. The reason is that the Massachusetts Department of Revenue looks for a different form filed with your state tax return (**Form MA 1099-HC**) than the federal form that you filed with this appeal for 2023

(IRS Form 1095-C). Ask your employer to provide the correct form that certifies that your health insurance meets the Massachusetts requirements (called the Massachusetts minimum creditable coverage standards (“MCC”)).

For free advice I suggest that you contact HEALTH CARE FOR ALL, a private, non-profit organization. You can call the consumer hotline at 1-800-272-4232 and/or consult the website at www.hcfama.org.

Massachusetts Health Connector Appeals Unit

Tax Penalty Appeal Decision—Docket No. PA23-28

Appeal Decision: Appeal Approved -- 2023 tax penalty overturned.

Hearing Issue: Appeal of the 2023 Tax Year Penalty

Hearing Date: May 8, 2024

Decision Date: May 16, 2024

AUTHORITY

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

JURISDICTION

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

HEARING RECORD

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

1. DOR Appeal Case Information from Schedule HC (1 page);
2. Appellant’s Statement of Grounds for Appeal – 2023;
3. Health Connector’s Notice of Hearing (2 pages);
4. Appellant’s Letter in Support of Appeal (1 page); and
5. Appellant’s Eversource Electric Bill (due date 6/5/23).

FINDINGS OF FACT

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

1. The Appellant appealed from the Department of Revenue's assessment of a 12 month penalty for 2023. The basis for the penalty was that the Appellant was not insured at any time in 2023. 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 2023 as a single person with no dependents. The Appellant's federal adjusted gross income (AGI) for 2023 was \$27,705. Exhibit 1.
3. The Appellant was 54 years old at the beginning of 2023 and resided in [name of city or town omitted] in Bristol County, Massachusetts. Exhibit 1.
4. The Appellant's 2023 AGI (\$27,705) was less than 300% of the federal poverty level (\$40,770 for a one-person household). DOR Table 2. On this basis I infer that it is likely that the Appellant would satisfy the financial eligibility requirements for government-subsidized health insurance.
5. Based on DOR Table 3 the Appellant could afford to pay 4.10% of her income -- or \$95 per month -- for health insurance coverage in 2023. (The calculation is 4.10% multiplied by \$27,705 AGI = \$1,135.90 per year divided by 12 months = \$94.65 per month.)
6. Based on DOR Table 4 (Region 2) the Appellant could obtain individual health insurance coverage at her age and location for \$475 per month in 2023.
7. The Appellant received a notice from Eversource that her electric utility service would be shut off for non-payment of her bill. See Exhibit 5 (\$51.22 current charges due on 6/5/23 with \$367.95 total due). Her service was not cut off, in part because a friend loaned her money to pay the back charges. Testimony and Exhibit 4.
8. The Appellant worked as a school bus driver, who was laid off in the summer months when she collected unemployment insurance benefits. The Appellant started to work for a new employer in September 2023.
9. After the Appellant started her new job and enrolled in health insurance starting in March 2023 she viewed herself as "back on track." Testimony.

10. Except as set forth in the foregoing findings of fact, I adopt the facts set forth in Exhibit 1 as my own findings of fact. Exhibit 1 is a computer printout prepared by the Massachusetts Department of Revenue (DOR) that extracts information submitted by the Appellant on Schedule HC as part of the Appellant's 2023 Massachusetts income tax return.
11. I take administrative notice of the financial information set forth in Tables 1 through 6 of the DOR 2023 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 2023. 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 2023 income eligibility standard for the ConnectorCare government subsidized health insurance program. Tables 5 and 6 set forth the tax penalties in effect for 2023. (The DOR instructions are published online at <http://www.mass.gov/dor/2023ScheduleHCInstructions> 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 2023.)

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 2023. 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 – 2023 that the Appellant signed and filed in this case. See Exhibit 2.

In this case, the objective affordability standards in effect for 2023 indicate that the Appellant could not afford health insurance. Under DOR Table 3 the Appellant could afford to pay only \$95 per year for health insurance based on her income, but under DOR Table 4 health insurance would cost \$475 per month. See Findings of Fact, Nos. 5 and 6, above. See also Findings of Fact, No. 4 (Appellant’s income less than 300% federal poverty level).

The electric utility service cut off notice helps to illustrate the Appellant’s financial situation in 2023. She was able to avoid service termination with a loan from a friend. See Findings of Fact, Nos. 7, 8 and 9, above. For 2024, the Appellant viewed her financial situation as improved. See Findings of Fact, Nos. 7, 8, and 9, above.

After considering all the circumstances, I conclude that it is appropriate to waive the entire penalty assessed against the Appellant for 2023. See, e.g., 956 Code Mass. Regs. 6.08 (1) (a) and (e). The Appellant should take care to maintain her health insurance coverage as she should not assume that DOR penalty assessments will always be waived or reduced in future appeals.

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 2023 for the amount equal to one half of the lowest cost health insurance plan available to you for each month you have been assessed the penalty, as listed above, plus applicable interest back to the due date of the return without regard to extension.

OR

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

NOTIFICATION OF YOUR RIGHT TO APPEAL TO COURT

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

Hearing Officer

Cc: Massachusetts Health Connector Appeals Unit

Massachusetts Health Connector Appeals Unit

Tax Penalty Appeal Decision—Docket No. PA23-29

Appeal Decision: Appeal Approved -- 2023 tax penalty overturned.

Hearing Issue: Appeal of the 2023 Tax Year Penalty

Hearing Date: May 8, 2024

Decision Date: May 17, 2024

AUTHORITY

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

JURISDICTION

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

HEARING RECORD

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

1. DOR Appeal Case Information from Schedule HC (1 page);
2. Appellant’s Statement of Grounds for Appeal – 2023;
3. Health Connector’s Notice of Hearing (2 pages);
4. Appellant’s Letter in Support of Appeal (1 page);
5. Notification of Personnel Action;
6. Retail Job 1 Earnings Statement;
7. Airline Ticket (depart Boston 6/3/23);
8. Airline Ticket (return Boston 10/5/23);
9. Retail Job 2 Earnings Statement;
10. Mass. Rehabilitation Letter; and
11. Mass. DEP Correspondence.

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 2023. The basis for the penalty was that the Appellant was insured for the months of January – April 2023 but not for the months of May – December 2023. Exhibits 1 and 2. Based on Exhibit 1 and the Appellant's hearing testimony, I find that the penalty assessment is accurate (after DOR applies its three-month grace period to starting in May 2023).
2. The Appellant filed a Massachusetts personal income tax return for 2023 as a single person with no dependents. The Appellant's federal adjusted gross income (AGI) for 2023 was \$65,193. Exhibit 1.
3. The Appellant was 41 years old at the beginning of 2023 and resided in [name of city or town omitted] in Norfolk County, Massachusetts. Exhibit 1.
4. The Appellant's 2023 AGI (\$65,193) was more than 300% of the federal poverty level (\$40,770 for a one-person household). DOR Table 2. On this basis I infer that it is likely that the Appellant would not satisfy the financial eligibility requirements for government-subsidized health insurance. I recognize, however, that the Appellant's income varied during 2023, so her income might qualify her for government-subsidized health insurance for part of the year.
5. Based on DOR Table 3 the Appellant could afford to pay 8.00 % of her income -- or \$435 per month -- for health insurance coverage in 2023. (The calculation is 8.00 % multiplied by \$ 65,193 AGI = \$5,215.44 per year divided by 12 months = \$434.62 per month.)
6. Based on DOR Table 4 (Region 2) the Appellant could obtain individual health insurance coverage at her age and location for \$358 per month in 2023. (Again, I note that the Appellant's income varied during 2023.)

7. At the beginning of 2023 the Appellant was employed by a federal government agency, and she was enrolled in the health insurance plan offered to her as a job benefit. The Appellant's salary was \$80,000 per year. The Appellant's employment and her health insurance ended on May 19, 2023. Testimony and Exhibit 4.
8. The Appellant continued to work part-time at a large retail store in Massachusetts until June 1, 2023 (when the employer closed its retail stores). The Appellant was not offered health insurance at this job. She was paid \$16 per hour. Testimony and Exhibit 4.
9. The Appellant lived overseas for a substantial part of 2023, and she was not insured in Massachusetts while she was overseas. The Appellant caught a flight out of Boston on June 3, 2023, and a return flight to Boston on October 5, 2023. Testimony and Exhibits 4, 7, and 8.
10. After she returned to Massachusetts in October 2023, the Appellant obtained a seasonal job at a different major retail store. Her position was converted into a part-time job in January 2024. The Appellant was not offered health insurance by this employer where she was paid \$16 - \$19 per hour. Testimony and Exhibits 4 and 9. During this period the Appellant was also actively seeking a full-time job with benefits and receiving services from the Massachusetts Rehabilitation Commission. Testimony and Exhibits 4, 10 (Mass. Rehab. Letter), and 11 (correspondence with a state agency concerning employment).
11. The Appellant obtained health insurance coverage through the Health Connector starting in May 2024. 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 2023 Massachusetts income tax return.
13. I take administrative notice of the financial information set forth in Tables 1 through 6 of the DOR 2023 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 2023. 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 2023 income eligibility standard for the ConnectorCare government subsidized health insurance program. Tables 5 and 6 set forth the tax penalties in effect for 2023. (The DOR instructions are published online at <http://www.mass.gov/dor/2023ScheduleHCInstructions> 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 2023.)

ANALYSIS AND CONCLUSIONS OF LAW

The case is before me on the Appellant’s appeal from the state Department of Revenue’s (DOR) assessment of a 5 month tax penalty because the Appellant did not have health insurance coverage in 2023 for the months of May 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 – 2023 that the Appellant signed and filed in this case. See Exhibit 2.

For the Appellant, health insurance was not "affordable" in mid-2023 after she was no longer employed by the federal government agency with health insurance benefits. See Mass. Gen. Laws, c. 111M, sec. 2 (a), above. Because the Appellant's income changed so dramatically in 2023 one cannot rely on the calculations under DOR Tables 2, 3, and 4. See Findings of Fact, Nos. 4, 5 and 6, above.

In this case, the Appellant had a well-paid job in 2023 at a federal government agency (\$80,000 annual salary) with health insurance coverage as a job benefit until her employment ended in May 2023. The Appellant's part-time job that paid \$16 per hour and did not offer health insurance benefits also ended on June 1 when the retail store closed its doors. The Appellant did not have health insurance coverage for the remainder of 2023.

The Appellant did not remain in Massachusetts once she was unemployed. Instead she went overseas, departing Boston on June 3, 2023, and returning on October 5, 2023 (four months). After the Appellant returned to Massachusetts she quickly obtained a part-time job without health insurance benefits at another retail store, where she was initially paid \$16 per hour. The Appellant finally obtained health insurance coverage again through the Health Connector in

The facts presented in this case are sufficient to establish a financial hardship. In quick order the Appellant's situation shifted in early 2023 from a well-paid salaried job at a federal government agency that provided health insurance coverage to an unemployed person without insurance who no longer resided in Massachusetts. When the Appellant returned to Massachusetts four months later she had a low paid, uninsured seasonal/part-time job in November and December 2023.

For the foregoing reasons I conclude that it is appropriate to waive the entire 5 month penalty that the DOR assessed for 2023. See, e.g., Mass. Gen. Laws, c. 111M, sec. 2 (a), and 956 Code Mass. Regs. 6.08 (1) (e) ("[The Appellant] experienced financial circumstances such that the expense of purchasing health insurance that met minimum

credible coverage standards would have caused him [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 2023 for the amount equal to one half of the lowest cost health insurance plan available to you for each month you have been assessed the penalty, as listed above, plus applicable interest back to the due date of the return without regard to extension.

OR

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

NOTIFICATION OF YOUR RIGHT TO APPEAL TO COURT

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

Hearing Officer

Cc: Massachusetts Health Connector Appeals Unit

Massachusetts Health Connector Appeals Unit

Tax Penalty Appeal Decision—Docket No. PA23-30

Appeal Decision: Appeal Approved -- 2023 tax penalty overturned.

Hearing Issue: Appeal of the 2023 Tax Year Penalty

Hearing Date: May 8, 2024

Decision Date: May 20, 2024

AUTHORITY

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

JURISDICTION

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

HEARING RECORD

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

1. DOR Appeal Case Information from Schedule HC (1 page);
2. Appellant’s Statement of Grounds for Appeal – 2023;
3. Health Connector’s Notice of Hearing (2 pages);
4. Appellant’s Letter in Support of Appeal (1 page);
5. American Public Life (APL) Limited Benefits Policy;
6. APL Certificate of Insurance;
7. Hospital Indemnification Policy Holder;
8. Gmail – Employment Agency (CC) Open Enrollment (12/19/22 – 1/27/23);
9. Gmail – Employment Agency (CC) Employee Benefits;
10. Health Connector 2/21/23 Enrollment – Not Special Enrollment Period;

11. United Healthcare Letter to Appellant Re Health Insurance Coverage (dated 1/9/2024; and
12. 2023 Form MA 1099-HC (health insurance coverage Nov. & Dec. 2023).

FINDINGS OF FACT

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

1. The Appellant appealed from the Department of Revenue's assessment of a 6 month penalty for 2023. The basis for the penalty was that the Appellant was not insured for the months of January – September 2023 but was insured with Massachusetts minimum creditable coverage ("MCC") health insurance for the months of October, November and December in 2023. Exhibits 1 and 2. Exhibit 12 shows that the Appellant was insured only for the months of November and December 2023. I find that Exhibit 12 is more accurate since it is based on 2023 Form MA 1099-HC. In either instance the penalty assessment is reduced by a three-month administrative grace period. The one-month difference does not affect the outcome of this appeal.
2. The Appellant filed a Massachusetts personal income tax return for 2023 as a single person with no dependents. The Appellant's federal adjusted gross income (AGI) for 2023 was \$78,463. Exhibit 1.
3. The Appellant was 30 years old at the beginning of 2023 and resided in [name of city or town omitted] in Plymouth County, Massachusetts. Exhibit 1.
4. The Appellant's 2023 AGI (\$78,463) was more than 300% of the federal poverty level (\$40,770 for a one-person household). DOR Table 2. On this basis I infer that it is likely that the Appellant would not satisfy the financial eligibility requirements for government-subsidized health insurance.
5. Based on DOR Table 3 the Appellant could afford to pay 8.00% of his income -- or \$523 per month -- for health insurance coverage in 2023. (The calculation is 8.00 % multiplied by \$78,463 AGI = \$6,277.04 per year divided by 12 months = \$523.08 per month.)

6. Based on DOR Table 4 (Region 2) the Appellant could obtain individual health insurance coverage at his age and location for \$312 per month in 2023.
7. In 2023 the Appellant was enrolled in a “sober living (homeless)” situation. He was working through an employment agency (“CC”) that provided the Appellant with limited medical benefits health insurance. It is undisputed that these benefits did not satisfy the Massachusetts minimum creditable coverage (“MCC”) standard so the DOR penalty assessment was appropriate. Testimony and Exhibit 4. See also Exhibits 5, 6 and 7. The benefits may have satisfied the federal “minimum creditable coverage” standard. See Exhibit 9.
8. The Appellant unsuccessfully applied to the Health Connector health insurance coverage starting in February 2023. According to the Appellant, his application kept displaying an “error message.” According to the Health Connector, the Appellant did not qualify for a Special Enrollment Period. Exhibits 4 and 10 and Testimony. See also Exhibit 8 (open enrollment period ended 1/27/2023).
9. In September 2023 the Appellant met the one-year milestone at the Employment Agency (CC) that qualified him to enroll in health insurance coverage that met the MCC requirement. The Appellant applied, and he was enrolled in health insurance that met the MCC standard for the months of November and December 2023. Testimony and Exhibits 4, 11, and 12.
10. This appeal covers only 2023 (ending with health insurance coverage in December 2023), but I note that in early 2024 the Appellant was laid off at the job where he has been placed by the sober living Employment Agency (CC). The Appellant testified that he used COBRA (an infrequent occurrence) to maintain his MCC compliant health insurance until he obtained a new job with health insurance benefits. Testimony.
11. Except as set forth in the foregoing findings of fact, I adopt the facts set forth in Exhibit 1 as my own findings of fact. Exhibit 1 is a computer printout prepared by the Massachusetts Department of Revenue (DOR) that extracts information submitted by the Appellant on Schedule HC as part of the Appellant’s 2023 Massachusetts income tax return.

12. I take administrative notice of the financial information set forth in Tables 1 through 6 of the DOR 2023 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 2023. 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 2023 income eligibility standard for the ConnectorCare government subsidized health insurance program. Tables 5 and 6 set forth the tax penalties in effect for 2023. (The DOR instructions are published online at <http://www.mass.gov/dor/2023ScheduleHCInstructions> 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 2023.)

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 six month tax penalty because the Appellant did not have health insurance coverage in 2023 for the months that ended in October or November 2023. 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 – 2023 that the Appellant signed and filed in this case. See Exhibit 2.

In this case in 2023 the Appellant was participating in a form of sheltered workshop described as “sober living (homeless)” that was designed to restore him to full participation in the workforce. During that period the Appellant had a limited form of medical benefits through the Employment Agency (known as “CC”). He did not, however, qualify for full benefits that met the Health Connector’s Massachusetts minimum creditable coverage standard (“MCC”) until he met the one-year milestone for participation. The Appellant promptly enrolled in MCC-compliant health insurance when he met the one-year mark in September 2023.

After considering all the circumstances, I conclude that it is appropriate to waive the entire six month penalty that the DOR assessed against the Appellant for 2023. See, e.g., 956 Code Mass. Regs. 6.08 (1) (a) and (1) (e).

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 2023 for the amount equal to one half of the lowest cost health insurance plan available to you for each month you have been assessed the penalty, as listed above, plus applicable interest back to the due date of the return without regard to extension.

OR

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

NOTIFICATION OF YOUR RIGHT TO APPEAL TO COURT

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

Hearing Officer

Cc: Massachusetts Health Connector Appeals Unit

Massachusetts Health Connector Appeals Unit

Tax Penalty Appeal Decision—Docket No. PA23-33

Appeal Decision: Appeal Approved -- 2023 tax penalty overturned

Hearing Issue: Appeal of the 2023 Tax Year Penalty

Hearing Date: May 8, 2024

Decision Date: May 21, 2024

AUTHORITY

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

JURISDICTION

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

HEARING RECORD

The Appellant appeared 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 – 2023;
3. Health Connector's Notice of Hearing (2 pages);
4. Appellant's Letter in Support of Appeal (1 page);
5. Metro Housing – Termination of Mother's Section 8 Rental Subsidy Due to Non-Payment Eviction (dated 6/12/22);
6. Cambridge Health Alliance – M.D.'s Letter Supporting Mother's Housing Subsidy Due to Mental Disorder (dated 7/6/22);
7. Metro Housing – Seeks Reasonable Accommodation for Mother's Housing Subsidy + Payment of \$1,969.70 Rent Arrears;

8. Multiple Communications Between Metro Housing and Appellant (Son) Concerning Mother's Housing Reasonable Accommodation;
9. Metro Housing – Communication to Appellant (Son) Re Approval of Mother's Housing Reasonable Accommodation;
10. BPDA Letter to Appellant Re Approval of Appellant's Affordable Housing Purchase (dated 10/14/22); and
11. Communications Between Appellant and BPDA Re Affordable Housing Purchase Closing Scheduled for March 7, 2023 (dated 2/28/23).

FINDINGS OF FACT

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

1. The Appellant appealed from the Department of Revenue's assessment of a 7 month penalty for 2023. The basis for the penalty was that the Appellant was not insured for the months of January – October in 2023 but was insured for the months of November and December 2023. Exhibits 1 and 2. Based on Exhibit 1 and the Appellant's hearing testimony, I find that the penalty assessment is accurate. (The calculation is 12 months minus 2 months insured = 10 months uninsured minus 3-month administrative grace period = 7 penalty months.)
2. The Appellant filed a Massachusetts personal income tax return for 2023 as a single person with no dependents. The Appellant's federal adjusted gross income (AGI) for 2023 was \$40,141. Exhibit 1.
3. The Appellant was 30 years old at the beginning of 2023 and resided in [name of city or town omitted] in Suffolk County, Massachusetts. Exhibit 1.
4. The Appellant's 2023 AGI (\$40,141) was slightly less than 300% of the federal poverty level (\$40,770 for a one-person household). DOR Table 2. On this basis I infer that the Appellant might not satisfy the financial eligibility requirements for government-subsidized health insurance. (I cannot in this tax penalty appeal perform an actual eligibility calculation.)
5. Based on DOR Table 3 the Appellant could afford to pay 4.85% of his income -- or \$162 per month -- for health insurance coverage in 2023. (The calculation is 4.85%

multiplied by \$40,141 AGI = \$1,946.83 per year divided by 12 months = \$162.23 per month.)

6. Based on DOR Table 4 (Region 2 the Appellant could obtain individual health insurance coverage at his age and location for \$312 per month in 2023.
7. I find, based on all the evidence in the hearing record, that in 2022 and continuing into 2023 that the Appellant, who was 30 years old, devoted a major part of his time to resolving his Mother's housing problem and to purchasing the house for himself that he won in an affordable housing lottery. See, e.g., Testimony and Exhibit 4. See also Exhibits 5 – 11.
8. The Appellant's Mother was losing her Section 8 subsidized housing voucher due to non-payment of her rent. The Appellant (Son) intersected with his Mother's medical doctor (see Exhibit 6), with Mass Housing, and with RAFT over an extended period of time to cover the rent arrearage and to maintain a place for his Mother to live. See Exhibit 4 and Testimony. See also Exhibits 7, 8, and 9, that include numerous communications with the Appellant (Son) concerning his Mother.
9. Overlapping with his Mother's housing problems the Appellant had the good fortune to win a lottery for the purchase of an affordable house. This transaction, which closed on March 7, 2023, also required a great deal of the Appellant's attention to document the Appellant's eligibility for the lottery. See Exhibits 4, 10, and 11 and Testimony.
10. The Appellant aptly described himself as "financially recovering" in 2023 after he resolved the housing issues for his Mother and for himself. In late 2023 the Appellant successfully enrolled in health insurance for himself that was effective for November and December 2023. (I note that it is unlikely that that the Appellant would have successfully obtained health insurance earlier in the year due to open enrollment policies.)
11. Except as set forth in the foregoing findings of fact, I adopt the facts set forth in Exhibit 1 as my own findings of fact. Exhibit 1 is a computer printout prepared by the Massachusetts Department of Revenue (DOR) that extracts information submitted by the Appellant on Schedule HC as part of the Appellant's 2023 Massachusetts income tax return.

12. I take administrative notice of the financial information set forth in Tables 1 through 6 of the DOR 2023 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 2023. 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 2023 income eligibility standard for the ConnectorCare government subsidized health insurance program. Tables 5 and 6 set forth the tax penalties in effect for 2023. (The DOR instructions are published online at <http://www.mass.gov/dor/2023ScheduleHCInstructions> 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 2023.)

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 7 month tax penalty because the Appellant's health insurance coverage was effective for only the months of November and December in 2023. 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 – 2023 that the Appellant signed and filed in this case. See Exhibit 2.

The Appellant’s appeal in this case can be resolved by reference to the objective financial affordability standards set forth in DOR Tables 3 and 4. Based on the Appellant’s income in 2023, the Appellant could afford to spend \$162 per month on health insurance but, based on his age and location, individual health insurance coverage would cost \$312 per month. See Findings of Fact, Nos. 5 and 6 above. In other words, health insurance was not affordable based on the Appellant’s income in 2023. See, e.g., Mass. Gen. Laws, c. 111M, sec. 2 (a), above.

The Appellant also documented in detail that, in 2022 and continuing into 2023, he devoted an extraordinary effort into the successful resolution of his Mother’s housing problem that saved her place to live and her subsidized rent by obtaining a reasonable accommodation. See, e.g., Exhibits 4 – 9, above. This effort overlapped with the Appellant’s successful effort to take ownership of his own house through an affordable housing lottery. Finally, by the end of 2023 the Appellant turned to his legal obligation under the individual mandate (see above) and enrolled in health insurance starting in November and December.

After considering all the circumstances, I conclude that it is appropriate to waive the entire penalty assessed against the Appellant for 2023. See, e.g., 956 Code Mass. Regs. 6.08 (1) (a) and (1) (e). The Appellant should not assume that penalties will be waived or reduced in the future if he does not maintain health insurance coverage, as required under Massachusetts law.

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 2023 for the amount equal to one half of the lowest cost health insurance plan available to you for each month you have been assessed the penalty, as listed above, plus applicable interest back to the due date of the return without regard to extension.

OR

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

NOTIFICATION OF YOUR RIGHT TO APPEAL TO COURT

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

Hearing Officer

Cc: Massachusetts Health Connector Appeals Unit

Massachusetts Health Connector Appeals Unit

FINAL APPEAL DECISION: PA221321

Appeal Decision: The penalty is overturned.

Hearing Issue: Appeal of the 2022 Tax Year Penalty

Hearing Date: February 9, 2024

Decision Date: May 20, 2024

AUTHORITY

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

JURISDICTION

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

HEARING RECORD

The appellant appeared at the hearing which was held by telephone on February 9, 2024. The procedures to be followed during the hearing were reviewed with Appellant who was then sworn in. Exhibits were marked and admitted in evidence with no objection from the appellant. Appellant testified.

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

Exhibit 1: Statement of Grounds for Appeal 2022 signed and dated by Appellant on May 18, 2023

Exhibit 2: Appeal Case Information from Schedule HC 2022

Exhibit 3: Notice of Hearing sent to Appellant dated January 4, 2024 for February 9, 2024 hearing

FINDINGS OF FACT

The record shows, and I so find:

1. Appellant, who filed a 2022 Massachusetts tax return as Head of Household with one dependent claimed, was 51 years old in 2022. His dependent was his minor child who had MassHealth coverage (Exhibit 2, Testimony of Appellant).
2. Appellant resided in Nantucket County in 2022 (Testimony of Appellant, Exhibit 2).
3. Appellant had a Federal Adjusted Income of \$58,428 in 2022 (Testimony of Appellant, Exhibit 2).
4. The appellant was employed all year. Appellant worked at a small company with two other employees. Appellant was not offered health insurance through employment (Testimony of Appellant).
5. Appellant has been assessed a penalty for all of 2022. (Testimony of Appellant, Exhibit 2).
6. I take administrative notice of the financial information set forth in Tables 1 through 6 in the DOR 2022 Massachusetts Schedule HC Health Care Instructions and Worksheets. Tables 3 and 4 incorporate affordability and premium schedules adopted by the Board of Directors for the Commonwealth Health Insurance Connector Authority for 2022. Table 2 sets forth income at 300% of the Federal poverty level and Tables 5 and 6 set forth tax penalties in effect for 2022.

7. According to Table 3 of Schedule HC for 2022, the appellant with one dependent claimed with an adjusted gross income of \$58,428 could afford to pay \$362 per month for health insurance. According to Table 4, Appellant, 51 years old and living in Nantucket County, could have purchased insurance for \$647 per month for a plan for an individual. Insurance on the individual market was unaffordable for the appellant (Schedule HC for 2022 Tables 3 and 4, Exhibit 2).

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

9. Appellant was not a veteran (Testimony of Appellant).

ANALYSIS AND CONCLUSIONS OF LAW

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

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

The appellant had no health insurance in 2022. He has been assessed a penalty for the entire year. Appellant has appealed the assessment. See Exhibits 1 and 2.

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

According to Table 3 of Schedule HC for 2022, the appellant with one dependent claimed with an adjusted gross income of \$58,428 could afford to pay \$362 per month for health insurance. According to Table 4, Appellant, 51 years old and living in Nantucket County, could have purchased insurance for \$647 per month for a plan for an individual. Insurance on the individual market was unaffordable for the appellant. See Schedule HC for 2022 Tables 3 and 4, and Exhibit 2.

According to Table 2 of Schedule HC for 2022, Appellant who earned more than \$52,260 per year, would have been ineligible for the ConnectorCare program based upon income. See Table 2 of Schedule HC-2022, and Exhibit 2. Appellant was not a veteran. See the testimony of Appellant which I find to be credible. There is no evidence in the record that Appellant was eligible for any other government-sponsored health insurance.

Appellant was not offered health insurance through employment. The appellant worked for a small company with three employees. None of the employees were offered health insurance. See the testimony of the appellant which I find to be credible.

The appellant had no access to affordable health insurance in 2022. See discussion above. His penalty is waived pursuant to Massachusetts General Laws Chapter 111M, Section 2, which provides if an individual has no access to affordable health insurance, the individual shall not be assessed a tax penalty.

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

PENALTY ASSESSED

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

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

NOTIFICATION OF YOUR RIGHT TO APPEAL TO COURT

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

Cc: Connector Appeals Unit

Hearing Officer

FINAL APPEAL DECISION: PA23-3

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

Hearing Issue: Appeal of the 2023 Tax Year Penalty

Hearing Date: April 16, 2024

Decision Date: April 29, 2024

AUTHORITY

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

JURISDICTION

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

HEARING RECORD

Appellant filed his 2023 tax return as Single with no dependents. Appellant appeared at the hearing. The Hearing was held by telephone, on April 16, 2024. The procedures to be followed during the hearing were reviewed with Appellant who was then sworn in. Exhibits were marked and admitted into evidence with no objection from Appellant. The hearing record consists of the Appellant's testimony and the following documents which were admitted into evidence:

- Exhibit 1: Health Connector Appeals Unit Notice of Hearing dated March 13, 2024.
- Exhibit 2: Appeal Case Information from Schedule HC 2023.
- Exhibit 3: Statement of Grounds for Appeal, with attachments, unsigned and undated.
- Exhibit 4: Convergent One Health information received in response to an Open Record Request.

FINDINGS OF FACT

The record shows, and I so find:

1. Appellant was age 27 in January 2023, and he filed his Federal Income Tax return as Single with no Dependents (Exhibit 2).
2. The Appellant lived in Norfolk County in 2023 (Exhibit 2, 3 and Appellant Testimony).
3. The Appellant's Federal Adjusted Gross Income for 2023 was \$59,200 .00 (Exhibit 2).
4. Appellant has been assessed a twelve-month tax penalty for 2023 (Exhibit 2).

5. I take administrative notice of the financial information set forth in Tables 1 through 6 in the DOR 2023 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 2023. Table 2 sets forth income at 300% of the Federal poverty level and Tables 5 and 6 set forth tax penalties in effect for 2023.
6. In accordance with Table 3 of Schedule HC for 2023, the Appellant filing his Federal tax return as Single with no dependents, with an annual adjusted gross income of \$59,200 could afford to pay \$395 per month for health insurance. In accordance with Table 4, Appellant, age 27 living in Norfolk County, could have purchased private insurance for \$312 per month. Private insurance was affordable for Appellant.
7. Appellant testified that he was employed full time for the entire year of 2023 and his employer did not offer a health insurance plan for employees. He believed he was insured with a plan that met the Minimum Creditable Coverage (MCC) required by Massachusetts law for most of 2023 through Convergent Health One - a private insurer and added that his monthly premium was \$189.95. (Exhibit 3 and Appellant's Testimony). He further stated that he discovered that this was not the case when he contacted the insurer for his tax information.
8. Appellant said he searched the HealthConnector site in 2023 for a policy and received hard copies of materials in the mail, but never pursued this route. He added that he went through the HealthConnector to obtain a health insurance policy beginning in February 2024. (Appellant Testimony).
9. The Appellant's income was more than 300% of the federal poverty level, which was \$40,770 for a household of one in 2023 (See Table 2 of Schedule HC-2023 and 956 CMR 12.04). (Appellant Testimony and Exhibit 2).
10. Appellant estimated his monthly living expenses in 2023 exceeded \$2,200 including rent and providing partial financial assistance for a sister that lived with him in 2023. (Appellant Testimony).

ANALYSIS AND CONCLUSIONS OF LAW

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

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

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

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

In accordance with Table 3 of Schedule HC for 2023, the Appellants filing his Federal tax return as Single, with no dependents claimed and with an adjusted gross income of \$59,200, could afford to pay \$395 per month for health insurance. According to Table 4, Appellant age 27, living in Norfolk County, could have purchased a private insurance plan for \$312 a month. See Schedule HC for 2023. He further stated that his monthly premium was \$189.95. Private insurance was affordable for the Appellants in tax year 2023.

The Appellant would not have been eligible for ConnectorCare coverage based upon his income that was more than 300% of the federal poverty level which was \$40,770 for a household of one in 2023. See Table 2 of Schedule HC 2023 and 956 CMR 12.04 for eligibility criteria. Appellant would not have qualified for MassHealth based on the income requirements in 2023.

Appellant testified credibly that he believed his policy was in compliance with the Massachusetts requirements and was made aware that it was not when he called the company to get tax information in 2024. The Appellant provided additional information after the Hearing which explained, in part, the benefits he received as a member of Convergent Health: Hospital Indemnity, Association Membership, Discount Medical Savings Benefits and Consumer Benefits. The description of benefits offers no insight into whether the plans deviated from or substantially met the MCC requirements in accordance with 956 CMR 6.08 (2)(d). Appellant testified that an employee of Convergent Health informed him that the plan was not MCC compliant. Based on these factors it is determined the Appellant's 2023 plan was not MCC compliant.

Appellant testified that in 2023 he provided partial financial support to his sister who lives with him and his monthly living expenses, including rent, exceeded \$2,200. He testified that he did contact the HealthConnector for a plan, but did not take the necessary steps to find a plan. He believably testified of a good faith effort to purchase a plan that he believed was MCC compliant and upon learning it was not, he purchased a plan through the Health Connector.

In light of these facts, I find that purchasing a health insurance policy by Appellant in 2023 would have resulted in a partial economic hardship. I am exercising my discretion as the Hearing Officer and partially waiving the penalty of 12 months to 3 months.

The Appellants should note that the partial waiver of his penalty is based upon the facts that I have determined to be true in 2023. The Appellant should not assume that a similar determination will be made for subsequent tax years should he again be assessed a penalty for failure to have health insurance.

PENALTY ASSESSED

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

If the number of months assessed is zero (0) because your penalty has been overturned, the Connector has notified the Department of Revenue that you should NOT be assessed a penalty for Tax Year 2023.

NOTIFICATION OF YOUR RIGHT TO APPEAL TO COURT

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

Cc: Connector Appeals Unit

FINAL APPEAL DECISION: PA 23-63

Appeal Decision: The penalty is overturned in full

Hearing Issue: Appeal of the 2023 Tax Year Penalty

Hearing Date: May 6, 2024

Decision Date: May 30, 2024

AUTHORITY

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

JURISDICTION

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

HEARING RECORD

The Appellant appeared at the hearing, which was held by telephone on May 6, 2024. The procedures to be followed during the hearing were reviewed with the Appellant who was then sworn in. Exhibits were marked and admitted in evidence with no objection from the Appellant. The Appellant testified.

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

Exhibit 1:	Appeal Case Information from Schedule HC.	(1 P).
Exhibit 2:	Statement of Grounds for Appeal 2023 Signed by Appellant on 3/15/2023.	(2 PP).
Exhibit 2(a):	Appellant’s Statement in Support of Appeal dated 3/4/2024.	(1 P).
Exhibit 2(b):	MA Court Document.	(2 PP).
Exhibit 2(c):	Appellant’s Billing Statement for Attorney re: MA Court Proceeding	(3 PP).
Exhibit 3:	Health Connector’s Notice of Hearing dated 4/17/2024.	(2 PP).

The record shows, and I so find:

1. The Appellant, who filed a 2023 Massachusetts tax return filed married filing separate with a family size of 1, was age 28 in 2023, lived in Suffolk County. (Exhibit 1).
2. The Appellant’s Federal Adjusted Gross Income for 2023 was \$33,815. (Exhibit 1).
3. The Appellant testified she was paid by commission and did not have access to Employer Sponsored Insurance (“ESI”). (Appellant’s Testimony).

4. The Appellant credibly testified that she was going through a divorce, did not have contact to her Spouse who lived in another state, and did not have access to her Spouse's ESI (Appellant's Testimony).
5. I give some limited weight to the Appellant's testimony that she investigated obtaining Connectorcare and public insurance but was unable to qualify because she did not have a lease and could not prove residency. (Appellant's Testimony).
6. According to Table 3 Appellant could have afforded \$116.94 per month for health insurance in 2023. According to Table 4 Appellant could have purchased insurance for \$312.00 per month.
7. The Appellant would have been eligible for ConnectorCare coverage in 2023 because the Appellant's income was less than 300% of the poverty level, which was \$40,770.00 for a family size of one (1). (See Table 2 of Schedule HC 2023, Appellant's Testimony).
8. The Appellant's testified that her monthly living expenses in 2023 included: Rent: \$1,700, Utilities \$50 (Heat-Electric), Transportation Costs: \$300: Cell Phone: \$35, Food/Incidentals/Business Expenses: \$ \$1,000, total \$3,085. (Appellant's Testimony).
9. The Appellant testified her approximate monthly net take home pay was \$3,000. (Appellant's Testimony).
10. The Appellant credibly testified and corroborated Attorney's Fees in the amount of over \$7,800. (Exhibit 2(a)-(c), Appellant Testimony).
11. The Appellant has incurred additional Attorney's Fees in 2024 in the Court case and has had to obtain an Attorney out of state where the action is now in a different State. (Appellant's Testimony).
12. The Appellant is not currently insured in 2024. (Appellant's testimony).
13. In addition to the foregoing, I take administrative notice of the 2023 Schedule HC Instructions and Worksheets, available at <http://www.mass.gov.dor/docs/dor/health-care/2023>, and in particular, Tables 1-6 which, as discussed below, include the Affordability Schedule and other financial information used in making 2023 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 2023 should be waived, either in whole or in part. Appellant has been assessed a tax penalty for twelve (12) months in 2023. Appellant has appealed the penalty. (See Exhibits 1 and 2).

The Appellant adduced evidence at the hearing submitted a statement of grounds for appeal (Ex. 2) with the appeal that during 2023 that the individual mandate did not apply to her because the expense of purchasing health insurance during 2023 would have caused the Appellant a deprivation of food and

other necessities and a financial hardship as defined in 956 CMR 6.08. (Exhibit 2 and Appellants' Testimony).

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

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

The evidence provided by the Appellant established that her income for 2023, \$33,815 was less than 300% of the federal poverty level, which for 2023 was \$40,770.00 for a filing of married separately with a family size of one (1). According to Table 3 of Schedule HC for 2023, the Appellant could have afforded \$ 116.94 per month. According to Table 4, Appellant, age 29 and living in Suffolk County during the time she was being penalized for not having insurance, could have purchased insurance for \$ 312 per month. Individual coverage was not affordable through the individual market for the Appellant in 2023 (Schedule HC for 2023).

The next issue to consider is whether the Appellant had access to affordable employer health insurance ("ESI") in 2023. The Appellant testified that she was not offered ESI and that she could not contact her Spouse, as they were involved in a divorce, and thus had no access to her Spouse's ESI. (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 2023 is considered to be affordable if the employee's contribution for an individual plan is 9.12 percent or less of the employee's projected household modified adjusted income (MAGI). The coverage is considered to meet minimum value standards if it has an actuarial value of at least 60 percent. In this case, as referenced above, the Appellant did not have access to ESI. (Appellant's Testimony).

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

I find the Appellant's testimony credible that she was not able to purchase insurance at \$116.94 per month given her net monthly income of approximately \$3,000 and the cost of her monthly basic necessities of approximately \$3,085, excluding the \$7,800 plus in Attorney's Fees. (Appellant Testimony). Accordingly, I find that the Appellant met the hardship criteria, and that purchasing health insurance would have caused the Appellant to experience financial hardship. 956 CMR 6.08 (1) (e) & (3). Accordingly, the Appellant's assessed tax penalty of twelve (12) months is waived in full for these reasons.

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

Where the Appellant is not insured for 2024, the Appellant was strongly encouraged to contact the Connectorcare to obtain insurance and provide other forms of residency proof, and the Appellant should note that any waiver granted here is for 2023 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. (emphasis added).

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 2023 for the amount equal to one half of the lowest cost health insurance plan available to you for each month you have been assessed the penalty, as listed above, plus applicable interest back to the due date of the return without regard to extension.

NOTIFICATION OF YOUR RIGHT TO APPEAL TO COURT

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

Cc: Connector Appeals Unit

Hearing Officer

ADDENDUM

If the Appellant still does not have health insurance, and if his income and employment have not changed, she is advised to investigate 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: PA221152

Appeal Decision: The penalty is waived in full.

Hearing Issue: Appeal of the 2022 Tax Year Penalty

Hearing Date: December 26, 2023

Decision Date: May 10, 2024

AUTHORITY

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

JURISDICTION

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

HEARING RECORD

The appellant appeared at the hearing which was held by telephone on December 26, 2023. The procedures to be followed during the hearing were reviewed with Appellant who was then sworn in. Exhibits were marked and admitted in evidence with no objection from the appellant. Appellant testified. At the end of the hearing, the record was left open until January 24, 2024 to give Appellant time to submit additional evidence. As of the date of this writing, no additional evidence has been submitted by the appellant. The record is now closed.

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

- Exhibit 1: Statement of Grounds for Appeal signed by Appellant on May 2, 2023 with rent receipt and student loan bill summary as of 3/12/23 attached
- Exhibit 2: Appeal Case Information from Schedule HC 2022
- Exhibit 3: Notice of Hearing sent to Appellant dated November 24, 2023 for December 26, 2023 hearing

FINDINGS OF FACT

The record shows, and I so find:

1. Appellant, who filed a 2022 Massachusetts tax return as a single person with no dependents claimed, was 25 years old in 2022 (Exhibit 2, Testimony of Appellant).
2. Appellant resided in Hampshire County in 2022 (Testimony of Appellant, Exhibit 2).
3. Appellant had a Federal Adjusted Income of \$52,395 in 2022 (Testimony of Appellant, Exhibit 2).
4. Appellant worked part-time at a library in 2022. The appellant worked twenty hours a week. Appellant was not offered health insurance or other benefits through this job (Testimony of Appellant).
5. Appellant had a second part-time job in 2022. He was a caretaker for an ill individual. He worked about 20 hours a week; he was not offered health insurance or other benefits through this job (Testimony of Appellant).

6. Appellant had no health insurance in 2022. He has been assessed a tax credit penalty for twelve months. Appellant has appealed the assessment (Exhibits 1, 2, Testimony of Appellant).

7. I take administrative notice of the financial information set forth in Tables 1 through 6 in the DOR 2022 Massachusetts Schedule HC Health Care Instructions and Worksheets. Tables 3 and 4 incorporate affordability and premium schedules adopted by the Board of Directors for the Commonwealth Health Insurance Connector Authority for 2022. Table 2 sets forth income at 300% of the Federal poverty level and Tables 5 and 6 set forth tax penalties in effect for 2022.

8. According to Table 3 of Schedule HC for 2022, the appellant with no dependents claimed with an adjusted gross income of \$52,395 could afford to pay \$349 per month for health insurance. According to Table 4, Appellant, 25 years old and living in Hampshire County, could have purchased insurance for \$295 per month for a plan for an individual. Insurance on the individual market was affordable for the appellant (Schedule HC for 2022 Tables 3 and 4, Exhibit 2).

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

10. The appellant had the following monthly expenses for basic necessities in 2022: rent including heat-\$995; electricity-\$50; internet- \$79; telephone-\$45; food, household products and personal care items-\$430; clothing-\$140; public transportation-\$75; student debt payments-\$409; dental care, over the counter products-\$60. Appellant had \$23,000 in student loan debt (Testimony of Appellant).

11. As of January 1, 2023, Appellant obtained health insurance through the Connector. He had coverage all year (Testimony of Appellant)

ANALYSIS AND CONCLUSIONS OF LAW

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

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

Appellant had no health insurance which met the Commonwealth’s standards in 2022. Appellant has been assessed a penalty for the entire year. The appellant has appealed the assessment. See Exhibits 1, 2,

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

According to Table 3 of Schedule HC for 2022, the appellant with no dependents claimed with an adjusted gross income of \$52,395 could afford to pay \$349 per month for health insurance. According to Table 4, Appellant, 25 years old and living in Hampshire County, could have purchased insurance for \$295 per month for a plan for an individual. Insurance on the individual market was affordable for the appellant. See Schedule HC for 2022 Tables 3 and 4, and Exhibit 2.

Appellant was ineligible for enrollment in the ConnectorCare program. The appellant's annual Federal Adjusted Income was \$52,395, more than the income limit for one person (\$38,640). See 956 CMR 12.00 et. seq., Exhibit 2, and Table 2 of Schedule HC 2022. There is no evidence in the record that Appellant was eligible for any other government sponsored program.

Appellant was not offered health insurance through employment in 2022. The appellant had two part-time jobs, neither of which offered benefits. See also the testimony of the appellant which I find to be credible.

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

The appellant had the following monthly expenses for basic necessities in 2022: rent including heat-\$995; electricity-\$50; internet- \$79; telephone-\$45; food, household products and personal care items-\$430; clothing-\$140; public transportation-\$75; student debt payments-\$409; dental care, over the counter products-\$60. Appellant had \$23,000 in student loan debt. See the testimony of the appellant which I find to be credible.

While Appellant earned (before taxes) more than he spent each month, I note that Appellant's earnings came from two part-time jobs, neither of which provided any sort of benefits. He did not own a car and instead used public transportation. Appellant also had significant student loan debt amounting to \$23,000; the appellant had payments of over \$400 a month. See the testimony of the appellant which I find to be credible, and Exhibit 1 attachments.

Based upon the facts summarized above, I determine that pursuant to 956 CMR 6.08(3), the appellant could not afford to purchase health insurance which met the Commonwealth's minimum creditable coverage standards. I also note that Appellant obtained health insurance through the Connector effective January 1, 2023.

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

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

PENALTY ASSESSED

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

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

NOTIFICATION OF YOUR RIGHT TO APPEAL TO COURT

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

Cc: Connector Appeals Unit

Hearing Officer

Massachusetts Health Connector Appeals Unit

FINAL APPEAL DECISION: PA221154

Appeal Decision: The appeal is denied.

Hearing Issue: Appeal of the 2022 Tax Year Penalty

Hearing Date: December 26, 2023

Decision Date: April 30, 2024

AUTHORITY

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

JURISDICTION

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

HEARING RECORD

The appellant appeared at the hearing which was held by telephone on December 26, 2023. The procedures to be followed during the hearing were reviewed with Appellant who was then sworn in. Exhibits were marked and admitted in evidence with an objection from the appellant. Appellant objected to Exhibit 2 being admitted in evidence. Appellant testified.

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

Exhibit 1: Statement of Grounds for Appeal signed by Appellant on May 5, 2023 with letter attached

Exhibit 2: Appeal Case Information from Schedule HC 2022

Exhibit 3: Notice of Hearing sent to Appellant dated November 24, 2023 for December 26, 2023 hearing

FINDINGS OF FACT

The record shows, and I so find:

1. Appellant, who filed a 2022 Massachusetts tax return as a single person with no dependents claimed, was 63 years old in 2022 (Exhibit 2, Testimony of Appellant).
2. Appellant resided in Middlesex County in 2022 (Testimony of Appellant, Exhibit 2).
3. Appellant had a Federal Adjusted Income of \$132,272 in 2022 (Testimony of Appellant, Exhibit 2).
4. Appellant was self-employed in 2022. His income also included withdrawals from retirement funds and interest earned on bank accounts (Testimony of Appellant).
5. Appellant did not have health insurance which met the Commonwealth's minimum creditable coverage standards. He was "self-insured." If he had any medical bills, he would pay them himself. He had looked into obtaining health insurance, but he found the premiums to be too high. Appellant considers health insurance to be a luxury item. He does not want to be told what to purchase. He takes care of himself by having proper nutrition (Testimony of Appellant, Exhibit 2).

6. Appellant has been assessed a tax credit penalty for twelve months. Appellant has appealed the assessment (Exhibits 1, 2, Testimony of Appellant).

7. I take administrative notice of the financial information set forth in Tables 1 through 6 in the DOR 2022 Massachusetts Schedule HC Health Care Instructions and Worksheets. Tables 3 and 4 incorporate affordability and premium schedules adopted by the Board of Directors for the Commonwealth Health Insurance Connector Authority for 2022. Table 2 sets forth income at 300% of the Federal poverty level and Tables 5 and 6 set forth tax penalties in effect for 2022.

8. According to Table 3 of Schedule HC for 2022, the appellant with no dependents claimed with an adjusted gross income of \$132,272 could afford to pay \$881 per month for health insurance. According to Table 4, Appellant, 63 years old and living in Middlesex County, could have purchased insurance for \$435 per month for a plan for an individual. Insurance on the individual market was affordable for the appellant (Schedule HC for 2022 Tables 3 and 4, Exhibit 2).

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

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

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

12. Appellant had no mortgage payments in 2022. He did not pay rent (Testimony of Appellant).

13. Appellant owned two houses in 2022. He also had 7 or 8 cars. Two of these he used for business. The appellant had the following yearly expenses in 2022: property taxes-\$9,000-\$10,000; home owner's insurance-about \$2,500; electricity, heat, internet, and maintenance of houses-\$30,000 to \$40,000; food-\$20,000; clothing-\$5,000 to \$10,000; car insurance-\$3,000; gas-\$7,000 to \$8,000. In addition, Appellant spent between \$49,000 and \$50,000 on maintenance of the cars (Testimony of Appellant).

14. Appellant believes that the Commonwealth is "dead wrong" to force people to have health insurance. He considers the law a "crime against humanity." He believes that requiring individuals to have health insurance is just a way for the state to take people's money (Testimony of Appellant).

ANALYSIS AND CONCLUSIONS OF LAW

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

G.L. c. 111M, § 2, also called the "individual mandate," requires every adult resident of Massachusetts to obtain insurance coverage that meets minimum creditable standards set by the Commonwealth "[s]o long as it is deemed affordable" under the schedule set by the board of directors for the Commonwealth Health Insurance Connector Authority. Residents who do not obtain insurance are subject to a tax penalty for "each of the months" that the individual did not have health insurance as required by the individual mandate. There is a three-month grace period to allow the taxpayer to obtain health insurance coverage or to make the transition between health insurance policies. See G. L. c. 111M, sec. 2(b) and for Tax Year 2010, Administrative Bulletin 03-10: Guidance Regarding M.G.L. c. 111M and M.G.L. c. 176Q, as implemented by 956 CMR 6.00, which interprets the 63-day gap in coverage to be three months. The Connector's regulations provide for a waiver of the tax penalty in the case of a 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 had no health insurance which met the Commonwealth's standards in 2022. Appellant has been assessed a penalty for the entire year. The appellant has appealed the assessment. See Exhibits 1, 2,

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

According to Table 3 of Schedule HC for 2022, the appellant with no dependents claimed with an adjusted gross income of \$132,272 could afford to pay \$881 per month for health insurance. According to Table 4, Appellant, 63 years old and living in Middlesex County, could have purchased insurance for \$435 per month for a plan for an individual. Insurance on the individual market was affordable for the appellant. See Schedule HC for 2022 Tables 3 and 4, and Exhibit 2.

Appellant was ineligible for enrollment in the ConnectorCare program. The appellant's annual Federal Adjusted Income was \$132,272, more than the income limit for one person (\$38,640). See 956 CMR 12.00 et. seq., Exhibit 2, and Table 2 of Schedule HC 2022. There is no evidence in the record that Appellant was eligible for any other government sponsored program.

Appellant was not offered health insurance through employment. The appellant was self-employed. See the testimony of the appellant which I find to be credible.

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

Appellant did not incur significant and unexpected increases in essential expenses as a result of domestic violence; the death of a spouse, family member, or partner who shared household expenses; the sudden responsibility for providing full care for an aging parent or other family member, or a natural or human-caused event which caused substantial personal damage in 2022. Appellant did not receive any shut-off notices for basic utilities in 2022. Appellant had no mortgage payments in 2022. He did not pay rent. He owned two homes outright. See the testimony of Appellant which I find to be credible. Appellant did not have a financial hardship pursuant to 956 CMR 6.08(a), (b) or (d).

Appellant also did not have a financial hardship pursuant to 956 CMR 6.08(e). I determine that the cost of purchasing health insurance would not have caused the appellant to suffer a serious deprivation of basic necessities. Appellant could have purchased health insurance through the Connector for as little as \$435 a month, or a little over \$5,000 for the year. In support of this determination, I take into consideration that the appellant owned 7 or 8 cars, only 2 of which he claimed were needed to get to work, and spent around \$50,000 during the year to maintain the cars. Appellant also claimed to spend \$20,000 a year on food, between \$5,00 and \$10,000 a year on clothing, and between \$30,000 and \$40,000 to maintain his houses. See the testimony of the appellant.

Appellant would not have suffered a serious deprivation of any of transportation, clothing, food, or shelter if he had set aside \$435 a month (See Table 4 of Schedule HC for 2022) for health insurance, given his income was about \$10,000 a month. See Exhibit 2.

I also determine that Appellant did not raise any financial issues during the hearing that would justify the waiver of the penalty. See 956 CMR 6.08(3). In fact, Appellant made it very clear that he did not want to obtain insurance. He resented the state telling him how to spend his money and believed that he could self-insure. See the testimony of the appellant.

Appellant's tax penalty remains in place.

PENALTY ASSESSED

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

The Connector has notified the Department of Revenue that, pursuant to its decision, you should be assessed a penalty for Tax Year 2022 for the amount equal to one half of the lowest cost health insurance plan available to you for each month you have been assessed a penalty, as listed above, plus the 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

Massachusetts Health Connector Appeals Unit

FINAL APPEAL DECISION: PA221205

Appeal Decision: The penalty is waived in full.

Hearing Issue: Appeal of the 2022 Tax Year Penalty

Hearing Date: January 19, 2024

Decision Date: May 14, 2024

AUTHORITY

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

JURISDICTION

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

HEARING RECORD

The appellant appeared at the hearing which was held by telephone on January 19, 2024. The procedures to be followed during the hearing were reviewed with Appellant who was then sworn in. Exhibits were marked and admitted in evidence with no objection from the appellant. Appellant testified.

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

Exhibit 1: Statement of Grounds for Appeal signed by Appellant on May 12, 2023

Exhibit 2: Appeal Case Information from Schedule HC 2022

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

FINDINGS OF FACT

The record shows, and I so find:

1. Appellant, who filed a 2022 Massachusetts tax return as a single person with no dependents claimed, was 56 years old in 2022 (Exhibit 2, Testimony of Appellant).
2. Appellant resided in Bristol County in 2022 (Testimony of Appellant, Exhibit 2).
3. Appellant had a Federal Adjusted Income of \$21,589 in 2022 (Testimony of Appellant, Exhibit 2).
4. Appellant worked part-time as a driver delivering tiles. Appellant was not offered health insurance through this job. Appellant's employer told him to apply to the state for coverage (Testimony of Appellant).
5. Appellant had no health insurance in 2022. He has been assessed a tax credit penalty for twelve months. Appellant has appealed the assessment claiming that the cost of purchasing health insurance would cause Appellant to suffer a serious deprivation of basic necessities (Exhibits 1, 2, Testimony of Appellant).
6. I take administrative notice of the financial information set forth in Tables 1 through 6 in the DOR 2022 Massachusetts Schedule HC Health Care Instructions and Worksheets. Tables 3 and 4 incorporate affordability and premium schedules adopted by the Board of Directors for the Commonwealth Health Insurance Connector Authority

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

7. According to Table 3 of Schedule HC for 2022, the appellant with no dependents claimed with an adjusted gross income of \$21,589 could afford to pay \$52 per month for health insurance. According to Table 4, Appellant, 56 years old and living in Bristol County, could have purchased insurance for \$435 per month for a plan for an individual. Insurance on the individual market was unaffordable for the appellant (Schedule HC for 2022 Tables 3 and 4, Exhibit 2).

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

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

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

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

12. Appellant lived in a condo that he inherited when his mother passed away. The appellant had the following monthly expenses for basic necessities in 2022: property taxes and condo fee-\$357; electricity and heat- \$280; telephone-\$30; food, household goods and personal care items-\$1,075; clothing-\$35; car insurance-\$158; gas-\$215; car repairs-\$100; dental care-\$40 (Testimony of Appellant).

ANALYSIS AND CONCLUSIONS OF LAW

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

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

Appellant had no health insurance which met the Commonwealth’s standards in 2022. Appellant has been assessed a penalty for the entire year. The appellant has appealed the assessment. See Exhibits 1, 2,

To determine if the penalty should be waived in whole or in part, we must consider whether affordable insurance which met minimum creditable coverage standards was available to the appellant through employment, through the

individual market, or through a government-sponsored program during the months Appellant was uninsured. If affordable insurance was available, we must determine if such insurance was, in fact, not affordable to the appellant because Appellant experienced a financial hardship as defined in 956 CMR 6.08.

According to Table 3 of Schedule HC for 2022, the appellant with no dependents claimed with an adjusted gross income of \$21,589 could afford to pay \$52 per month for health insurance. According to Table 4, Appellant, 56 years old and living in Bristol County, could have purchased insurance for \$435 per month for a plan for an individual. Insurance on the individual market was unaffordable for the appellant. See Schedule HC for 2022 Tables 3 and 4, and Exhibit 2.

Appellant was eligible for enrollment in the ConnectorCare program. The appellant's annual Federal Adjusted Income was \$21,589, less than the income limit for one person (\$38,640). Appellant was not offered health insurance through employment. See 956 CMR 12.00 et. seq., Exhibit 2, and Table 2 of Schedule HC 2022. There is no evidence in the record that Appellant was eligible for any other government sponsored program.

Appellant was not offered health insurance through employment in 2022. Appellant's employer told the appellant to apply to the state for health insurance. See the testimony of the appellant which I find to be credible.

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

Appellant lived in a condo that he inherited when his mother passed away. The appellant had the following monthly expenses for basic necessities in 2022: property taxes and condo fee-\$357; electricity and heat- \$280; telephone-\$30; food, household goods and personal care items-\$1,075; clothing-\$35; car insurance-\$158; gas-\$215; car repairs-\$100; dental care-\$40. See the testimony of the appellant which I find to be credible.

Appellant's Federal Adjusted Gross Income in 2022 was \$21,589, or about \$1,800 a month. His expenses for basic necessities, listed above, amounted to about 2,300 a month. Every month, Appellant ran a deficit. Even paying \$52 a month, the amount the Commonwealth determined Appellant could afford to pay, would have caused the appellant to experience a serious deprivation of basic necessities. See Exhibit 2; the testimony of the appellant which I find credible, and Table 2, Schedule HC for 2022.

Based upon the facts summarized above, I determine that pursuant to 956 CMR 6.08(1)(e), the cost of insurance would have caused Appellant to experience a serious deprivation of basic necessities. This constitutes financial hardship, making health insurance unaffordable for the appellant.

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

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

PENALTY ASSESSED

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

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

NOTIFICATION OF YOUR RIGHT TO APPEAL TO COURT

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

Cc: Connector Appeals Unit

Hearing Officer

Massachusetts Health Connector Appeals Unit

FINAL APPEAL DECISION: PA221206

Appeal Decision: The penalty is waived in full.

Hearing Issue: Appeal of the 2022 Tax Year Penalty

Hearing Date: January 19, 2024

Decision Date: May 20, 2024

AUTHORITY

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

JURISDICTION

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

HEARING RECORD

The appellant appeared at the hearing which was held by telephone on January 19, 2024. The procedures to be followed during the hearing were reviewed with Appellant who was then sworn in. Exhibits were marked and admitted in evidence with no objection from the appellant. Appellant testified.

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

Exhibit 1: Statement of Grounds for Appeal signed by Appellant on May 10, 2023 with letter attached

Exhibit 2: Appeal Case Information from Schedule HC 2022

Exhibit 3: Notice of Hearing sent to Appellant dated December 5, 2023 for January 19, 2024 hearing

FINDINGS OF FACT

The record shows, and I so find:

1. Appellant, who filed a 2022 Massachusetts tax return as a single person with no dependents claimed, was 32 years old in 2022 (Exhibit 2, Testimony of Appellant).
2. Appellant resided in New York until the end of August, 2022 when Appellant moved to Massachusetts. She resided in Essex County for the rest of the year (Testimony of Appellant, Exhibit 2).
3. Appellant had a Federal Adjusted Income of \$61,387 in 2022. Of this amount, Appellant earned about \$18,000 after she moved to the Commonwealth, or about 4,500 a month before taxes. Before Appellant moved to Massachusetts, she earned over \$43,000 in eight months, or about 5,450 a month (Testimony of Appellant, Exhibit 2).
4. After arriving in Massachusetts, Appellant worked part-time in a restaurant. Appellant was not offered health insurance or other benefits through this job. Appellant was actively looking for a different job which would provide her with health insurance. The appellant was unable to find such employment in 2022 (Testimony of Appellant).

5. Appellant had health insurance while she lived in New York in 2022. Beginning in September, Appellant was uninsured. Appellant has been assessed a tax credit penalty for one month, December. Appellant has appealed the assessment (Exhibits 1, 2, Testimony of Appellant).

6. I take administrative notice of the financial information set forth in Tables 1 through 6 in the DOR 2022 Massachusetts Schedule HC Health Care Instructions and Worksheets. Tables 3 and 4 incorporate affordability and premium schedules adopted by the Board of Directors for the Commonwealth Health Insurance Connector Authority for 2022. Table 2 sets forth income at 300% of the Federal poverty level and Tables 5 and 6 set forth tax penalties in effect for 2022.

7. According to Table 3 of Schedule HC for 2022, the appellant with no dependents claimed with an adjusted gross income of \$61,387 could afford to pay \$409 per month for health insurance. According to Table 4, Appellant, 32 years old and living in Essex County, could have purchased insurance for \$290 per month for a plan for an individual. Insurance on the individual market was affordable for the appellant (Schedule HC for 2022 Tables 3 and 4, Exhibit 2).

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

9. The appellant had the following monthly expenses for basic necessities in 2022: rent including heat-\$500; electricity-\$0; internet and telephone-\$200; food, household products and personal care items-\$750; clothing-\$50; dental care-\$10; car insurance-\$30; gas-\$130; car repairs-\$35; credit card debt-\$150. Appellant also had moving expenses (Testimony of Appellant).

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

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

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

13. Appellant obtained health insurance through the Connector in 2023 (Testimony of Appellant)

ANALYSIS AND CONCLUSIONS OF LAW

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

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

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

Appellant had no health insurance which met the Commonwealth's standards after the appellant moved to the Commonwealth at the end of August, 2022. Appellant has been assessed a penalty for December only since the appellant is entitled to a three-month grace period after moving to Massachusetts. The appellant has appealed the assessment. See Exhibits 1, 2, and 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 2022, the appellant with no dependents claimed with an adjusted gross income of \$61,387 could afford to pay \$409 per month for health insurance. According to Table 4, Appellant, 32 years old and living in Essex County, could have purchased insurance for \$290 per month for a plan for an individual. Insurance on the individual market was affordable for the appellant. See Schedule HC for 2022 Tables 3 and 4 Exhibit 2.

Appellant was ineligible for enrollment in the ConnectorCare program. The appellant's annual Federal Adjusted Income was \$61,387, more than the income limit for one person (\$38,640). See 956 CMR 12.00 et. seq., Exhibit 2, and Table 2 of Schedule HC 2022. There is no evidence in the record that Appellant was eligible for any other government sponsored program.

Appellant was not offered health insurance through employment in December, 2022. The appellant had a part-time job in a restaurant with no benefits. See also the testimony of the appellant which I find to be credible.

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

The appellant had the following monthly expenses for basic necessities in 2022: The appellant had the following monthly expenses for basic necessities in 2022: rent including heat-\$500; electricity-\$0; internet and telephone-\$200; food, household products and personal care items-\$750; clothing-\$50; dental care-\$10; car insurance-\$30; gas-\$130; car repairs-\$35; credit card debt-\$150. Appellant also had moving expenses. See the testimony of the appellant which I find to be credible.

While Appellant earned (before taxes) more than she spent each month, I note that Appellant's earnings came from a part-time job which did not provide any sort of benefits. I also note that when Appellant moved to Massachusetts, her income decreased approximately \$1,000 a month. She was actively looking for a job which would provide health insurance, but was unable to find such employment in 2022. See the testimony of the appellant which I find to be credible, and Exhibit 1, attachment.

Based upon the facts summarized above, I determine that pursuant to 956 CMR 6.08(3), the appellant could not afford to purchase health insurance which met the Commonwealth's minimum creditable coverage standards in 2022. I also note that Appellant obtained health insurance through the Connector in 2023.

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

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

PENALTY ASSESSED

Number of Months Appealed: 1 Number of Months Assessed: 0

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

NOTIFICATION OF YOUR RIGHT TO APPEAL TO COURT

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

Cc: Connector Appeals Unit

Hearing Officer

Massachusetts Health Connector Appeals Unit

FINAL APPEAL DECISION: PA23-84

Appeal Decision: Penalty Overturned in Full

Hearing Issue: Appeal of the 2023 Tax Year Penalty

Hearing Date: May 14, 2024

Decision Date: May 24, 2024

AUTHORITY

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

JURISDICTION

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

HEARING RECORD

The appellant appeared at the hearing which was held by telephone on May 14, 2024, and testified under oath. The hearing record consists of his testimony and the following documents which were admitted into evidence without objection:

- Ex. 1—Statement of Grounds for Appeal—2023
- Ex. 2—Appeal Case Information from Schedule HC ¹
- Ex. 3—Notice of Hearing

FINDINGS OF FACT

The record shows, and I so find:

1. The appellant is 26-years-old, is single and does not have children. In 2023, he had minimum creditable coverage (MCC) health insurance from January through May. He resided in Bristol County in 2023. (Testimony, Ex. 1)
2. Prior to 2023, the appellant had health insurance through MassHealth for many years. That insurance continued in 2023 until the end of May, when it was terminated based on his understanding that his income was too high. (Testimony, Ex. 1)
3. The appellant was employed in 2023 and was eligible for employer health insurance, but declined coverage because he had insurance through MassHealth. When his MassHealth benefits were terminated, he inquired whether he could enroll in employer health insurance, and was advised that he had to wait for the next open enrollment period in December, 2023. (Testimony)

¹ Ex. 2 is a computer printout that extracts information submitted by the appellant on Schedule HC as part of his 2023 Massachusetts income tax return. It also contains information about prior appeals, if any.

4. The appellant investigated health insurance options through the Health Connector and determined that he could not afford the cost. (Testimony)
5. The appellant enrolled in employer health insurance beginning on January 1, 2024, and remained enrolled until April, when he became insured through MassHealth again. (Testimony)
6. The appellant reported an adjusted gross income of \$39,480.00 on his 2023 federal tax return, and reported that he was single with no dependents. (Ex. 2)
7. In 2023, the appellant had regular monthly expenses of approximately \$1710.00 for rent which included heat, electricity and internet service (\$533.00), cell phone (\$220.00), car insurance (\$137.00), gasoline (\$220.00), and food (\$600.00). In addition, he was paid a student loan in the amount of \$290.00/month and paid credit card debt on two cards in the amount of \$234.00/month. (Testimony, Ex. 1)

In addition to the foregoing, I take administrative notice of the 2023 Schedule HC Instructions and Worksheets, available at <http://www.mass.gov.dor/docs/dor/health-care/2023>, and in particular, Tables 1-6 which include the Affordability Schedule and other financial information used in making 2023 individual mandate tax penalty determinations.

ANALYSIS AND CONCLUSIONS OF LAW

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

The appellant submitted a statement of grounds for appeal (Ex. 1) claiming that the individual mandate did not apply to him in 2023 because the expense of purchasing health insurance would have caused a serious deprivation of food, clothing, shelter or other necessities. He also submitted a letter with his statement in which he stated in part that he has had MassHealth insurance for most of his adult life, and when it was terminated, he was unable to enroll in his employer’s health insurance because the open enrollment period was closed until December, 2023. He further stated that he could not afford the cost of insurance through the Health Connector.

According to M.G.L. c. 111M, s. 2, residents are permitted a 63-day gap between periods of coverage without facing a tax penalty; for Tax Year 2023, Administrative Bulletin 03-10: Guidance Regarding M.G.L. c. 111M and M.G.L. c. 176Q, as implemented by 956 CMR 6.00, interprets the 63-day gap in coverage to be three months. <https://www.mahealthconnector.org/wp-content/uploads/rules-and-regulations/AdminBulletin03-10.pdf> As a result, gaps of three months are not subject to penalty. Since the appellant had health insurance for the months of January through May, he was assessed and is appealing a penalty of four months (i.e. the months of uninsurance less the gap period of three months).

The appellant testified credibly that he had health insurance with MassHealth from January through May when it was terminated based on his understanding that his income was too high. He testified that he was eligible for employer health insurance which he had previously declined due to his MassHealth coverage and inquired whether he could enroll after he lost his benefits. He testified that he had to wait for the next open enrollment period in December, 2023, at which time he enrolled in coverage for 2024. Finally, he testified that he became enrolled in MassHealth again in April, 2024.

The evidence provided by the appellant established that his income for 2023, \$39,480.00, was less than 300% of the federal poverty level (FPL), which for 2023 was \$40,770.00 for an individual. Table 3 of the Affordability Schedule indicates that an individual filing separately with no dependents with a federal adjusted gross income between \$33,976.00 and \$40,770.00 is deemed to be able to afford a monthly premium of \$159.55 (4.85% of \$39,480.00/12). Table 4 of the Premium Schedule indicates that a 25-year-old individual (the age of the appellant in 2023) in Bristol County (where the appellant resided in 2023) could have purchased private health insurance for \$312.00 per month, more than the monthly amount deemed affordable from Table 3. Thus, according to the foregoing analysis, the appellant could not have purchased affordable private health insurance in 2023.

Since the appellant's income was within 300% of the FPL, the appellant should have qualified for subsidized health insurance through the Health Connector, assuming he met all other eligibility criteria, and for which he would have been subject to a subsidized premium of approximately \$159.55 per month, pursuant to the aforementioned Affordability Schedule in Table 3.

Even though subsidized health insurance may have been affordable to the appellant under the law, he may nevertheless not be subject to a penalty for failing to get health insurance for the months in question if he can show that he experienced a hardship during 2023. Examples of hardships include being homeless or overdue in rent or mortgage payments, receiving a shut-off notice for utilities, or incurring unexpected increases in basic living expenses due to domestic violence, death of a family member, sudden responsibility for providing care for a family member or fire, flood or natural disaster. In addition, the appellant's tax penalty for 2023 could be waived if he experienced financial circumstances such that the expense of purchasing health insurance would have caused him to experience a serious deprivation of food, shelter, clothing or other necessities. See 956 CMR 6.08.

The evidence presented by the appellant in this case is sufficient to establish that he experienced a financial hardship as defined by law so as to waive his penalty for the months in question. The appellant testified that in 2022 he incurred basic monthly expenses of approximately \$2234.00, including his student loan and credit card debt. Although those expenses were less than his regular monthly pre-tax income of approximately \$3290.00, the difference between income and expenses of \$1056.00 was an inadequate cushion to cover a monthly premium of \$159.55 for subsidized health insurance, particularly in light of unforeseen expenses which inevitably arise. Hence, it is concluded that the totality of the evidence presented by the appellant established that he experienced financial circumstances such that the expense of purchasing health insurance that met minimum creditable coverage standards would have caused him to experience a serious deprivation of food, shelter, clothing or other necessities. See 956 CMR 6.08 (1)(e).

Based on the foregoing, the appellant's request for a waiver from the penalty is **granted** for the months for which he was assessed. The determination that the appellant is eligible for a hardship waiver is with respect to 2023 only and is based upon the extent of information submitted in this appeal.

PENALTY ASSESSED

Number of Months Appealed: 4

Number of Months Assessed: 0

The Connector has notified the Department of Revenue that, pursuant to its decision, you should be assessed a penalty for Tax Year 2023 for the amount equal to one half of the lowest cost health insurance plan available to you for each month you have been assessed the penalty, as listed above, plus applicable interest back to the due date of the return without regard to extension.

If the number of months assessed is zero (0) because your penalty has been overturned, the Connector has notified the Department of Revenue that you should NOT be assessed a penalty for Tax Year 2023.

NOTIFICATION OF YOUR RIGHT TO APPEAL TO COURT

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

Hearing Officer

Cc: Connector Appeals Unit

FINAL APPEAL DECISION

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

Hearing Issue: Appeal of the 2023 Tax Year Penalty

Hearing Date: April 24, 2024

Decision Date: Thursday, May 2, 2024

AUTHORITY

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

JURISDICTION

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

HEARING RECORD

The appellant appeared at the hearing which was held by telephone on April 24, 2024. The procedures to be followed during the hearing were reviewed with Appellant. He was sworn in. Exhibits were marked and admitted in evidence with no objection from the appellant. Appellant testified.

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

- | | | |
|------------|---|---------|
| Exhibit 1: | Appeals Case Information from Schedule HC | 1 page |
| Exhibit 2: | Appellant's Statement of Grounds for Appeal | 2 Pages |

CONNECTOR APPEALS UNIT



Exhibit 3 Correspondence from the Appellant

1 page

FINDINGS OF FACT

The record shows, and I so find:

1. Appellant was 56 years old in the beginning of 2023. Appellant filed his 2023 Massachusetts tax return as Married Filing Jointly. The Appellant has no dependents (Exhibit 1).
2. Appellant lived in Suffolk County, MA in 2023 (Exhibit 1).
3. Appellant's Federal Adjusted Gross Income for 2023 was \$145,518.00 (Exhibit 1, Appellant's Testimony). Appellant's Income was 795% of the Federal Poverty level and based on his income, if all other conditions were met, he would be INELIGIBLE based on income for ConnectorCare.
4. In 2023, the Appellant was initially employed as a Senior Software Engineer in a full-time capacity. (Appellant's Testimony).
 - a. However, the Appellant experienced a period of unemployment during 2023 and was only employed in this position from January through May. (Appellant's Testimony).
5. The Appellant was offered health insurance in 2023, by his employer, at an approximate monthly cost of an unspecified amount. (Appellant's Testimony)
6. I take administrative notice of the financial information set forth in Tables 1 through 6 in the DOR 2023 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 2023. Table 2 sets forth income at 300% of the Federal poverty level and Tables 5 and 6 set forth tax penalties in effect for 2023.
7. According to Table 3 of Schedule HC for 2023, The Appellant has no dependents, with an adjusted gross income of \$145,518.00 was deemed able to pay \$970.12 per month for health insurance, or 8.00% of his income. According to Table 4, Appellant, age 56 and living in Suffolk County, could have purchased private insurance for \$979.00 per month.
8. Private insurance was UNAFFORDABLE for the appellant in 2023 (Schedule HC for 2023).

CONNECTOR APPEALS UNIT



9. In 2023, Appellant had the following monthly expenses for basic necessities¹:

<u>Rent or Mortgage</u>	\$2,450.00	<u>Car Insurance</u>	\$132.00	<u>Medical/Dental</u>	\$400.00
<u>Property Taxes</u>	\$0.00	<u>Gas (Car)</u>	\$198.00	<u>Clothing</u>	\$50.00
<u>Cable/Internet</u>	\$95.00	<u>Food</u>	\$542.00	<u>Gas/Transportation Costs</u>	198
<u>Heat</u>	\$120.00	<u>Cell Phone</u>	\$206.00	<u>Other:</u>	\$0.00
<u>Electricity</u>	\$230.00	<u>Household & Toiletries</u>	\$20.00	<u>Car</u>	\$226.03
				<u>Total:</u>	\$4,679.03

10. Upon examining the appellant's testimony, it was ascertained that his gross joint monthly income was \$12,126.50. His necessary expenses were determined to be \$4,679.03 per month. After accounting for an approximation of federal and state taxes, this leaves a difference of \$4,881.90 in his monthly financial situation when considering Filing status, Adjusted Gross income and the number of dependents in the 2023 tax year.

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

- a. During 2023, the expense of purchasing health insurance would have caused a serious deprivation of food, shelter, clothing or other necessities. Provide proof to show additional expenses above and beyond that which your income would cover. If you were eligible to receive government subsidized insurance, explain why obtaining that would cause serious deprivation; and
- b. Other. During 2023 other circumstances, such as: applying the affordability tables and schedule HC to you, is an equitable (for example because of family size); that you were unable to obtain government subsidize insurance, even though your income, qualified you; or you didn't reside in Massachusetts during your period of uninsurance.(Testimony of Appellant, Exhibit 2).

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

CONNECTOR APPEALS UNIT



12. Appellant did not incur significant and unexpected increases in essential expenses as a result of domestic violence; the death of a spouse, family member, or partner who shared household expenses; the sudden responsibility for providing full care for an aging parent or other family member; or fire, flood, or other natural or man-made disaster in 2023 (Testimony of Appellant).
13. Appellant did not fall more than thirty days behind in rent payments in 2023. Appellant did not receive any shut-off notices for basic utilities. There was no evidence or indication of this during the Appellant's testimony. (Testimony of Appellant)
14. Appellant testified that he was unaware that he needed to obtain Health Insurance after losing it from his employer when he was laid off on or around May of 2023. (Appellant's Testimony).
15. The Appellant has been assessed a penalty for not having health insurance in 2023 for 2 months.

ANALYSIS AND CONCLUSIONS OF LAW

The issue on appeal is whether the tax penalty assessed by the Massachusetts Department of Revenue for 2023 should be waived in whole, in part, or not at all.

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

The Appellant was unaware of the individual mandate, according to his testimony. Ignorance of the law is no excuse however. 'When statutes impose punishment out of considerations of public policy, lack of knowledge of the law or of the fact that the law has been violated does not exonerate the person who may have unwittingly violated the statute.' Franklin Office Park Realty Corp. v. Commissioner of Dep't of Env'tl. Protection, 466 Mass. 454, 465 n.14 (2013).

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

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Appellant had health insurance for 7 month(s) in 2023. He has been assessed a tax penalty for 2 months. He appealed the assessment. See Exhibits listed above. To determine if the penalty should be waived in whole or in part, we must consider whether affordable insurance which met minimum creditable coverage standards was available to the appellant through either (1) his employment, through (2) the private market, or through (3) a government-sponsored program. If affordable insurance was available, we must determine if such insurance was, in fact, not affordable to the appellant because he experienced a financial hardship as defined in 956 CMR 6.08.

Appellant's Employment & Employer Based Insurance

The Appellant was offered health insurance in 2023, by his employer, at an approximate monthly cost of an unspecified amount. (Appellant's Testimony). The Appellant testified that they experienced periods of unemployment during the year 2023, and were employed during the following months: January through May of 2023. (Appellant's Testimony).

The Appellant was assessed a penalty of 2 months based on his lack of coverage over 5 months. The penalty appears to have been levied in light of the Appellant's unemployment for 6 months. In light of the lack of coverage stemming from the Appellant's unemployment, the Appellant may have become eligible for a Special Enrollment Period and could have contacted the Health Connector to obtain Health Insurance within 60 days of his termination event.

A Special Enrollment Period is a time outside of the open enrollment period that you and your family have a right to sign up for health coverage through the Health Connector. You may qualify for a special enrollment period of 60 days following certain qualifying events that involve a change in family status (for example, marriage or birth of a child), loss of other health coverage, or job loss.

It appears the Appellant was unemployed during the time the penalty was assessed, and as such, Employer-Sponsored Insurance was unavailable and would not block the Appellant from trying to sign up for Health Insurance from the Health Connector.

ConnectorCare Eligibility

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

CONNECTOR APPEALS UNIT



unavailable and would not block the Appellant from trying to sign up for Health Insurance from the Health Connector.

In Massachusetts, you could get state help with ConnectorCare plans if your income is 300% of the FPL or less. For tax year 2023, the Appellant is ineligible for insurance through the ConnectorCare program. The Appellant testified to not applying through the Health Connector in tax year 2023. Despite the requirement set by the individual mandate, due diligence in seeking health coverage through the Health Connector was not conducted. As his joint income level was 794.75% of the Federal Poverty Level, the appellant would not have been eligible for subsidies or Advanced Premium Tax Credits (APTCs), due to exceeding the income threshold.

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

Availability of Private Insurance

Private insurance was UNAFFORDABLE for the appellant on the open market during 2023. According to Tables 3 and 4 of the HC schedule for 2023, Appellant, with an adjusted gross income of \$145,518.00, was deemed to be unable to afford health insurance on the private market. According to Table 3, Appellant could have afforded to pay \$970.12 per month; according to Table 4, Appellant, who was 56 years old in 2023, lived in Suffolk County and filed his 2023 Massachusetts taxes as a Married Filing Jointly with 0 dependents, would have had to pay \$979.00 for insurance on the private market. See 956 CMR 6.05 (1)(2), Schedule HC Tables 3 and 4, and Exhibit 1.

Considering the Appellant's gross income (\$12,126.50 per month), tax filing status, place of residence, and the expected affordable amount the Appellant could pay per the 2023 Schedule HC Tables (\$970.12 per month), private health insurance with a premium of \$979.00 per month was unaffordable for the Appellant. (2023 Schedule HC Tables).

Other Government-Sponsored Healthcare Programs

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

Financial Hardship Analysis

Since no affordable insurance was available to the Appellant, not through

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ConnectorCare, nor via Employer-Sponsored Insurance at the time the penalty was levied, nor through the Private Market, the Appellant's Tax penalty must be waived in full.

Conclusion

Since no affordable insurance was available to the Appellant, the Appellant's Tax penalty must be waived in full

Appellant should note that the waiver of his penalty is based upon the facts that I have determined to be true for his 2023 appeal. He should not assume that a similar determination will be made in the future should he again be assessed a penalty for failure to have health insurance which meets the Commonwealth's minimum creditable coverage standards.

PENALTY ASSESSED

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

If the number of months assessed is zero (0) because your penalty has been overturned, the Connector has notified the Department of Revenue that you should NOT be assessed a penalty for Tax Year 2023.

NOTIFICATION OF YOUR RIGHT TO APPEAL TO COURT

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

Hearing Officer

cc. Connector Appeals Unit

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

FINAL APPEAL DECISION

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

Hearing Issue: Appeal of the 2021 Tax Year Penalty

Hearing Date: June 6, 2023

Decision Date: Wednesday, May 1, 2024

AUTHORITY

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

JURISDICTION

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

HEARING RECORD

The appellant appeared at the hearing which was held by telephone on June 6, 2023. The procedures to be followed during the hearing were reviewed with Appellant. He was sworn in. Exhibits were marked and admitted in evidence with no objection from the appellant. Appellant testified.

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

- | | | |
|------------|---|---------|
| Exhibit 1: | Appeals Case Information from Schedule HC | 1 page |
| Exhibit 2: | Appellant's Statement of Grounds for Appeal | 2 Pages |
| Exhibit 3 | Correspondence from the Appellant | 1 page |

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FINDINGS OF FACT

The record shows, and I so find:

1. Appellant was 32 years old in the beginning of 2021. Appellant filed his 2021 Massachusetts tax return as Single. The Appellant has no dependents (Exhibit 1).
2. Appellant lived in Hampden County, MA in 2021 (Exhibit 1).
3. Appellant's Federal Adjusted Gross Income for 2021 was \$69,736.00 (Exhibit 1, Appellant's Testimony). Appellant's Income was 541% of the Federal Poverty level and based on his income, if all other conditions were met, he would be INELIGIBLE based on income for ConnectorCare.
4. In 2021, the Appellant was employed as a Field Oversight Arborist at an Energy Consulting Company (July to December) in a full-time capacity. (Appellant's Testimony).
5. The Appellant received unemployment compensation between January of 2021 and July. (Appellant's Testimony).
6. The Appellant testified that they experienced periods of unemployment during the year 2021, and were employed during the following months: July-through the end of the year 2021
7. The Appellant was offered health insurance in 2021, by his employer, at an approximate monthly cost of \$411.00. (Appellant's Testimony)
8. I take administrative notice of the financial information set forth in Tables 1 through 6 in the DOR 2021 Massachusetts Schedule HC Health Care Instructions and Worksheets. Tables 3 and 4 incorporate affordability and premium schedules adopted by the Board of Directors for the Commonwealth Health Insurance Connector Authority for 2021. Table 2 sets forth income at 300% of the Federal poverty level and Tables 5 and 6 set forth tax penalties in effect for 2021.
9. According to Table 3 of Schedule HC for 2021, The Appellant has no dependents, with an adjusted gross income of \$69,736.00 was deemed able to pay \$464.91 per month for health insurance, or 8.00% of his income. According to Table 4, Appellant, age 32 and living in Hampden County, could have purchased private insurance for \$283.00 per month.
10. Private insurance was AFFORDABLE for the appellant in 2021 (Schedule HC for 2021).

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11. In 2021, Appellant had the following monthly expenses for basic necessities¹:

<u>Rent or Mortgage</u>	\$1,150.00	<u>Car Insurance</u>	\$230.00	<u>Medical/Dental</u>	\$17.00
<u>Property Taxes</u>	\$0.00	<u>Gas (Car)</u>	\$528.00	<u>House Maintenance</u>	\$0.00
<u>Cable/Internet</u>	\$160.00	<u>Food</u>	\$660.00	<u>Clothing</u>	\$25.00
<u>Heat</u>	\$150.00	<u>Cell Phone</u>	\$180.00	<u>Car</u>	\$849.00
<u>Electricity</u>	\$250.00	<u>Household & Toiletries</u>	\$75.00		
				<u>Total:</u>	\$4,296.00

12. Upon examining the appellant's testimony, it was ascertained that his gross monthly income was \$5,811.33. His necessary expenses were determined to be \$4,296.00 per month. After accounting for an approximation of federal and state taxes, this leaves a difference of \$300.56 in his monthly financial situation when considering Filing status, Adjusted Gross income and the number of Dependents in the 2021 tax year.

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

a. During 2021, the expense of purchasing health insurance would have caused a serious deprivation of food, shelter, clothing or other necessities. Provide proof to show additional expenses above and beyond that which your income would cover. If you were eligible to receive government subsidized insurance, explain why obtaining that would cause serious deprivation; (Testimony of Appellant, Exhibit 2).

14. Appellant did not incur significant and unexpected increases in essential expenses as a result of domestic violence; the death of a spouse, family member, or partner who shared household expenses; the sudden responsibility for providing full care for an aging parent or other family member; or fire, flood, or other natural or man-made disaster in 2021 (Testimony of Appellant).

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

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15. Appellant did not fall more than thirty days behind in rent payments in 2021. Appellant did not receive any shut-off notices for basic utilities. There was no evidence or indication of this during the Appellant's testimony. (Testimony of Appellant)
16. In the appeal, the Appellant stated that the monthly cost of Health Insurance exceeded his financial capacity. The Appellant testified that he had been unemployed from January to July 2021 and did not have health insurance during that period.
17. Furthermore, the Appellant claimed that he was unaware of the requirement to maintain health insurance in Massachusetts for the 2021 tax year, despite having filed an appeal for the same issue in 2020. The Appellant then indicated that upon beginning employment in July 2021, he was provided with employer-sponsored insurance.
18. The Health Connector granted him zero months of credit for having health insurance that met the minimum creditable coverage standards for the year 2021. The Appellant has been assessed a penalty for not having health insurance in 2021 for 12 months.
19. During the hearing, the Appellant contested that he did not have insurance for the entire year. The record was held open at the hearing to allow the Appellant to provide corresponding documentation to prove that he had insurance through his employer.

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 in whole, in part, or not at all.

G.L.c. 111M, § 2, also called the “individual mandate,” requires every adult resident of Massachusetts to obtain insurance coverage “[s]o long as it is deemed affordable” under the schedule set by the board of directors for the Commonwealth Health Insurance Connector Authority. The Appellant was unaware of the individual mandate, according to his testimony. Ignorance of the law is no excuse however. ‘When statutes impose punishment out of considerations of public policy, lack of knowledge of the law or of the fact that the law has been violated does not exonerate the person who may have unwittingly violated the statute.’ Franklin Office Park Realty Corp. v. Commissioner of Dep’t of Env’tl. Protection, 466 Mass. 454, 465 n.14 (2013).

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

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

Appellant had no health insurance in 2021. He has been assessed a tax penalty for 12 months. He appealed the assessment. See Exhibits listed above. To determine if the penalty should be waived in whole or in part, we must consider whether affordable insurance which met minimum creditable coverage standards was available to the appellant through either (1) his employment, through (2) the private market, or through (3) a government-sponsored program. If affordable insurance was available, we must determine if such insurance was, in fact, not affordable to the appellant because he experienced a financial hardship as defined in 956 CMR 6.08.

Open Records Request

During the administrative appeal hearing, which occurred on June 6, 2023, the appellant testified relating to his ability to provide documentation supporting one of his reasons for appealing, mainly that he had Employer-Sponsored Insurance from July through the end of the year. (Appellant's Testimony).

At the hearing's conclusion, the hearing officer granted the appellant a 60-day period to submit to the Health Connector any additional documents available to substantiate his claims. According to the record, no documents were ever submitted.

Appellant's Employment & Employer Based Insurance

The Appellant testified that they were offered health insurance in 2021, at an approximate monthly cost of \$411.00. (Appellant's Testimony). The Appellant testified that he experienced periods of unemployment during the year 2021, and was employed during the following months: July-through the end of the year in 2021 (Appellant's Testimony).

The Appellant was assessed a penalty of 12 months based on their lack of coverage over 12 months. The penalty appears to have been levied in light of the Appellant's unemployment for 6 months and a decision not to engage in Employer-Sponsored Insurance when he became employed in July of 2021.

In Massachusetts, the determination of affordability for employer-sponsored health plans, or Employer-Sponsored Insurance ("ESI"), is guided by state-specific guidelines. According to the 2021 Schedule HC instructions for the relevant tax year, the affordable premium is calculated based on a percentage of income that aligns with the

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individual's income range and filing status, as outlined in Table 3: Affordability, found on page HC-10. In this case, the maximum affordable amount for the Appellant, based on their income range and filing status, is 8.00%.

During the hearing, the Appellant testified, which I found credible, that the cost of insurance offered by his employer was \$411.00 per month. This cost must be assessed against the state-determined affordability threshold. For the plan year 2021, considering the Appellant's income and the guidelines set forth in Table 3, the employer-sponsored plan's coverage is deemed affordable if the employee's contribution for self-only coverage does not exceed 8.00% of the employee's projected household modified adjusted gross income.

According to Massachusetts state-specific guidelines, the health insurance offered by the Appellant's employer was deemed to be affordable for the Appellant based on it being less than 8.00% of the Appellant-employee's projected household modified adjusted gross income. The employer's offering was 7.07% of the employee's income.

ConnectorCare Eligibility

In 2021, the COVID-19 Pandemic introduced changes to certain areas of eligibility for Massachusetts residents concerning their ability to obtain Health Insurance through the Health Connector. Notably, Massachusetts residents who received unemployment compensation at any point in 2021 became eligible for a health insurance plan through the Massachusetts Health Connector with no premium payments required through the end of the year, regardless of their income level.

Considering the Appellant's testimony, which indicated that he had received unemployment insurance at some point in 2021, he would have been eligible to receive health insurance through the Health Connector without any premium payments for the remainder of the year. This means that during the Appellant's period of unemployment, spanning from January through July of 2021, and any subsequent unemployment payments received, he would have qualified for insurance coverage through the Health Connector at no cost.

Given the changes in eligibility criteria due to the COVID-19 Pandemic, the Appellant had the opportunity to secure health insurance through the Health Connector without facing financial barriers, as the requirement for premium payments was waived for individuals who received unemployment compensation in 2021. This significant change in eligibility should have allowed the Appellant to obtain the necessary health insurance coverage, despite his unemployment status during the specified period.

Availability of Private Insurance

Private insurance was AFFORDABLE for the appellant on the open market during

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2021. According to Tables 3 and 4 of the HC schedule for 2021, Appellant, with an adjusted gross income of \$69,736.00, was deemed to have been able to afford health insurance on the private market. According to Table 3, Appellant could have afforded to pay \$464.91 per month; according to Table 4, Appellant, who was 32 years old in 2021, lived in Hampden County and filed his 2021 Massachusetts taxes as a Single with 0 dependents, would have had to pay \$283.00 for insurance on the private market. See 956 CMR 6.05 (1)(2), Schedule HC Tables 3 and 4, and Exhibit 1.

In light of the Appellant's gross income (\$5,811.33 per month), tax filing status, place of residence, and the expected affordable amount the Appellant could pay per the 2021 Schedule HC Tables (\$464.91 per month), the Appellant could have afforded private health insurance with a premium of \$283.00 per month. (2021 Schedule HC Tables).

Other Government-Sponsored Healthcare Programs

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

Financial Hardship Analysis

Since affordable insurance was available to the Appellant through their employer, the Health Connector and the private market, in 2021, it must be determined whether the Appellant experienced a financial hardship pursuant to 956 CMR 6.08 (1).

After carefully reviewing the appellant's testimony, several credibility issues have been identified that call into question the accuracy of the reported expenses. During the hearing, the appellant initially claimed to pay the entire cost of a five-bedroom home while living alone. However, when confronted about this circumstance, the appellant admitted that in 2021, he actually lived with a fiancé and another adult male in the home. This inconsistency raises doubts about the reliability of the appellant's statements.

Furthermore, the appellant reported a car payment in excess of \$850 per month. At this appeal hearing, I am tasked with identifying necessary expenses, and it is not feasible to consider such a high car payment as a necessary expense. A car payment of this magnitude is significantly above the average monthly car payment, which typically ranges from \$300 to \$600, depending on factors such as the type of vehicle, loan term, and credit score. While transportation is indeed a necessary expense, it is unreasonable to expect the Health Connector to accept an \$850 monthly car payment as a justifiable expense that would prevent an individual from obtaining health insurance.

When assessing necessary expenses, the Health Connector must consider what is

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reasonable and essential for an individual's daily living and well-being. An \$850 car payment suggests that the appellant has chosen to purchase a luxury or high-end vehicle, which is not a necessity. The appellant could have opted for a more affordable vehicle with a lower monthly payment, freeing up funds that could be allocated towards health insurance premiums.

It is crucial to prioritize expenses and make financially responsible decisions when considering the affordability of health insurance. The Health Connector cannot justify accepting an exorbitant car payment as a valid reason for not obtaining health insurance, as it would set an unsustainable precedent and undermine the importance of maintaining proper healthcare coverage.

While transportation is a necessary expense, an \$850 monthly car payment far exceeds what can be considered reasonable and essential. The Health Connector must make decisions based on the principle of identifying necessary expenses, and such a high car payment does not meet this criterion. The appellant's choice to allocate funds towards a luxury vehicle should not be accepted as a justification for not obtaining health insurance, which is a crucial aspect of an individual's overall health and well-being.

The appellant's subsequent payments, including his car insurance, were also significantly higher than average, likely due to the expensive nature of the vehicle he owned. Additionally, the appellant claimed to spend an excessive amount of money on gas, indicating that he would fill up his vehicle 2 to 3 times per week, costing him hundreds of dollars per week. These expenses appear to be inflated and not credible as they relate to the concept of necessary expenses.

It seems that during the hearing, the appellant attempted to exaggerate their expenses to make it easier to argue that health insurance was unaffordable. This credibility issue was further highlighted when the appellant stated that he was unaware of the requirement to have health insurance in Massachusetts in 2021. However, when confronted with the fact that he had filed an appeal for the same issue in 2020, the appellant was unable to provide an adequate explanation for his prior statements indicating his lack of knowledge about the state's health insurance laws.

Moreover, the appellant's testimony regarding household toiletry items also lacks credibility. The appellant claimed to spend up to \$250 per month on items like toilet paper, which he testified to purchasing at least once a week. These reported expenses are extraordinary and not believable.

Given the appellant's lack of credibility and the apparent inflation of reported costs, it is necessary to discount the expenses provided by the appellant. A reasonable adjustment of at least \$500 per month should be made to account for the exaggerated expenses, meaning that the appellant should have at least \$800 per month available

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to cover his health insurance costs.

In light of these findings, the appellant has failed to demonstrate a genuine financial hardship that would prevent him from obtaining health insurance. The credibility issues surrounding the appellant's testimony and the inflated nature of the reported expenses lead to the conclusion that the appellant had sufficient financial means to secure health insurance coverage.

Conclusion

The Appellant has not demonstrated that the cost of purchasing health insurance would have caused them to experience a serious financial hardship. See 956 CMR 6.08(1)(e). The Appellant's 12 month penalty is therefore upheld.

PENALTY ASSESSED

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

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

NOTIFICATION OF YOUR RIGHT TO APPEAL TO COURT

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

Hearing Officer

cc. Connector Appeals Unit

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

Massachusetts Health Connector Appeals Unit

FINAL APPEAL DECISION: PA22-1470

Appeal Decision

Hearing Issue: Appeal of the 2022 Tax Year Penalty

Hearing Date: March 4, 2024

Decision Date: May 20, 2024

AUTHORITY

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

JURISDICTION

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

HEARING RECORD

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

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

- Exhibit 1: Notice of Hearing dated February 2, 2024
- Exhibit 2: Appeal Case Information from form Schedule HC
- Exhibit 3: Statement of Grounds for Appeal Dated August 13, 2023
- Exhibit 4: Open Record Request

FINDINGS OF FACT

The record shows, and I so find:

1. The appellant is twenty-seven years old and is single. She lives in Norfolk County, Massachusetts. Appellant works in the paralegal business.
2. Appellant was an at will tenant until July 1, 2022 when she moved into a transitional shelter for which she paid rent. Appellant now has her own housing. Appellant was appealing because she testified her income for 2022 was \$40,000.00 not \$49,000.00 as appeared in Exhibit 2. Appellant was afforded an open record to provide proof of income for 2022 but never provided the proof of income of \$40,000.00.
3. Appellant does have health insurance in 2024.
4. The Appellant's monthly expenses totaled \$2,463.00, consisting of rent \$760.00, internet & cable \$120.00 light \$50.00, cell phone \$85.00, car payment \$500.00 car insurance \$150.00. car gas \$100, credit card \$100.00 food \$400.00, clothing \$50.00 toiletries \$30.00.
5. The Appellant did submit a Statement of Grounds for Appeal-2022 under "During 2022, you were homeless; more than 30 days in arrears in rent or mortgage payments; or received an eviction or foreclosure notice" and should also have appealed under "During 2022 the expense of purchasing health insurance would have caused a serious deprivation of food, shelter, clothing or other necessities" . I will hear her appeal under both grounds.
6. I take administrative notice of the information set forth in tables 1 through 6 in the Department of Revenue Schedule HC Health Care Instructions and Worksheets (Schedule HC Instructions). Tables 3 & 4 incorporate the affordability schedules adopted by the board of directors of the Commonwealth Health Insurance Connector Authority for 2022. Table 1 sets forth the income eligibility standards for various family sizes at 150% of the federal poverty level and Table 2 sets forth the income eligibility standards for various family sizes at 300 per cent of the federal poverty level, which is the income eligibility standard for the government-subsidized health insurance program. See Mass. G.L. c. 118H, s.3(a)(1). Tables 5 and 6 set forth the tax penalties for 2022.
7. Based on the appellant's federal adjusted gross income and the above referenced tables, I find the appellant would not have been eligible for subsidized health insurance, since Appellant's income of \$49,635.00 was more than \$38,640.00. The monthly premium for health insurance available on the private market in Suffolk County for a 26 year old single person with one dependent was \$277.00. The tables reflect that Appellant could afford \$314.35 This is less than what the appellant is deemed to afford. (Tables 2, 3 & 4 of the Schedule HC Instructions) .

ANALYSIS AND CONCLUSIONS OF LAW

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

Appellant was an at will tenant until July 1, 2022 when she moved into a transitional shelter for which she paid rent. Appellant now has her own housing. Appellant was appealing because she testified her income for 2022 was \$40,000.00 not \$49,000.00 as appeared in Exhibit 2. Appellant was afforded an open record to provide proof of income for 2022 but never provided the proof of income of \$40,000.00.

The Appellant did submit a Statement of Grounds for Appeal-2022 under “During 2022, you were homeless; more than 30 days in arrears in rent or mortgage payments; or received an eviction or foreclosure notice” and should also have appealed under “During 2022 the expense of purchasing health insurance would have caused a serious deprivation of food, shelter, clothing or other necessities” . I will hear her appeal under both grounds.

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

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

Appellant reported a federal AGI of \$49,635.00 in 2022, and Appellant’s filing status was single . According to the Affordability Schedule established by the Connector’s board and included in the Instructions and Worksheets of the 2022 Massachusetts Schedule HC, Appellant could afford to pay

\$314.35 monthly for health insurance. See 2022 Schedule HC Instructions and Worksheets, *supra* at Table 3. Private insurance would have been available to her from the Premium Tables, at a cost of \$277.00 monthly for coverage. *Id.* at Table 4. Appellant had to move into transitional housing and sustained a partial hardship due to the lack of her own housing.

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

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

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

PENALTY ASSESSED

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

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

OR

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

NOTIFICATION OF YOUR RIGHT TO APPEAL TO COURT

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

Hearing Officer

Cc: Connector Appeals Unit

Massachusetts Health Connector Appeals Unit

FINAL APPEAL DECISION: PA23-64

Appeal Decision

Hearing Issue: Appeal of the 2023 Tax Year Penalty

Hearing Date: May 7, 2024

Decision Date: May 20, 2024

AUTHORITY

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

JURISDICTION

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

HEARING RECORD

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

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

Exhibit 1: Notice of Hearing dated April 17, 2024

Exhibit 2: Appeal Case Information from form Schedule HC

Exhibit 3: Statement of Grounds for Appeal Dated February 26, 2024

FINDINGS OF FACT

The record shows, and I so find:

1. The appellant is thirty-four years old and is single. She lives in Barnstable County, Massachusetts. Appellant worked as a dental assistant.
2. Appellant had health insurance from 2018 up to 2022. Appellant did not have health insurance in 2022. Appellant was trying to obtain a job in 2023 that would pay for her health insurance but did not find such a job. When Appellant called the Health Connector back to obtain health insurance her time to apply had expired.
3. Appellant did have health insurance for one month of 2023 and does have health insurance in 2024.
4. The Appellant's monthly expenses totaled \$3,812.00, consisting of mortgage \$2,000.00, internet & cable \$387, cell phone \$55.00, car payment \$500.00, car insurance \$165.00, car gas \$160.00 food \$400.00, credit card \$150.00.
5. The Appellant did submit a Statement of Grounds for Appeal-2023 under "Other. During 2023 other circumstances, such as: applying the Affordability Tables in Schedule HC to you is inequitable" but should also have applied under "During 2023, the expense of purchasing health insurance would have caused a serious deprivation of food, shelter, clothing or other necessities" . I will hear her appeal under both grounds.
6. I take administrative notice of the information set forth in tables 1 through 6 in the Department of Revenue Schedule HC Health Care Instructions and Worksheets (Schedule HC Instructions). Tables 3 & 4 incorporate the affordability schedules adopted by the board of directors of the Commonwealth Health Insurance Connector Authority for 2023. Table 1 sets forth the income eligibility standards for various family sizes at 150% of the federal poverty level and Table 2 sets forth the income eligibility standards for various family sizes at 300 per cent of the federal poverty level, which is the income eligibility standard for the government-subsidized health insurance program. See Mass. G.L. c. 118H, s.3(a)(1). Tables 5 and 6 set forth the tax penalties for 2023.
7. Based on the appellant's federal adjusted gross income and the above referenced tables, I find the appellant would not have been eligible for subsidized health insurance, since Appellant's income of \$57,885.00 was more than \$40,775.00. The monthly premium for health insurance available on the private market in Barnstable County for a 33 year old single person with one dependent was \$326.00. The tables reflect that Appellant could afford \$385.90 This is less than what the appellant is deemed to afford. (Tables 2, 3 & 4 of the Schedule HC Instructions)

ANALYSIS AND CONCLUSIONS OF LAW

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

Appellant had health insurance from 2018 up to 2022. Appellant did not have health insurance in 2022. Appellant was trying to obtain a job in 2023 that would pay for her health insurance but did not find such a job. When Appellant called the Health Connector back to obtain health insurance her time to apply had expired.

The Appellant did submit a Statement of Grounds for Appeal-2023 under “Other. During 2023 other circumstances, such as: applying the Affordability Tables in Schedule HC to you is inequitable” but should also have applied under “During 2023, the expense of purchasing health insurance would have caused a serious deprivation of food, shelter, clothing or other necessities” . I will hear her appeal under both grounds.

The Health Care Reform Act of 2006 requires every adult resident of Massachusetts to obtain and maintain creditable insurance coverage “so long as it is deemed affordable” under the schedule established by the board of the Connector. Mass. Gen. Laws ch. 111M, § 2(a). Massachusetts residents who fail to indicate on their state tax returns that they obtained the mandated creditable coverage are subject to a tax penalty for each month in which that the individual did not have creditable health insurance. *Id.* at § 2(b). However, individuals with incomes up to 150 percent of the Federal Poverty Level (“FPL”) are not subject to any penalty for non-compliance with the individual mandate. See Massachusetts Department of Revenue Technical Information Release (“TIR”) 13-1, available at <http://www.mass.gov/dor/businesses/help-and-resources/legal-library/tirs/tirs-by-years/2013-releases/tir-13-1.html>. For 2023, 150 percent of the FPL was \$20,398.00 for a single person. *Id.* In addition, a lapse in coverage of 63 days or less is not subject to the section 2(b) penalty. See Administrative Bulletin 03-10 (Dec. 7, 2010), available at <https://www.mahealthconnector.org/portal/binary/com.epicentric.contentmanagement.servlet.ContentDeliveryServlet/Health%2520Care%2520Reform/Regulations/documents/Administrative%20Information%20Bulletin%2003-10.pdf>; see also 830 Mass. Code Regs. 111M.2.1(5)(c) (2008). Thus, no penalty is imposed for lapses in coverage consisting of three or fewer consecutive calendar months. *Id.*

Since Appellant’s 2023 income was more than 150 percent of the FPL, making her potentially subject to an individual mandate penalty, the threshold issue to be addressed is whether creditable health insurance coverage was affordable to her in 2023. In determining affordability, consideration is given first to the amount Appellant is deemed able to afford for health insurance premiums under the Affordability Schedule and second to the cost of health insurance that was available through employer-sponsored plans, government-subsidized programs or on the private insurance market. See 2023 Schedule HC Instructions and Worksheets, *supra*.

Appellant reported a federal AGI of \$57,885.00 in 2023, and Appellant’s filing status was single with one dependent . EX 2. According to the Affordability Schedule established by the Connector’s board and included in the Instructions and Worksheets of the 2023 Massachusetts Schedule HC, Appellant could afford to pay \$385.90 monthly for health insurance. See 2023 Schedule HC Instructions and Worksheets, *supra* at Table 3. Private insurance would have been available to her from the Premium Tables, at a cost of 326.00 monthly for coverage. *Id.* at Table 4.

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

On these facts, I find that Appellant has shown that she was partially precluded from purchasing affordable health insurance during 2023. 956 Mass. Code Regs. 6.08(3) (2008). Accordingly, I conclude that she is partially exempt from a tax penalty for her non-compliance with the individual mandate.

Accordingly, Appellant’s appeal is **PARTIALLY ALLOWED**, and the 2023 penalty assessed is **PARTIALLY OVERTURNED**.

PENALTY ASSESSED

Number of Months Appealed: 8 Number of Months Assessed: 4

The Connector has notified the Department of Revenue that, pursuant to its decision, you should be assessed a penalty for Tax Year 2023 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 2023.

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: PA23-67

Appeal Decision Appeal Allowed

Hearing Issue: Appeal of the 2023 Tax Year Penalty

Hearing Date: May 7, 2024

Decision Date: May 20, 2024

AUTHORITY

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

JURISDICTION

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

HEARING RECORD

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

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

Exhibit 1: Notice of Hearing dated April 17, 2024

Exhibit 2: Appeal Case Information from form Schedule HC

Exhibit 3: Statement of Grounds for Appeal Dated February 26, 2024

FINDINGS OF FACT

The record shows, and I so find:

1. The appellant is thirty-five years old and is single with one dependent. She lives in Barnstable County, Massachusetts. Appellant worked in the day care field.
2. Appellant's mother passed away. Appellant's daughter has ADHD and needs specialized care. Appellant was out of work during her period of not being insured.
3. Appellant did have health insurance for half of 2023 and does have health insurance in 2024.
4. The Appellant's monthly expenses totaled \$2,187.00, consisting of rent \$900.00, heat & light \$117.00, internet & cable \$65, car payment \$220.00, car insurance \$140.00, car gas \$100.00 food \$250.00, clothing \$50.00 toiletries \$60.00, after school care \$240.00, medication for child \$40.00.
5. The Appellant did submit a Statement of Grounds for Appeal-2023 under "During 2023, the expense of purchasing health insurance would have caused a serious deprivation of food, shelter, clothing or other necessities" .
6. I take administrative notice of the information set forth in tables 1 through 6 in the Department of Revenue Schedule HC Health Care Instructions and Worksheets (Schedule HC Instructions). Tables 3 & 4 incorporate the affordability schedules adopted by the board of directors of the Commonwealth Health Insurance Connector Authority for 2023. Table 1 sets forth the income eligibility standards for various family sizes at 150% of the federal poverty level and Table 2 sets forth the income eligibility standards for various family sizes at 300 per cent of the federal poverty level, which is the income eligibility standard for the government-subsidized health insurance program. See Mass. G.L. c. 118H, s.3(a)(1). Tables 5 and 6 set forth the tax penalties for 2023.
7. Based on the appellant's federal adjusted gross income and the above referenced tables, I find the appellant may have been eligible for subsidized health insurance, since Appellant's income of \$42,646.00 was less than \$54,930.00. The monthly premium for health insurance available on the private market in Barnstable County for a 34 year old single person with one dependent was \$834.00. The tables reflect that Appellant could afford \$220.33 This is more than what the appellant is deemed to afford. (Tables 2, 3 & 4 of the Schedule HC Instructions)

ANALYSIS AND CONCLUSIONS OF LAW

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

Appellant's mother passed away. Appellant's daughter has ADHD and needs specialized care. Appellant was out of work during her period of not being insured.

The Appellant did submit a Statement of Grounds for Appeal-2023 under “During 2023, the expense of purchasing health insurance would have caused a serious deprivation of food, shelter, clothing or other necessities”

The Health Care Reform Act of 2006 requires every adult resident of Massachusetts to obtain and maintain creditable insurance coverage “so long as it is deemed affordable” under the schedule established by the board of the Connector. Mass. Gen. Laws ch. 111M, § 2(a). Massachusetts residents who fail to indicate on their state tax returns that they obtained the mandated creditable coverage are subject to a tax penalty for each month in which that the individual did not have creditable health insurance. *Id.* at § 2(b). However, individuals with incomes up to 150 percent of the Federal Poverty Level (“FPL”) are not subject to any penalty for non-compliance with the individual mandate. See Massachusetts Department of Revenue Technical Information Release (“TIR”) 13-1, available at <http://www.mass.gov/dor/businesses/help-and-resources/legal-library/tirs/tirs-by-years/2013-releases/tir-13-1.html>. For 2023, 150 percent of the FPL was \$27,465.00 for a single person with one dependent. *Id.* In addition, a lapse in coverage of 63 days or less is not subject to the section 2(b) penalty. See Administrative Bulletin 03-10 (Dec. 7, 2010), available at <https://www.mahealthconnector.org/portal/binary/com.epicentric.contentmanagement.servlet.ContentDeliveryServlet/Health%2520Care%2520Reform/Regulations/documents/Administrative%20Information%20Bulletin%2003-10.pdf>; see also 830 Mass. Code Regs. 111M.2.1(5)(c) (2008). Thus, no penalty is imposed for lapses in coverage consisting of three or fewer consecutive calendar months. *Id.*

Since Appellant’s 2023 income was more than 150 percent of the FPL, making her potentially subject to an individual mandate penalty, the threshold issue to be addressed is whether creditable health insurance coverage was affordable to her in 2023. In determining affordability, consideration is given first to the amount Appellant is deemed able to afford for health insurance premiums under the Affordability Schedule and second to the cost of health insurance that was available through employer-sponsored plans, government-subsidized programs or on the private insurance market. See 2023 Schedule HC Instructions and Worksheets, *supra*.

Appellant reported a federal AGI of \$42,646.00 in 2023, and Appellant’s filing status was single with one dependent. EX 2. According to the Affordability Schedule established by the Connector’s board and included in the Instructions and Worksheets of the 2023 Massachusetts Schedule HC, Appellant could afford to pay \$220.33 monthly for health insurance. See 2023 Schedule HC Instructions and Worksheets, *supra* at Table 3. Private insurance would have been available to her from the Premium Tables, at a cost of \$834.00 monthly for coverage. *Id.* at Table 4.

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

On these facts, I find that Appellant has shown that she was precluded from purchasing affordable health insurance during 2023. 956 Mass. Code Regs. 6.08(3) (2008). Accordingly, I conclude that she is exempt from a tax penalty for her non-compliance with the individual mandate.

Accordingly, Appellant's appeal is **ALLOWED**, and the 2023 penalty assessed is **OVERTURNED**.

PENALTY ASSESSED

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

The Connector has notified the Department of Revenue that, pursuant to its decision, you should be assessed a penalty for Tax Year 2023 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 2023.

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: PA21-1972

Appeal Decision Appeal Approved.

Hearing Issue: Appeal of the 2021 Tax Year Penalty

Hearing Date: March 20, 2024

Decision Date: May 2, 2024

AUTHORITY

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

JURISDICTION

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

HEARING RECORD

Appellant appeared at the hearing, which was held by telephone, on March 20, 2024. 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 (2-14-24) (2 pages);
- Exhibit 2: Information from Schedule HC TY 2021 (1 page); and
- Exhibit 3: Statement of Grounds for Appeal (3-28-22) (with documents) (5 pages);
- Exhibit 4: Prior hearing notice (7-15-22) (2 pages);
- Exhibit 5: Vacate dismissal letter (9-9-22) (with letter and documents) (6 pages); and
- Exhibit 6: Final Appeal Decision TY2020 (4-29-21) (4 pages).

FINDINGS OF FACT

The record shows, and I so find:

1. Appellant, age 26 during 2021, 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 2021. (Appellant's testimony, Exhibit 2). Appellant was supporting two other people who were residing with Appellant, and did not believe they could afford insurance. (Testimony, Exhibit 3).
3. Appellant's Federal Adjusted Gross Income for 2021 was \$47,049.00 (Exhibit 2).

4. Appellant's expenses for 2021 including student loan payments used most of the income. Appellant had \$3,560.00 in monthly expenses, or \$42,720.00 per year. (Testimony, Exhibit 3).
5. Appellant has had insurance through an employer since March 2022. (Testimony).
6. I take administrative notice of the financial information set forth in Tables 1 through 6 in the DOR 2021 Massachusetts Schedule HC Health Care Instructions and Worksheets. Tables 3 and 4 incorporate affordability and premium schedules adopted by the Board of Directors for the Commonwealth Health Insurance Connector Authority for 2021. Table 2 sets forth income at 300% of the Federal poverty level and Tables 5 and 6 set forth tax penalties in effect for 2021.
7. Appellant could afford health insurance based on the tables in Schedule HC. According to Table 4, the health insurance would cost \$263.00 for coverage. According to Table 3, Appellant was deemed to afford \$297.00.
8. Private insurance was affordable for the Appellant in 2021. (Schedule HC for 2021).
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 2021).
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 or the sudden responsibility for providing full care for an aging parent or other family member; and did not incur such expenses due to the death of a spouse, family member, or partner who shared household expenses. Appellant did not incur additional expenses as a result of a fire, flood, or other natural or man-made disaster in 2021 (Exhibit 3).
12. Appellant was not homeless, was not thirty days or more behind in rent in 2021 and did not receive eviction notices. Appellant did not receive a shut-off notice for basic utilities. (Appellant's Testimony, Exhibit 3).

ANALYSIS AND CONCLUSIONS OF LAW

The issue on appeal is whether the tax penalty assessed by the Massachusetts Department of Revenue for 2021 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 2021. 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 2021. According to Tables 3 and 4 of the HC Schedule for 2021, Appellant, with an adjusted gross income of \$47,049.00 was deemed to have been able to afford health insurance on the private market. According to Table 3, Appellant could have afforded to pay \$297.00 per month; according to Table 4, Appellant, who was 26 years old in 2021, from Bristol County, and filed the 2021 Massachusetts taxes as single with a family size of 1, would have had to pay \$263.00 for coverage per month for insurance on the private market. See CMR 6.05 (1)(2), Schedule HC Tables 3 and 4, and Exhibit 2.

With regard to the hardship waiver of the penalty, Appellant claimed that paying for health insurance would have caused a serious deprivation of food, shelter, clothing and other necessities. Appellant's expenses for necessities and student loans used most of the Appellant's income. Appellant did obtain insurance through an employer in March 2022 and continues to have the 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 2021 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 2021.

NOTIFICATION OF YOUR RIGHT TO APPEAL TO COURT

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

Hearing Officer

Cc: Connector Appeals Unit

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

Massachusetts Health Connector Appeals Unit

FINAL APPEAL DECISION: PA21-1991

Appeal Decision Appeal Approved.

Hearing Issue: Appeal of the 2021 Tax Year Penalty

Hearing Date: March 20, 2024

Decision Date: May 2, 2024

AUTHORITY

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

JURISDICTION

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

HEARING RECORD

One of the Appellants appeared at the hearing, which was held by telephone, on March 12, 2024. 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 (2-14-24) (2 pages);
- Exhibit 2: Information from Schedule HC TY 2021 (1 page);
- Exhibit 3: Statement of Grounds for Appeal (4-4-22) (with documents) (19 pages); and
- Exhibit 4: Vacate dismissal letters (9-2-23) (with letter and documents) (4 pages).

FINDINGS OF FACT

The record shows, and I so find:

1. Appellants, ages 37 and 35 during 2021, from Barnstable County, filed married filing jointly on the tax return with a family size of 3. (Exhibit 2).
2. Appellants did not have health insurance in Massachusetts for 2021, and one of Appellants was not residing in Massachusetts for January through June of 2021. (Appellant's testimony, Exhibits 2, 3). Appellants were dealing with immigration issues for one of Appellants, and spent a lot of money on dealing with the immigration issues, including legal fees, trips to Brazil, etc. (Testimony). Appellants' monthly expenses totaled \$6,771.00 per month, or \$81,252.00 per year.
3. One of Appellants now has health insurance through an employer. (Testimony).
4. Appellants' Federal Adjusted Gross Income for 2021 was \$157,378.00 (Exhibit 2).

5. I take administrative notice of the financial information set forth in Tables 1 through 6 in the DOR 2021 Massachusetts Schedule HC Health Care Instructions and Worksheets. Tables 3 and 4 incorporate affordability and premium schedules adopted by the Board of Directors for the Commonwealth Health Insurance Connector Authority for 2021. Table 2 sets forth income at 300% of the Federal poverty level and Tables 5 and 6 set forth tax penalties in effect for 2021.
6. Appellants could afford health insurance based on the tables in Schedule HC. According to Table 4, the health insurance would cost \$698.00 for coverage. According to Table 3, Appellants were deemed to afford \$1,049.00.
7. Private insurance was affordable for the Appellants in 2021. (Schedule HC for 2021).
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 2021).
9. Appellants claimed that they should be granted a waiver based on the grounds that one of them was not a resident of Massachusetts from January through June of 2021 when they did not have insurance in Massachusetts. (Testimony of Appellant, Exhibit 3). Appellants also claim that paying for health insurance would have caused a deprivation of food, shelter, clothing and other necessities.
10. Appellants did not incur significant and unexpected increases in essential expenses as a result of domestic violence or the sudden responsibility for providing full care for an aging parent or other family member; and did not incur such expenses due to the death of a spouse, family member, or partner who shared household expenses. Appellants did not incur additional expenses as a result of a fire, flood, or other natural or man-made disaster in 2021 (Exhibit 3).
11. Appellants were not homeless, were not thirty days or more behind in rent in 2021 and did not receive eviction notices. Appellants did not receive a shut-off notice for basic utilities. (Appellant's Testimony, Exhibit 3).

ANALYSIS AND CONCLUSIONS OF LAW

The issue on appeal is whether the tax penalty assessed by the Massachusetts Department of Revenue for 2021 should be waived in whole, in part, or not at all.

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

Appellants did not have health insurance for 2021, and one of Appellants was not a resident of Massachusetts for January through June of 2021. They have been assessed a tax penalty for twelve

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

Private insurance was affordable for the Appellants during 2021. According to Tables 3 and 4 of the HC Schedule for 2021, Appellants, with an adjusted gross income of \$157,378.00 were deemed to have been able to afford health insurance on the private market. According to Table 3, Appellants could have afforded to pay \$1,049.00 per month; according to Table 4, Appellants, who were 37 and 35 years old in 2021, from Barnstable County, and filed the 2021 Massachusetts taxes as married filing jointly with a family size of 3, would have had to pay \$698.00 for coverage per month for insurance on the private market. See CMR 6.05 (1)(2), Schedule HC Tables 3 and 4, and Exhibit 2.

With regard to the hardship waiver of the penalty, Appellants claimed that one of them was not a resident of Massachusetts for the months of January through June of 2021. Appellants also claim that paying for health insurance would have caused a deprivation of food, shelter and other necessities. The expenses used a lot of the income. One of the Appellants now has health insurance through an employer. For these reasons, the waiver of the penalty is approved.

Appellants should note that the waiver of the penalty is based upon the facts that I have determined to be true for the 2021 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: 12/12 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 2021.

NOTIFICATION OF YOUR RIGHT TO APPEAL TO COURT

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

Hearing Officer

Cc: Connector Appeals Unit

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

Massachusetts Health Connector Appeals Unit

FINAL APPEAL DECISION: PA21-2725

Appeal Decision Appeal Approved.

Hearing Issue: Appeal of the 2021 Tax Year Penalty

Hearing Date: March 12, 2024

Decision Date: May 2, 2024

AUTHORITY

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

JURISDICTION

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

HEARING RECORD

Appellant appeared at the hearing, which was held by telephone, on March 12, 2024. 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 (2-6-24) (2 pages);
- Exhibit 2: Information from Schedule HC TY 2021 (1 page); and
- Exhibit 3: Statement of Grounds for Appeal (7-20-23) (with letter) (4 pages).

FINDINGS OF FACT

The record shows, and I so find:

1. Appellant, age 57 during 2021, from Middlesex County, filed single on the tax return with a family size of 1. (Exhibit 2).
2. Appellant did not have health insurance for 2021. (Appellant's testimony, Exhibit 2). Appellant experienced severe mental health issues that affected their ability to handle most aspects of life, including obtaining insurance. (Testimony, Exhibit 3).
3. Appellant's Federal Adjusted Gross Income for 2021 was \$217,163.00 (Exhibit 2).
4. Appellant's expenses for 2021 including paying a very large tax bill for past taxes owed. Appellant had \$6,830 in monthly expenses plus an additional \$10,000.00 a month toward the taxes for a total of \$16,830.00, and a monthly income of \$18,096.00 gross before taxes. (Testimony).

5. Appellant's health and circumstances have improved and Appellant has been covered by health insurance since September 2022.
6. I take administrative notice of the financial information set forth in Tables 1 through 6 in the DOR 2021 Massachusetts Schedule HC Health Care Instructions and Worksheets. Tables 3 and 4 incorporate affordability and premium schedules adopted by the Board of Directors for the Commonwealth Health Insurance Connector Authority for 2021. Table 2 sets forth income at 300% of the Federal poverty level and Tables 5 and 6 set forth tax penalties in effect for 2021.
7. Appellant could afford health insurance based on the tables in Schedule HC. According to Table 4, the health insurance would cost \$401.00 for coverage. According to Table 3, Appellant was deemed to afford \$1,447.00.
8. Private insurance was affordable for the Appellant in 2021. (Schedule HC for 2021).
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 2021).
10. Appellant claimed that they should be granted a waiver based on the grounds that mental health issues prevented Appellant from obtaining health insurance, 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 or the sudden responsibility for providing full care for an aging parent or other family member; and did not incur such expenses due to the death of a spouse, family member, or partner who shared household expenses. Appellant did not incur additional expenses as a result of a fire, flood, or other natural or man-made disaster in 2021 (Exhibit 3).
12. Appellant was not homeless, was not thirty days or more behind in rent in 2021 and did not receive eviction notices. Appellant did not receive a shut-off notice for basic utilities. (Appellant's Testimony, Exhibit 3).

ANALYSIS AND CONCLUSIONS OF LAW

The issue on appeal is whether the tax penalty assessed by the Massachusetts Department of Revenue for 2021 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 2021. 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 2021. According to Tables 3 and 4 of the HC Schedule for 2021, Appellant, with an adjusted gross income of \$217,163.00 was deemed to have been able to afford health insurance on the private market. According to Table 3, Appellant could have afforded to pay \$1,447.00 per month; according to Table 4, Appellant, who was 57 years old in 2021, from Middlesex County, and filed the 2021 Massachusetts taxes as single with a family size of 1, would have had to pay \$401.00 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 mental health issues prevented them from obtaining health insurance and that paying for health insurance would have caused a serious deprivation of food, shelter, clothing and other necessities. Appellant's expenses for necessities and for back taxes used a lot of the Appellant's income. For these reasons, the waiver of the penalty is approved.

Appellant should note that the waiver of the penalty is based upon the facts that I have determined to be true for the 2021 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 2021.

NOTIFICATION OF YOUR RIGHT TO APPEAL TO COURT

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

Hearing Officer

Cc: Connector Appeals Unit

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

Massachusetts Health Connector Appeals Unit

FINAL APPEAL DECISION: PA21-2726

Appeal Decision Appeal Approved.

Hearing Issue: Appeal of the 2021 Tax Year Penalty

Hearing Date: March 12, 2024

Decision Date: May 2, 2024

AUTHORITY

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

JURISDICTION

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

HEARING RECORD

Appellant appeared at the hearing, which was held by telephone, on March 12, 2024. 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 (2-6-24) (2 pages);
- Exhibit 2: Information from Schedule HC TY 2021 (1 page); and
- Exhibit 3: Vacate dismissal letter (8-10-23) (with letter and documents) (12 pages).

FINDINGS OF FACT

The record shows, and I so find:

1. Appellants, ages 38 during 2021, filed married filing jointly on the tax return with a family size of 4. (Exhibit 2).
2. Appellants did have health insurance in Massachusetts for August through December of 2021, and were not residing in Massachusetts for January through July. (Appellant's testimony, Exhibit 2). Appellants came to Massachusetts from Ukraine on August 11, 2021. (Testimony, Exhibit 3).
3. Appellants' Federal Adjusted Gross Income for 2021 was \$98,810.00 (Exhibit 2).
4. I take administrative notice of the financial information set forth in Tables 1 through 6 in the DOR 2021 Massachusetts Schedule HC Health Care Instructions and Worksheets. Tables 3 and 4 incorporate affordability and premium schedules adopted by the Board of Directors for the

Commonwealth Health Insurance Connector Authority for 2021. Table 2 sets forth income at 300% of the Federal poverty level and Tables 5 and 6 set forth tax penalties in effect for 2021.

5. Appellants could not afford health insurance based on the tables in Schedule HC. According to Table 4, the health insurance would cost \$698.00 for coverage. According to Table 3, Appellants were deemed to afford \$658.00.
6. Private insurance was not affordable for the Appellants in 2021. (Schedule HC for 2021).
7. 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 2021).
8. Appellants claimed that they should be granted a waiver based on the grounds that they were not residents of Massachusetts from January through July of 2021 when they did not have insurance in Massachusetts. (Testimony of Appellant, Exhibit 3).
9. Appellants did not incur significant and unexpected increases in essential expenses as a result of domestic violence or the sudden responsibility for providing full care for an aging parent or other family member; and did not incur such expenses due to the death of a spouse, family member, or partner who shared household expenses. Appellants did not incur additional expenses as a result of a fire, flood, or other natural or man-made disaster in 2021 (Exhibit 3).
10. Appellants were not homeless, were not thirty days or more behind in rent in 2021 and did not receive eviction notices. Appellants did not receive a shut-off notice for basic utilities. (Appellant's Testimony, Exhibit 3).

ANALYSIS AND CONCLUSIONS OF LAW

The issue on appeal is whether the tax penalty assessed by the Massachusetts Department of Revenue for 2021 should be waived in whole, in part, or not at all.

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

Appellants did have health insurance for August through December 2021, and were not residents of Massachusetts for the remaining months of 2021. They have been assessed a tax penalty for four months. Appellants appealed the assessment. See Exhibits 2, and 3. To determine if the penalty should be waived in whole or in part, we must consider whether affordable insurance which met minimum creditable coverage standards was available to the Appellants through employment, through the private market, or through a government-sponsored program. If affordable insurance was available, we must

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

Private insurance was not affordable for the Appellants during 2021. According to Tables 3 and 4 of the HC Schedule for 2021, Appellants, with an adjusted gross income of \$98,810.00 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 \$658.00 per month; according to Table 4, Appellants, who were 38 years old in 2021, and filed the 2021 Massachusetts taxes as married filing jointly with a family size of 4, would have had to pay \$698.00 for coverage per month for insurance on the private market. See CMR 6.05 (1)(2), Schedule HC Tables 3 and 4, and Exhibit 2.

With regard to the hardship waiver of the penalty, Appellants claimed that they were not residents of Massachusetts for the months that they did not have health insurance in Massachusetts. Appellants moved to Massachusetts in August of 2021, and had insurance from August through December of 2021. For these reasons, the waiver of the penalty is approved.

Appellants should note that the waiver of the penalty is based upon the facts that I have determined to be true for the 2021 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: 4/4 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 2021.

NOTIFICATION OF YOUR RIGHT TO APPEAL TO COURT

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

Hearing Officer

Cc: Connector Appeals Unit

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: PA22-724

Appeal Decision Appeal Approved.

Hearing Issue: Appeal of the 2022 Tax Year Penalty

Hearing Date: April 17, 2024

Decision Date: May 9, 2024

AUTHORITY

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

JURISDICTION

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

HEARING RECORD

Appellant appeared at the hearing, which was held by telephone, on April 17, 2024. The hearing record consists of the Appellant's testimony, and the following documents which were admitted into evidence without objection by Appellant:

- Exhibit 1: Notice of Hearing (3-13-24) (2 pages);
- Exhibit 2: Information from Schedule HC TY 2022 (1 page);
- Exhibit 3: Statement of Grounds for Appeal (6-28-23) (with letter and documents) (4 pages);
- Exhibit 4: Prior hearing notice (7-12-23) (2 pages); and
- Exhibit 5: Vacate dismissal letter (8-27-23) (1 page).

FINDINGS OF FACT

The record shows, and I so find:

1. Appellant, age 29 during 2022, from Plymouth County, filed single on the tax return with a family size of 1. (Exhibit 2).
2. Appellant did have health insurance for 2022, through Premier Health Solutions, but it did not meet minimum creditable coverage. (Appellant's testimony, Exhibits 2, 3). Appellant obtained that insurance and did not realize it did not meet minimum creditable coverage. (Testimony, Exhibit 3).
3. Appellant's Federal Adjusted Gross Income for 2022 was \$52,628.00 (Exhibit 2).

4. Appellant then obtained insurance that did meet minimum creditable coverage as of 2023. (Testimony, Exhibit 3).
5. I take administrative notice of the financial information set forth in Tables 1 through 6 in the DOR 2022 Massachusetts Schedule HC Health Care Instructions and Worksheets. Tables 3 and 4 incorporate affordability and premium schedules adopted by the Board of Directors for the Commonwealth Health Insurance Connector Authority for 2022. Table 2 sets forth income at 300% of the Federal poverty level and Tables 5 and 6 set forth tax penalties in effect for 2022.
6. Appellant could afford health insurance based on the tables in Schedule HC. According to Table 4, the health insurance would cost \$277.00 for coverage. According to Table 3, Appellant was deemed to afford \$350.00.
7. Private insurance was affordable for the Appellant in 2022. (Schedule HC for 2022).
8. Appellant's AGI was over 300% of the Federal Poverty Level for a family size of 1, and Appellant therefore would not have qualified for subsidized health insurance through the Health Connector. (Schedule HC for 2022).
9. Appellant claimed that they should be granted a waiver based on the grounds that Appellant had insurance that did not meet minimum creditable coverage but Appellant did not realize it did not meet requirements. (Testimony of Appellant, Exhibit 3).
10. Appellant did not incur significant and unexpected increases in essential expenses as a result of domestic violence or the sudden responsibility for providing full care for an aging parent or other family member; and did not incur such expenses due to the death of a spouse, family member, or partner who shared household expenses. Appellant did not incur additional expenses as a result of a fire, flood, or other natural or man-made disaster in 2022 (Exhibit 3).
11. Appellant was not homeless, was not thirty days or more behind in rent in 2022 and did not receive eviction notices. Appellant did not receive a shut-off notice for basic utilities. (Appellant's Testimony, Exhibit 3).

ANALYSIS AND CONCLUSIONS OF LAW

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

G.L. c. 111M, § 2, also called the "individual mandate", requires every adult resident of Massachusetts to obtain insurance coverage "[s]o long as it is deemed affordable" under the schedule set by the board of directors for the Commonwealth Health Insurance Connector Authority. 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 2022, but it did not meet minimum creditable coverage. 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 2022. According to Tables 3 and 4 of the HC Schedule for 2022, Appellant, with an adjusted gross income of \$52,628.00 was deemed to have been able to afford health insurance on the private market. According to Table 3, Appellant could have afforded to pay \$350.00 per month; according to Table 4, Appellant, who was 29 years old in 2022, from Plymouth County, and filed the 2022 Massachusetts taxes as single with a family size of 1, would have had to pay \$277.00 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 should be granted a waiver based on the grounds that Appellant had insurance that did not meet minimum creditable coverage but Appellant did not realize that it did not meet minimum creditable coverage. Appellant now has health insurance that does meet the requirements. 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 2022 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 2022.

NOTIFICATION OF YOUR RIGHT TO APPEAL TO COURT

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

Hearing Officer

Cc: Connector Appeals Unit

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: PA22-786

Appeal Decision Appeal Approved.

Hearing Issue: Appeal of the 2022 Tax Year Penalty

Hearing Date: April 17, 2024

Decision Date: May 9, 2024

AUTHORITY

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

JURISDICTION

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

HEARING RECORD

Appellant appeared at the hearing, which was held by telephone, on April 17, 2024. The hearing record consists of the Appellant's testimony, and the following documents which were admitted into evidence without objection by Appellant:

- Exhibit 1: Notice of Hearing (3-13-24) (2 pages);
- Exhibit 2: Information from Schedule HC TY 2022 (1 page); and
- Exhibit 3: Statement of Grounds for Appeal (3-15-22) (2 pages);
- Exhibit 4: Prior hearing notice (9-8-23) (2 pages); and
- Exhibit 5: Vacate dismissal letter (11-2-23) (with documents) (3 pages).

FINDINGS OF FACT

The record shows, and I so find:

1. Appellant, age 24 during 2022, from Worcester County, filed married filing jointly on the tax return with a family size of 4. (Exhibit 2).
2. Appellant did not have health insurance for 2022, although Appellant's spouse did have it through MassHealth. (Appellant's testimony, Exhibit 2). Appellant was working part-time and did not have insurance available through the employer as a result and did not believe they could afford insurance. (Testimony, Exhibit 3).
3. Appellant's and Appellant's spouse's Federal Adjusted Gross Income for 2022 was \$71,079.00 (Exhibit 2).

4. Appellant's expenses for 2022 used most of the income. Appellant had \$4,860.00 in monthly expenses, or \$58,320.00 per year. (Testimony, Exhibit 3).
5. Appellant has had insurance through an employer since January 2023. (Testimony).
6. I take administrative notice of the financial information set forth in Tables 1 through 6 in the DOR 2022 Massachusetts Schedule HC Health Care Instructions and Worksheets. Tables 3 and 4 incorporate affordability and premium schedules adopted by the Board of Directors for the Commonwealth Health Insurance Connector Authority for 2022. Table 2 sets forth income at 300% of the Federal poverty level and Tables 5 and 6 set forth tax penalties in effect for 2022.
7. Appellant could afford health insurance based on the tables in Schedule HC for individual coverage but not for family coverage. According to Table 4, the health insurance would cost \$277.00 for individual coverage and \$716.00 for family coverage. According to Table 3, Appellant was deemed to afford \$441.00.
8. Private insurance was affordable for the Appellant in 2022 for individual coverage but not for family coverage. (Schedule HC for 2022).
9. Appellant's AGI was under 300% of the Federal Poverty Level for a family size of 4, and Appellant therefore may have qualified for subsidized health insurance through the Health Connector. (Schedule HC for 2022).
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 or the sudden responsibility for providing full care for an aging parent or other family member; and did not incur such expenses due to the death of a spouse, family member, or partner who shared household expenses. Appellant did not incur additional expenses as a result of a fire, flood, or other natural or man-made disaster in 2022 (Exhibit 3).
12. Appellant was not homeless, was not thirty days or more behind in rent in 2022 and did not receive eviction notices. Appellant did not receive a shut-off notice for basic utilities. (Appellant's Testimony, Exhibit 3).

ANALYSIS AND CONCLUSIONS OF LAW

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

G.L. c. 111M, § 2, also called the "individual mandate", requires every adult resident of Massachusetts to obtain insurance coverage "[s]o long as it is deemed affordable" under the schedule set by the board of directors for the Commonwealth Health Insurance Connector Authority. 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 2022. 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 2022 for individual coverage but not for family coverage. According to Tables 3 and 4 of the HC Schedule for 2022, Appellant, with an adjusted gross income of \$71,079.00 was deemed to have been able to afford health insurance on the private market for individual coverage but not for family coverage. According to Table 3, Appellant could have afforded to pay \$441.00 per month; according to Table 4, Appellant, who was 24 years old in 2022, from Worcester County, and filed the 2022 Massachusetts taxes as married filing jointly with a family size of 4, would have had to pay \$277.00 for individual coverage and \$716.00 for family coverage per month for insurance on the private market. See CMR 6.05 (1)(2), Schedule HC Tables 3 and 4, and Exhibit 2.

With regard to the hardship waiver of the penalty, Appellant claimed that paying for health insurance would have caused a serious deprivation of food, shelter, clothing and other necessities. Appellant's expenses for necessities used most of the Appellant's income. Appellant did obtain insurance through an employer for 2023, and continues to have the 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 2022 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 2022.

NOTIFICATION OF YOUR RIGHT TO APPEAL TO COURT

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

Hearing Officer

Cc: Connector Appeals Unit

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: PA23-36

Appeal Decision: Appeal Approved.

Hearing Issue: Appeal of the 2023 Tax Year Penalty

Hearing Date: May 10, 2024

Decision Date: May 13, 2024

AUTHORITY

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

JURISDICTION

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

HEARING RECORD

The Appellant appeared at the hearing, which was held by telephone, on May 10, 2024. The procedures to be followed during the hearing were reviewed with the Appellant who was then sworn in. Exhibits were marked and admitted into evidence with no objection from the Appellant. The hearing record consists of the Appellant's testimony and the following documents which were admitted into evidence:

- Exhibit 1: Health Connector Appeals Unit Notice of Hearing dated April 14, 2024.
- Exhibit 2: Appeal Case Information from Schedule HC- 2023.
- Exhibit 3: Statement of Grounds for Appeal dated March 4, 2024.
- Exhibit 4: Health Connector Appeals Unit Record Open Form dated May 10, 2024.
- Exhibit 6: Additional information submitted by the Appellant on May 10, 2024.

FINDINGS OF FACT

The record shows, and I so find:

1. The Appellant, age 30 in June 2023, filed their 2023 Federal Income Tax return as a single person with no dependents claimed (Exhibit 2).
2. The Appellant lived in Middlesex County in 2023 (Exhibit 2).
3. The Appellant's Federal Adjusted Gross Income for 2023 was \$40,901 (Exhibit 2).
4. According to the Appellant's Schedule HC-2023 the Appellant did not have health insurance for any months of tax year 2023. The Appellant was assessed a twelve-month penalty (Exhibit 2).
5. The Appellant filed an appeal of the assessment in March 2024 alleging that they were enrolled in health insurance through the Health Connector in tax year 2023 (Exhibit 3).

6. The Appellant testified that they did obtain a copy of their Form 1099-HC for tax year 2023 (Appellant Testimony).
7. The record was left open to allow the Appellant to submit additional evidence (Exhibit 4).
8. On May 10, 2024 the Appellant submitted a copy of their Form 1099-HC 2023 verifying that the Appellant had health insurance that met Massachusetts standards for all of tax year 2023 (Exhibit 5).

ANALYSIS AND CONCLUSIONS OF LAW

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

The Appellant filed their 2023 income tax return as a single person with no dependents. According to the information in the Appellant’s Schedule HC 2023, the Appellant did not have health insurance in tax year 2023 and consequently was assessed a twelve-month penalty. The Appellant filed an appeal of the assessment.

The Appellant testified that they had health insurance coverage through the Health Connector. After the Hearing concluded, the Appellant submitted a copy of their Form 1099-HC for tax year 2023 verifying that the Appellant had health insurance that met Massachusetts standards for all of tax year 2023. The Appellant should not be subject to a tax penalty for tax year 2023.

The Appellant should note that the waiver of their penalty is based upon the facts that I have determined to be true in 2023. The Appellant should not assume that a similar determination will be made for subsequent tax years should they again be assessed a penalty for failure to have health insurance.

PENALTY ASSESSED

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

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

NOTIFICATION OF YOUR RIGHT TO APPEAL TO COURT

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

Cc: Connector Appeals Unit

Massachusetts Health Connector Appeals Unit

FINAL APPEAL DECISION: PA23-37

Appeal Decision: Appeal Approved.

Hearing Issue: Appeal of the 2023 Tax Year Penalty

Hearing Date: May 10, 2024

Decision Date: May 28, 2024

AUTHORITY

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

JURISDICTION

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

HEARING RECORD

The Appellant appeared at the hearing, which was held by telephone, on May 10, 2024. The procedures to be followed during the hearing were reviewed with the Appellant who was then sworn in. Exhibits were marked and admitted into evidence with no objection from the Appellant. The hearing record consists of the Appellant's testimony and the following documents which were admitted into evidence:

- Exhibit 1: Health Connector Appeals Unit Notice of Hearing dated April 16, 2024.
- Exhibit 2: Appeal Case Information from Schedule HC- 2023.
- Exhibit 3: Statement of Grounds for Appeal, with attachments dated March 4, 2024.
- Exhibit 4: Health Connector Appeals Unit Open Record Form dated May 10, 2024.
- Exhibit 5: Additional documentation submitted by the Appellant during the record open period.

FINDINGS OF FACT

The record shows, and I so find:

1. The Appellant, age 22 in September 2023, filed their 2023 Federal Income Tax return as a single person with no dependents claimed (Exhibit 2).
2. The Appellant reported being a full year resident who lived in Essex County, MA in 2023 (Exhibit 2).
3. The Appellant's Federal Adjusted Gross Income for 2023 was \$31,662 (Exhibit 2).
4. According to the Schedule HC, the Appellant did not have health insurance for any months in tax year 2023 (Exhibit 2).
5. The Appellant has been assessed a twelve-month tax penalty for 2023. The Appellant filed an appeal of the assessment in March 2024 citing circumstances other than financial hardship for their appeal (Exhibits 2, 3).

6. I take administrative notice of the financial information set forth in Tables 1 through 6 in the DOR 2023 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 2023. Table 2 sets forth income at 300% of the Federal poverty level and Tables 5 and 6 set forth tax penalties in effect for 2023.
7. In accordance with Table 3 of Schedule HC for 2023, the Appellant filing the Federal tax return as a single person with no dependents claimed, with an annual adjusted gross income of \$31,662 could afford to pay \$108 per month for health insurance. In accordance with Table 4, the Appellant age 22, living in Essex County, could have purchased private insurance for \$312 per month for a plan (Schedule HC for 2023). Private insurance was not affordable for the Appellant in 2023.
8. The Appellant would have been financially eligible for ConnectorCare coverage in 2023 because the Appellant's income of \$31,662 was less than 300% of the federal poverty level, which was \$40,770 for a household of one in 2023 (See Table 2 of Schedule HC-2023 and 956 CMR 12.04).
9. The Appellant testified that they served in the military in tax year 2023 and was stationed overseas for most of the year. The Appellant said that they TriCare health insurance (Appellant Testimony).
10. The Appellant had submitted evidence of their overseas assignment, but the evidence submitted was related to tax year 2022. The documents were reviewed with the Appellant and the dates were noted (Exhibit 3).
11. The Record was left open until May 24, 2024 to allow the Appellant to submit additional evidence regarding their military residency and health insurance coverage for tax year 2023 (Exhibit 4).
12. The Appellant submitted additional documentation verifying that they were active-duty military stationed out of the country in tax year 2023 and had TriCare health insurance coverage through the military (Exhibit 5).

ANALYSIS AND CONCLUSIONS OF LAW

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

The Appellant filed their 2023 income tax return as a single person with no dependents. According to their Schedule HC-2023 the Appellant did not have health insurance for any months of tax year 2023 and consequently

has been assessed a twelve-month penalty. The Appellant filed an appeal in May 2023 and listed “other” as the basis for the appeal on the Statement of Grounds for Appeal.

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

At the Hearing the Appellant testified that they served in the military, was stationed overseas, and had health insurance coverage in tax year 2023. The Appellant had submitted some documentation with their appeal request. The documents were reviewed at the Hearing, and it was noted that none of the documents were related to the Appellant’s circumstances in tax year 2023. The Record was left open until May 24, 2024 to allow the Appellant to submit additional evidence for tax year 2023. The Appellant submitted additional evidence verifying that they were active-duty military stationed out of the Country in tax year 2023 and covered under a TriCare health insurance policy obtained through the military. Under these circumstances, the Appellant’s twelve-month penalty is waived. See 956 CMR 6.08.

The Appellant should note that the waiver of their penalty is based upon the facts that I have determined to be true in 2023. The Appellant should not assume that a similar determination will be made for subsequent tax years should they again be assessed a penalty for failure to have health insurance.

PENALTY ASSESSED

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

If the number of months assessed is zero (0) because your penalty has been overturned, the Connector has notified the Department of Revenue that you should NOT be assessed a penalty for Tax Year 2023.

NOTIFICATION OF YOUR RIGHT TO APPEAL TO COURT

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

Cc: Connector Appeals Unit

Massachusetts Health Connector Appeals Unit

FINAL APPEAL DECISION: PA23-39

Appeal Decision: Appeal Approved.

Hearing Issue: Appeal of the 2023 Tax Year Penalty

Hearing Date: May 10, 2024

Decision Date: May 16, 2024

AUTHORITY

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

JURISDICTION

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

HEARING RECORD

The Appellant appeared at the hearing, which was held by telephone, on May 10, 2024. The procedures to be followed during the hearing were reviewed with the Appellant who was then sworn in. Exhibits were marked and admitted into evidence with no objection from the Appellant. The hearing record consists of the Appellant's testimony and the following documents which were admitted into evidence:

- Exhibit 1: Health Connector Appeals Unit Notice of Hearing dated April 16, 2024.
- Exhibit 2: Appeal Case Information from Schedule HC -2023.
- Exhibit 3: Annotated Statement of Grounds for Appeal dated February 12, 2023.

FINDINGS OF FACT

The record shows, and I so find:

1. The Appellant, age 41 in April 2023, filed their 2023 Federal Income Tax return as a single person with no dependents claimed (Exhibit 2).
2. The Appellant lived in Suffolk County, MA in 2023 (Exhibit 2).
3. The Appellant's Federal Adjusted Gross Income for 2023 was \$27,199 (Exhibit 2).
4. The Appellant did not have health insurance for any months of tax year 2023 and consequently has been assessed a twelve-month penalty (Exhibit 2).
5. The Appellant filed an appeal of the assessment in February 2024 (Exhibit 3).
6. I take administrative notice of the financial information set forth in Tables 1 through 6 in the DOR 2023 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 2023. Table 2 sets forth income at 300% of the Federal poverty level and Tables 5 and 6 set forth tax penalties in effect for 2023.

7. In accordance with Table 3 of Schedule HC for 2023, the Appellant filing the Federal tax return as a single person with no dependents claimed, with an annual adjusted gross income of \$27,199 could afford to pay \$93 per month for health insurance. In accordance with Table 4, the Appellant, age 41, living in Suffolk County, could have purchased private insurance for \$358 per month for a plan (Schedule HC for 2023). Private insurance was not affordable for the Appellant in tax year 2023.
8. The Appellant testified that they believe their employer offered health insurance, but it was too expensive, and the Appellant did not enroll. The Appellant was not sure of the cost. The Appellant also said that they thought they must be employed 40 hours to be eligible for insurance. (Appellant Testimony).
9. The Appellant was financially eligible for ConnectorCare coverage in 2023 because the Appellant's income of \$27,199 was less than 300% of the federal poverty level, which was \$40,771 for a household of one in 2023 (See Table 2 of Schedule HC-2023 and 956 CMR 12.04) (Exhibit 2).
10. The Appellant's monthly living expenses Included: rent-\$950-\$1000; telephone-\$70; car insurance-\$110; gasoline-\$87 and food-\$433. The Appellant said that their telephone was shut off for a time because they owed \$1,000 from a previous year. The Appellant said that they borrowed money from friends to get their service reinstated but had to pay the money back. The Appellant said that they struggled to meet their living expenses due to their low income and could not afford health insurance. I found the Appellant to be credible (Appellant Testimony).

ANALYSIS AND CONCLUSIONS OF LAW

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

The Appellant filed their 2023 tax return as a single person with no dependents claimed. The Appellant did not have health insurance for any months in tax year 2023 and has been assessed a twelve-month penalty. The Appellant appealed the penalty in February 2024 citing financial hardship as the basis for their appeal.

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

In accordance with Table 3 of Schedule HC for 2023, the Appellant filing the Federal tax return as a single person with no dependents claimed with an adjusted gross income of \$27,199 could afford to pay \$93 per month for health insurance. According to Table 4, the Appellant, age 41, living in Suffolk County, could have purchased a private insurance plan for \$358 month. See Schedule HC for 2023. Private insurance was not affordable for the Appellant in tax year 2023.

The Appellant would have been eligible for ConnectorCare coverage based upon the household's income that was less than 300% of the federal poverty level which was \$40,770 for their household of one. See Table 2 of Schedule HC 2023 and 956 CMR 12.04 for eligibility criteria. Since affordable insurance was available to the Appellant in 2023, it must be determined whether the Appellant experienced a financial hardship pursuant to 956 CMR 6.08 (1).

The Appellant testified that they worked part time hours in 2023 and did not think they were eligible for health insurance as a part time employee. The Appellant said that due to the high cost of their living expenses and the uncertainty of their hours the Appellant could not afford a health insurance premium payment. The Appellant testified to significant monthly expenses and indicated that it was difficult to meet these expenses with their limited income. The Appellant explained that their telephone service was shut off for a period of time due to nonpayment and they had to borrow money from friends to get their service reinstated. Under these circumstances the Appellant has demonstrated that purchasing health insurance would have caused the Appellant significant financial hardship. The Appellant's twelve-month penalty is waived in full. 956 CMR 6.08(1)(b).

The Appellant should note that the waiver of their penalty is based upon the facts that I have determined to be true in 2023. The Appellant should not assume that a similar determination will be made for subsequent tax years should they again be assessed a penalty for failure to have health insurance.

PENALTY ASSESSED

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

If the number of months assessed is zero (0) because your penalty has been overturned, the Connector has notified the Department of Revenue that you should NOT be assessed a penalty for Tax Year 2023.

NOTIFICATION OF YOUR RIGHT TO APPEAL TO COURT

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

Cc: Connector Appeals Unit

Massachusetts Health Connector Appeals Unit

FINAL APPEAL DECISION: PA23-78

Appeal Decision: The tax penalty is overturned.

Hearing Issue: Appeal of the 2023 Tax Year Penalty

Hearing Date: May 13, 2024

Decision Date: May 20, 2024

AUTHORITY

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

JURISDICTION

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

HEARING RECORD

The Appellant was a single person with no dependents in 2023. The Appellant appeared at the hearing, which was held by telephone on May 13, 2024. The procedures to be followed during the hearing were reviewed with the Appellant, who was then sworn in. Exhibits were marked and admitted into evidence with no objection from the Appellant. The hearing record consists of the testimony of the Appellant and the following documents that were admitted into evidence:

Exhibit 1: Appeal Case Information from Schedule HC 2023 (1 page).

Exhibit 2: Statement of Grounds for Appeal and supporting documentation (5 pages).

Exhibit 3: Health Connector Appeals Unit Notice of Hearing on May 13, 2024 (2 pages).

FINDINGS OF FACT

The record shows, and I so find:

1. The Appellant filed their federal income tax return as a single person with no dependents claimed. (Exhibit 1).
2. The Appellant turned 36 in January 2023. (Exhibit 1).
3. The Appellant lived in Middlesex County in 2023. (Exhibit 1).
4. According to the Appellant's Schedule HC, the Appellant's federal Adjusted Gross Income ("AGI") for 2023 was \$45,623. (Exhibit 1).

5. According to the Appellant's Schedule HC, the Appellant did not have health insurance that met Massachusetts' minimum creditable coverage (MCC) requirements for any month in 2023. The Appellant was assessed a 12-month tax penalty. (Exhibit 1).
6. The Appellant checked off the following box on their Statement of Grounds for Appeal: "Other. During 2023, other circumstances, such as: applying the Affordability Tables in Schedule HC to you is inequitable (for example, because of family size); that you were unable to obtain government-subsidized insurance even though your income qualified you; or that you didn't reside in Massachusetts during your period of uninsurance." (Exhibit 2).
7. The Appellant submitted a letter with their Statement of Grounds for Appeal that said: "I am writing this letter to explain the circumstances surrounding my health insurance for the year of 2023. Usually I have health insurance through my job. It rolls over when enrollment time comes around. Last year they did not inform employees of a change to the system for enrollment. Due to this I was under the impression I still had health insurance. I was not aware of anything until I was at the dentist and they attempted to go through my insurance. They informed me I did not have insurance after contacting my health provider which prompted me to go to my HR department and find out the issue at hand. I was then informed that they had recently changed their health care system sign up and gave me information when the next open enrollment would be held. I did attempt to look for medicaid services but had issues with enrollment and waited to enroll with my job."
8. I take administrative notice of the financial information set forth in Tables 1 through 6 in the Department of Revenue ("DOR") 2023 Massachusetts Schedule HC Health Care Instruction and Worksheets. Tables 3 and 4 incorporate affordability and premium schedules adopted by the Board of Directors for the Commonwealth Health Insurance Connector Authority for 2023. Table 2 sets forth income at 300% of the federal poverty level, and Tables 5 and 6 set forth tax penalties in effect for 2023.
9. The Appellant's AGI of \$45,623 was more than 300% of the Federal Poverty Level, which was \$40,770 for a single person in 2023. (See Table 2 of Schedule HC-2023 and 956 CMR 12.04).
10. According to Table 3 of Schedule HC for 2023, the Appellant, who filed their federal tax return as a single person with no dependents and claimed an adjusted gross income of \$45,623, could have afforded to pay \$283 per month for health insurance. The calculation is as follows: Table 3 states that a single person with no dependents whose 2023 AGI was between \$40,771 and \$47,565 could have spent 7.45% of their earnings on health insurance; 7.45% of \$45,623 is \$3,398, and one-twelfth of \$3,398 is \$283.
11. According to Table 4 of Schedule HC for 2023, the least expensive health insurance plan available on the private market to the Appellant, a single person age 35 living in Middlesex County in January 2023, cost \$335 per month.

12. The Appellant testified that they have been working full-time for the same employer since 2020 and that in previous years, they did not need to re-enroll in health insurance for the next year.
13. The Appellant testified that in 2022, their employer changed health insurance plans and required that employees re-enroll in health insurance for 2023.
14. The Appellant testified that they never received notification from their employer that they needed to re-enroll in health insurance and that they had assumed that their insurance from 2022 would carry over into 2023.
15. The Appellant testified that in early 2023, they tried to schedule a dentist appointment and were told that their insurance was not active.
16. The Appellant testified that they then contacted their human resources department and were told in a conversation that because they had not re-enrolled in health insurance at the end of 2022, they did not have health insurance.
17. The Appellant further testified that their human resources department told them that they could not enroll in health insurance until the following year's enrollment period.
18. The Appellant testified that their human resources representative told them that she thought the Appellant had been sent an email about the need to re-enroll in health insurance but that the human resources representative did not sound positive when making this statement.
19. The Appellant testified that they did not have written documentation of these conversations.
20. The Appellant testified that their employer notified them about the health insurance open enrollment period in the fall of 2023 and that they enrolled in health insurance for 2024 and remain insured.
21. The Appellant testified that they did not know how much employer-sponsored health insurance would have cost them in 2023 and that they did not remember how much their current employer-sponsored health insurance costs them.

ANALYSIS AND CONCLUSIONS OF LAW

The case is before me on the Appellant's appeal from the DOR's assessment of a twelve-month tax penalty because the Appellant's tax forms indicated that they did not have health insurance that met Massachusetts' minimum creditable coverage ("MCC") standards during any month in 2023. The issue to be decided is whether the tax penalty should be waived in whole or in part.

I begin by summarizing the legal rules underlying this appeal. The tax penalty was enacted by the Massachusetts Legislature to encourage compliance with G.L. c. 111M, § 2, also called the "individual mandate." The mandate requires every adult resident of Massachusetts to obtain health insurance

coverage “[s]o long as it is deemed affordable” under the schedule set by the board of directors for the Commonwealth Health Insurance Connector Authority (“Connector”). G.L. c. 111M, § 2(a). Any health insurance policy must also satisfy the Massachusetts MCC standards for a taxpayer to avoid the penalty.

If these requirements are not met, a tax penalty is assessed for each of the months that the individual did not have health insurance as required by the individual mandate. There is, however, a three-month grace period to allow the taxpayer to obtain health insurance coverage or to make the transition between health insurance policies. See G.L. c. 111M, § 2(b) and Administrative Information Bulletin 03-10: Guidance Regarding M.G.L. c. 111M and M.G.L. c. 176Q, as implemented by 956 CMR 6.00 (clarifying that for purposes of penalty calculation, taxpayers will not be subject to penalty if they had lapses in coverage consisting of three or fewer consecutive calendar months). The Connector’s regulations also provide for a waiver of the tax penalty in cases of hardship. See 956 CMR 6.07-08.

To determine if the penalty should be waived in whole or in part, there must be a determination as to whether affordable insurance that met MCC standards was available to the Appellant through the private market, through a government-subsidized program, or through employment. If affordable insurance was available, it must be determined whether such insurance was not in fact affordable to the Appellant because the Appellant experienced a hardship as defined in 956 CMR 6.08. Each of these issues is addressed below.

First, I conclude that the Appellant did not have access to affordable health insurance meeting MCC standards through the private market in 2023. According to Table 3 of the Schedule HC, the Appellant could have afforded to pay \$283 per month for health insurance, but according to Table 4 of the Schedule HC, the least expensive health insurance plan available to the Appellant cost \$335 per month and therefore was unaffordable for them. Findings of Fact Nos. 10 and 11.

Second, I conclude that the Appellant did not have access to affordable health insurance meeting MCC standards through a government-subsidized program in 2023 because the Appellant’s AGI was greater than 300% of the FPL. Finding of Fact No. 9.

Third, I conclude that the record is inconclusive as to whether the Appellant had access to affordable health insurance meeting MCC standards in 2023 through employment because the Appellant testified that they did not know how much their employer-sponsored health insurance would have cost them. Finding of Fact No. 21. However, I find that even if such employer-sponsored health insurance was affordable to the Appellant, it is appropriate to waive the Appellant’s penalty because the Appellant credibly testified that they did not receive notification that they had to re-enroll in their employer-sponsored health insurance for 2023 and that in previous years, they did not to re-enroll in health insurance for the coming year. Findings of Fact Nos. 12 and 14. I find that the Appellant’s lack of knowledge about the re-enrollment requirement effectively blocked their access to employer-sponsored health insurance in 2023.

Reviewing the totality of the evidence, I find that it is appropriate to waive the Appellant’s twelve-month tax penalty in its entirety because the Appellant did not have effective access to affordable health

insurance meeting MCC requirements through the private market, a government-subsidized program, or employment. See G.L. c. 111M, § 2 and 956 CMR 6.07(8) and 6.08(3).

The Appellant should note that the waiver of their penalty is based upon the facts that I have determined to be true in 2023. The Appellant should not assume that a similar determination will be made for subsequent tax years should they again be assessed a penalty for failure to have health insurance.

PENALTY ASSESSED

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

If the number of months assessed is zero (0) because your penalty has been overturned, the Connector has notified the Department of Revenue that you should NOT be assessed a penalty for Tax Year 2023.

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: PA23-79

Appeal Decision: The tax penalty is overturned.

Hearing Issue: Appeal of the 2023 Tax Year Penalty

Hearing Date: May 13, 2024

Decision Date: May 20, 2024

AUTHORITY

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

JURISDICTION

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

HEARING RECORD

The Appellant was a single person with no dependents in 2023. The Appellant appeared at the hearing, which was held by telephone on May 13, 2024. The procedures to be followed during the hearing were reviewed with the Appellant, who was then sworn in. Exhibits were marked and admitted into evidence with no objection from the Appellant. The hearing record consists of the testimony of the Appellant and the following documents that were admitted into evidence:

Exhibit 1: Appeal Case Information from Schedule HC 2023 (1 page).

Exhibit 2: Statement of Grounds for Appeal and supporting documentation (9 pages).

Exhibit 3: Health Connector Appeals Unit Notice of Hearing on May 13, 2024 (2 pages).

FINDINGS OF FACT

The record shows, and I so find:

1. The Appellant filed their federal income tax return as a single person with no dependents claimed. (Exhibit 1).
2. The Appellant turned 61 in January 2023. (Exhibit 1).
3. The Appellant lived in Middlesex County in 2023. (Exhibit 1).
4. According to the Appellant's Schedule HC, the Appellant's federal Adjusted Gross Income ("AGI") for 2023 was \$28,632. (Exhibit 1).

5. According to the Appellant's Schedule HC, the Appellant did not have health insurance that met Massachusetts' minimum creditable coverage (MCC) requirements for any month in 2023. The Appellant was assessed a 12-month tax penalty. (Exhibit 1).
6. The Appellant checked off the following box on their Statement of Grounds for Appeal: "During 2023, you purchased health insurance that didn't meet minimum creditable coverage standards because that is what your employer offered, and you felt that your circumstances prevented you from buying other insurance that met the requirements." (Exhibit 2).
7. The Appellant also submitted documents showing that they made payments of \$422.95 and \$402.95 in November and December 2023, respectively, for a "Reverence 4" plan from "Strategic Limited Partners." (Exhibit 2).
8. I take administrative notice of the financial information set forth in Tables 1 through 6 in the Department of Revenue ("DOR") 2023 Massachusetts Schedule HC Health Care Instruction and Worksheets. Tables 3 and 4 incorporate affordability and premium schedules adopted by the Board of Directors for the Commonwealth Health Insurance Connector Authority for 2023. Table 2 sets forth income at 300% of the federal poverty level, and Tables 5 and 6 set forth tax penalties in effect for 2023.
9. The Appellant's AGI of \$28,632 was less than 300% of the Federal Poverty Level, which was \$40,770 for a single person in 2023. (See Table 2 of Schedule HC-2023 and 956 CMR 12.04).
10. According to Table 3 of Schedule HC for 2023, the Appellant, who filed their federal tax return as a single person with no dependents and claimed an adjusted gross income of \$28,632, could have afforded to pay \$97 per month for health insurance. The calculation is as follows: Table 3 states that a single person with no dependents whose 2023 AGI was between \$27,181 and \$33,975 could have spent 4.1% of their earnings on health insurance; 4.1% of \$28,632 is \$1,173, and one-twelfth of \$1,173 is \$97.
11. According to Table 4 of Schedule HC for 2023, the least expensive health insurance plan available on the private market to the Appellant, a single person age 60 living in Middlesex County in January 2023, cost \$490 per month.
12. The Appellant testified that they moved back to Massachusetts in 2022 to help care for their mother, who was sick, after having lived in Florida for more than 40 years.
13. The Appellant testified that throughout 2023, they worked approximately 30 hours per week at their family's store.
14. The Appellant testified that from January to August 2023, they also worked part-time at a department store. The Appellant testified that their hours at the department store fluctuated, but that some weeks, they worked there approximately 12 hours per week.

15. The Appellant testified that their family's store offered health insurance but that they declined to enroll in it because they wanted to purchase insurance on their own in order to have a tax deduction. The Appellant testified that they did not know how much the health insurance from their family's store would have cost them.
16. The Appellant testified that the department store offered health insurance but that they did not know how much such insurance would have cost them. The Appellant said they did not enroll in the department store's health insurance because they did not work that many hours there and because they knew that they would not work at the department store for long.
17. The Appellant testified that they decided to obtain health insurance at the end of 2023 and enrolled in a plan called Strategic Limited Partners. The Appellant testified that they paid \$422.95 for this plan in November 2023 and \$402.95 in December 2023.
18. The Appellant testified that they learned that this insurance was a "scam" when they were preparing their taxes in spring 2023 and did not receive a tax form from Strategic Limited Partners. The Appellant testified that they then canceled this insurance.
19. The Appellant testified that they did not know that they might have been eligible for subsidized insurance in 2023.
20. The Appellant testified that they lived rent-free with their mother in 2023 and that they estimated they had the following monthly expenses: \$419 for a car payment; \$92 for car insurance (based on a \$1100 annual premium); \$65 for cellphone; \$300 for clothing; and \$250 for clothing and toiletries.
21. The Appellant testified that they formed their own business at the beginning of 2024 and do not yet have insurance. I gave the Appellant the phone number for the Health Connector so that they could explore the possibility of obtaining subsidized insurance.
22. According to Tables 5 and 6 of the Schedule HC, the monthly tax penalty for a person whose AGI was between \$27,181 and \$33,975 was \$46.
23. According to Table 1 of the Schedule HC, 150% of the FPL for a family of one was \$20,385. This means that the FPL for a family of one was \$13,590 and that the Appellant's AGI of \$28,632 was 210% of the FPL.
24. I take judicial notice of the fact that the least expensive ConnectorCare (or subsidized) plan available for individuals earning between 200.1 and 250% of the FPL in 2023 cost \$93 per month. See [ConnectorCare-shopping-guide-2023-ENG.pdf \(mahealthconnector.org\)](https://www.mahealthconnector.org/ConnectorCare-shopping-guide-2023-ENG.pdf).

ANALYSIS AND CONCLUSIONS OF LAW

The case is before me on the Appellant's appeal from the DOR's assessment of a twelve-month tax penalty because the Appellant's tax forms indicated that they did not have health insurance that met Massachusetts' minimum creditable coverage ("MCC") standards during any month in 2023. The issue to be decided is whether the tax penalty should be waived in whole or in part.

I begin by summarizing the legal rules underlying this appeal. The tax penalty was enacted by the Massachusetts Legislature to encourage compliance with G.L. c. 111M, § 2, also called the "individual mandate." The mandate requires every adult resident of Massachusetts to obtain health insurance coverage "[s]o long as it is deemed affordable" under the schedule set by the board of directors for the Commonwealth Health Insurance Connector Authority ("Connector"). G.L. c. 111M, § 2(a). Any health insurance policy must also satisfy the Massachusetts MCC standards for a taxpayer to avoid the penalty.

If these requirements are not met, a tax penalty is assessed for each of the months that the individual did not have health insurance as required by the individual mandate. There is, however, a three-month grace period to allow the taxpayer to obtain health insurance coverage or to make the transition between health insurance policies. See G.L. c. 111M, § 2(b) and Administrative Information Bulletin 03-10: Guidance Regarding M.G.L. c. 111M and M.G.L. c. 176Q, as implemented by 956 CMR 6.00 (clarifying that for purposes of penalty calculation, taxpayers will not be subject to penalty if they had lapses in coverage consisting of three or fewer consecutive calendar months). The Connector's regulations also provide for a waiver of the tax penalty in cases of hardship. See 956 CMR 6.07-08.

To determine if the penalty should be waived in whole or in part, there must be a determination as to whether affordable insurance that met MCC standards was available to the Appellant through the private market, through a government-subsidized program, or through employment. If affordable insurance was available, it must be determined whether such insurance was not in fact affordable to the Appellant because the Appellant experienced a hardship as defined in 956 CMR 6.08. Each of these issues is addressed below.

First, I conclude that the Appellant did not have access to affordable health insurance meeting MCC standards through the private market in 2023. According to Table 3 of the Schedule HC, the Appellant could have afforded to pay \$97 per month for health insurance, but according to Table 4 of the Schedule HC, the least expensive health insurance plan available to the Appellant cost \$490 per month and therefore was unaffordable for them. Findings of Fact Nos. 10 and 11.

Second, I conclude that the Appellant theoretically had access to affordable health insurance meeting MCC standards through a government-subsidized program in 2023 because the Appellant's AGI was less than 300% of the FPL. Finding of Fact No. 9.

Third, I conclude that the record is inconclusive as to whether the Appellant had access to affordable health insurance meeting MCC standards in 2023 through employment because the Appellant testified that they did not know how much their employer-sponsored health insurance would have cost them, either through their family's store or through the department store. Findings of Fact Nos. 15 and 16.

Although the Appellant theoretically had access to affordable health insurance meeting MCC standards through a government-subsidized program in 2023, I find that it is appropriate to waive the Appellant's penalty because the Appellant provided evidence that they paid a total of \$825.90 in November and December 2023 for a plan that they believed to be health insurance, but in fact was not. Finding of Fact No. 17 and Exhibit 2. This amount of \$825.90 is just slightly less than the \$1,164 that the Appellant could have afforded to pay for health insurance for the entire year, based on the calculation from Table 3 of the Schedule HC that the Appellant could have afforded to pay \$97 per month for health insurance. Finding of Fact No. 10. I conclude that the Appellant could not have afforded to pay for additional health insurance, even on a subsidized basis of \$93 per month, or \$1,116 per year. Further, this \$825.90 amount is more than the \$552 total penalty the Appellant would have to pay based on the \$46 per month penalty imposed by Tables 5 and 6 of the Schedule HC. Finding of Fact No. 22.

Reviewing the totality of the evidence, I find that it is appropriate to waive the Appellant's twelve-month tax penalty in its entirety because the Appellant did not have effective access to affordable health insurance meeting MCC requirements through the private market, a government-subsidized program, or employment. See G.L. c. 111M, § 2 and 956 CMR 6.07(8) and 6.08(2) and (3).

The Appellant should note that the waiver of their penalty is based upon the facts that I have determined to be true in 2023. The Appellant should not assume that a similar determination will be made for subsequent tax years should they again be assessed a penalty for failure to have health insurance.

PENALTY ASSESSED

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

If the number of months assessed is zero (0) because your penalty has been overturned, the Connector has notified the Department of Revenue that you should NOT be assessed a penalty for Tax Year 2023.

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: PA23-80

Appeal Decision: The tax penalty is partially overturned.

Hearing Issue: Appeal of the 2023 Tax Year Penalty

Hearing Date: May 13, 2024

Decision Date: May 21, 2024

AUTHORITY

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

JURISDICTION

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

HEARING RECORD

The Appellant was a single person with no dependents in 2023. The Appellant appeared at the hearing, which was held by telephone on May 13, 2024. The procedures to be followed during the hearing were reviewed with the Appellant, who was then sworn in. Exhibits were marked and admitted into evidence with no objection from the Appellant. The hearing record consists of the testimony of the Appellant and the following documents that were admitted into evidence:

Exhibit 1: Appeal Case Information from Schedule HC 2023 (1 page).

Exhibit 2: Statement of Grounds for Appeal and supporting documentation (5 pages).

Exhibit 3: Health Connector Appeals Unit Notice of Hearing on May 13, 2024 (2 pages).

FINDINGS OF FACT

The record shows, and I so find:

1. The Appellant filed their federal income tax return as a single person with no dependents claimed. (Exhibit 1).
2. The Appellant turned 37 in June 2023. (Exhibit 1).
3. The Appellant lived in Hampden County in 2023. (Exhibit 1).
4. According to the Appellant's Schedule HC, the Appellant's federal Adjusted Gross Income ("AGI") for 2023 was \$37,181. (Exhibit 1).

5. According to the Appellant's Schedule HC, the Appellant did not have health insurance that met Massachusetts' minimum creditable coverage (MCC) requirements for any month in 2023. The Appellant was assessed a 12-month tax penalty. (Exhibit 1).
6. The Appellant checked off the following box on their Statement of Grounds for Appeal: "During 2023, the expense of purchasing health insurance would have caused a serious deprivation of food, shelter, clothing or other necessities." (Exhibit 2).
7. The Appellant submitted a document titled "Reasons for hardship appeal" with their Statement of Grounds for Appeal that stated:
 - Monthly rent increased by \$100 a month
 - Car insurance went up \$50 a month
 - Electric rates at high levels combined with having electric heat in apartment has made my electric bill to raise significantly
 - Inflation across the board has made essentials such as food doubled, sometimes triple price
 - I am already basically living paycheck to paycheck and get laid off over winters since my regular job is landscaping in New England, when on unemployment I barely get by with only getting \$365 a week
 - Lastly I believe in Freedom of Choice and don't necessarily believe it follows my constitutional right to be mandated to have health insurance
8. I take administrative notice of the financial information set forth in Tables 1 through 6 in the Department of Revenue ("DOR") 2023 Massachusetts Schedule HC Health Care Instruction and Worksheets. Tables 3 and 4 incorporate affordability and premium schedules adopted by the Board of Directors for the Commonwealth Health Insurance Connector Authority for 2023. Table 2 sets forth income at 300% of the federal poverty level, and Tables 5 and 6 set forth tax penalties in effect for 2023.
9. The Appellant's AGI of \$37,181 was less than 300% of the Federal Poverty Level, which was \$40,770 for a single person in 2023. (See Table 2 of Schedule HC-2023 and 956 CMR 12.04).
10. According to Table 3 of Schedule HC for 2023, the Appellant, who filed their federal tax return as a single person with no dependents and claimed an adjusted gross income of \$37,181, could have afforded to pay \$150 per month for health insurance. The calculation is as follows: Table 3 states that a single person with no dependents whose 2023 AGI was between \$33,976 and \$40,770 could have spent 4.85% of their earnings on health insurance; 4.85% of \$37,181 is \$1,802, and one-twelfth of \$1,802 is \$150.
11. According to Table 4 of Schedule HC for 2023, the least expensive health insurance plan available on the private market to the Appellant, a single person age 36 living in Hampden County in January 2023, cost \$351 per month.

12. The Appellant testified that they work as a landscaper and are laid off from mid-December to April.
13. The Appellant testified that they collect unemployment compensation when they are laid off and are typically paid \$350 per week, which is half of what they earn when they are working.
14. The Appellant testified that they typically work 40 hours per week when they are landscaping.
15. The Appellant testified that they did not have health insurance in 2023 because they do not trust medicine and that the requirement to have health insurance is almost an intrusion on what they believe in. The Appellant testified that they have been healthy and that they let their body naturally fix itself.
16. The Appellant testified that in addition to their objection to the legal requirement that they have health insurance, they did not have health insurance in 2023 because prices went up. The Appellant testified that in the months in which they are laid off, they have no extra money.
17. The Appellant testified that they had looked into the possibility of subsidized health insurance in a previous year and that it would have cost them around \$80 per month.
18. The Appellant testified that their employer did not offer health insurance in 2023.
19. The Appellant testified that they estimated they had the following monthly expenses in 2023: \$550 for rent; \$300 for electricity; \$200 for car insurance; \$100 for gas; \$60 for cellphone; \$300 for food; and \$100 for household expenses. These expenses total \$1,610.
20. According to Table 1 of the Schedule HC, a single person whose AGI was \$20,385 earned 150% of the FPL. This means that the Appellant's AGI of \$37,181 was 273% of the FPL.
21. I take judicial notice of the fact that a single person with an AGI between 250.1 and 300% of the FPL was eligible for a ConnectorCare Plan Type 3B in 2023 and that the lowest cost premium for such a plan was \$137 per month. See [ConnectorCare Overview \(mahealthconnector.org\)](https://mahealthconnector.org)

ANALYSIS AND CONCLUSIONS OF LAW

The case is before me on the Appellant's appeal from the DOR's assessment of a twelve-month tax penalty because the Appellant's tax forms indicated that they did not have health insurance that met Massachusetts' minimum creditable coverage ("MCC") standards during any month in 2023. The issue to be decided is whether the tax penalty should be waived in whole or in part.

I begin by summarizing the legal rules underlying this appeal. The tax penalty was enacted by the Massachusetts Legislature to encourage compliance with G.L. c. 111M, § 2, also called the "individual mandate." The mandate requires every adult resident of Massachusetts to obtain health insurance coverage "[s]o long as it is deemed affordable" under the schedule set by the board of directors for the

Commonwealth Health Insurance Connector Authority (“Connector”). G.L. c. 111M, § 2(a). Any health insurance policy must also satisfy the Massachusetts MCC standards for a taxpayer to avoid the penalty.

If these requirements are not met, a tax penalty is assessed for each of the months that the individual did not have health insurance as required by the individual mandate. There is, however, a three-month grace period to allow the taxpayer to obtain health insurance coverage or to make the transition between health insurance policies. See G.L. c. 111M, § 2(b) and Administrative Information Bulletin 03-10: Guidance Regarding M.G.L. c. 111M and M.G.L. c. 176Q, as implemented by 956 CMR 6.00 (clarifying that for purposes of penalty calculation, taxpayers will not be subject to penalty if they had lapses in coverage consisting of three or fewer consecutive calendar months). The Connector’s regulations also provide for a waiver of the tax penalty in cases of hardship. See 956 CMR 6.07-08.

To determine if the penalty should be waived in whole or in part, there must be a determination as to whether affordable insurance that met MCC standards was available to the Appellant through the private market, through employment, or through a government-subsidized program. If affordable insurance was available, it must be determined whether such insurance was not in fact affordable to the Appellant because the Appellant experienced a hardship as defined in 956 CMR 6.08. Each of these issues is addressed below.

First, I conclude that the Appellant did not have access to affordable health insurance meeting MCC standards through the private market in 2023. According to Table 3 of the Schedule HC, the Appellant could have afforded to pay \$150 per month for health insurance, but according to Table 4 of the Schedule HC, the least expensive health insurance plan available to the Appellant cost \$351 per month and therefore was unaffordable for them. Findings of Fact Nos. 10 and 11.

Second, I conclude that the Appellant did not have access to affordable health insurance meeting MCC standards through employment because the Appellant, who works as a landscaper, credibly testified that their employer did not offer health insurance. Finding of Fact No. 18.

Third, I conclude that the Appellant theoretically had access to affordable health insurance meeting MCC standards through a government-subsidized program because the Appellant’s AGI was less than 300% of the FPL. Finding of Fact No. 9. I find, however, that this government-subsidized insurance was not actually affordable to the Appellant during the four months (December to April) that they were laid off from their landscaping job. Finding of Fact No. 12. The Appellant credibly testified that they received \$350 per week (or \$1516 per month) in unemployment compensation during the months in which they were laid off and that they estimated that their monthly expenses in 2023 were \$1,610. Findings of Fact Nos. 13 and 19. As such, government-subsidized health insurance would have been unaffordable to the Appellant during the four months in which they were not working and had they purchased such insurance, they likely would have experienced a serious deprivation of food, shelter, or other necessities. I further find that the Appellant did not meet their burden of showing that government-subsidized health insurance would not have been affordable to them during the eight months in which they were working as a landscaper.

Reviewing the totality of the evidence, I find that it is appropriate to waive four months of the Appellant's twelve-month tax penalty because the Appellant did not have effective access to affordable health insurance meeting MCC requirements through the private market, a government-subsidized program, or employment during those months, and had they purchased health insurance during those months, they likely would have experienced a serious deprivation of food, shelter, clothing, or other necessities. See G.L. c. 111M, § 2 and 956 CMR 6.07(8) and 6.08(1)(e).

The Appellant should note that the partial waiver of their penalty is based upon the facts that I have determined to be true in 2023. The Appellant should not assume that a similar determination will be made for subsequent tax years should they again be assessed a penalty for failure to have health insurance.

PENALTY ASSESSED

Number of Months Appealed: 12 Number of Months Assessed: 8

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 2023.

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: PA23-81

Appeal Decision: The tax penalty is overturned.

Hearing Issue: Appeal of the 2023 Tax Year Penalty

Hearing Date: May 13, 2024

Decision Date: May 22, 2024

AUTHORITY

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

JURISDICTION

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

HEARING RECORD

The Appellant was a single person with no dependents in 2023. The Appellant appeared at the hearing, which was held by telephone on May 13, 2024. The procedures to be followed during the hearing were reviewed with the Appellant, who was then sworn in. Exhibits were marked and admitted into evidence with no objection from the Appellant. The hearing record consists of the testimony of the Appellant and the following documents that were admitted into evidence:

Exhibit 1: Appeal Case Information from Schedule HC 2023 (1 page).

Exhibit 2: Statement of Grounds for Appeal and supporting documentation (8 pages).

Exhibit 3: Health Connector Appeals Unit Notice of Hearing on May 13, 2024 (2 pages).

FINDINGS OF FACT

The record shows, and I so find:

1. The Appellant filed their federal income tax return as a single person with no dependents claimed. (Exhibit 1).
2. The Appellant turned 30 in June 2023. (Exhibit 1).
3. The Appellant was a part-year resident of Massachusetts and lived in Middlesex County from January to August 2023. (Exhibit 1 and Appellant Testimony).

4. According to the Appellant's Schedule HC, the Appellant's federal Adjusted Gross Income ("AGI") for 2023 was \$30,450. (Exhibit 1).
5. According to the Appellant's Schedule HC, the Appellant did not have health insurance that met Massachusetts' minimum creditable coverage (MCC) requirements for any month in 2023. The Appellant was assessed a 5-month tax penalty. (Exhibit 1).
6. The Appellant checked off the following box on their Statement of Grounds for Appeal: "Other. During 2023 other circumstances, such as: Applying the Affordability Tables in Schedule HC to you is inequitable (for example, because of family size); that you were unable to obtain government-subsidized insurance even though your income qualified you; or that you didn't reside in Massachusetts during your period of uninsurance." (Exhibit 2).
7. The Appellant submitted a document stating that they should not be penalized for the following reasons:

"1. I did not know there was a penalty for not having health insurance. I received no notice from the state, and had no reasonable way of knowing. I am not from Massachusetts, and had only lived there a couple of years.

2. I did not live in Massachusetts for the entirety of 2023; having moved out at the end of August. Attached is a copy of a September 2023 bill from my current residence in South Carolina.

3. I was unemployed for the entirety of my Massachusetts residence in 2023. I was fortunate enough to receive unemployment payments from the state of Massachusetts but my financial situation was and continues to be precarious. I am currently living with family as I am unable to support myself financially.

4. When living in Massachusetts my rent was \$1,875 per month. This high rent, in addition to normal expenses, and the precarity of my financial situation, would make paying a monthly healthcare premium unreasonable. Attached is a copy of my lease at the time."

(Exhibit 2).

8. The Appellant included two pages of a month-to-month lease signed by the Appellant on September 19, 2022 that showed a rent of \$1,875 for an apartment in Middlesex County. (Exhibit 2).
9. I take administrative notice of the financial information set forth in Tables 1 through 6 in the Department of Revenue ("DOR") 2023 Massachusetts Schedule HC Health Care Instruction and Worksheets. Tables 3 and 4 incorporate affordability and premium schedules adopted by the Board of Directors for the Commonwealth Health Insurance Connector Authority for 2023. Table

2 sets forth income at 300% of the federal poverty level, and Tables 5 and 6 set forth tax penalties in effect for 2023.

10. The Appellant's AGI of \$30,450 was less than 300% of the Federal Poverty Level, which was \$40,770 for a single person in 2023. (See Table 2 of Schedule HC-2023 and 956 CMR 12.04).
11. According to Table 3 of Schedule HC for 2023, the Appellant, who filed their federal tax return as a single person with no dependents and claimed an adjusted gross income of \$30,450, could have afforded to pay \$104 per month for health insurance. The calculation is as follows: Table 3 states that a single person with no dependents whose 2023 AGI was between \$27,181 and \$33,975 could have spent 4.1% of their earnings on health insurance; 4.1% of \$30,450 is \$1,248, and one-twelfth of \$1,248 is \$104.
12. According to Table 4 of Schedule HC for 2023, the least expensive health insurance plan available on the private market to the Appellant, a single person age 29 living in Middlesex County in January 2023, cost \$312 per month.
13. The Appellant testified that they were laid off from their job at the end of 2022 and were not able to find a job during the months of January to August 2023, when they lived in Massachusetts.
14. The Appellant testified that they collected unemployment compensation until June or July 2023 and moved back to South Carolina when they were no longer eligible to receive unemployment compensation.
15. The Appellant testified that their sole income during the months they lived in Massachusetts was from unemployment compensation and that they did not remember how much unemployment compensation they received per month.
16. The Appellant testified that they estimated they had the following monthly expenses during the months in 2023 in which they lived in Massachusetts: \$1875 for rent; \$75-100 for utilities; \$80-100 for car insurance; \$50 for gas; \$50 for cellphone; \$200 for food; and \$50 for household supplies and toiletries. These monthly expenses total \$2,425, using the high estimates for utilities and car insurance. The Appellant testified that they lived as cheaply as they could during this period.
17. The Appellant testified that they were unaware of the possibility of obtaining government-subsidized health insurance and of Massachusetts' legal requirement that residents have health insurance.
18. The Appellant testified that they had health insurance from employment until their termination in 2022.

ANALYSIS AND CONCLUSIONS OF LAW

The case is before me on the Appellant's appeal from the DOR's assessment of a five-month tax penalty because the Appellant's tax forms indicated that they did not have health insurance that met Massachusetts' minimum creditable coverage ("MCC") standards during the months of January to August 2023, when they lived in Massachusetts. The issue to be decided is whether the tax penalty should be waived in whole or in part.

I begin by summarizing the legal rules underlying this appeal. The tax penalty was enacted by the Massachusetts Legislature to encourage compliance with G.L. c. 111M, § 2, also called the "individual mandate." The mandate requires every adult resident of Massachusetts to obtain health insurance coverage "[s]o long as it is deemed affordable" under the schedule set by the board of directors for the Commonwealth Health Insurance Connector Authority ("Connector"). G.L. c. 111M, § 2(a). Any health insurance policy must also satisfy the Massachusetts MCC standards for a taxpayer to avoid the penalty.

If these requirements are not met, a tax penalty is assessed for each of the months that the individual did not have health insurance as required by the individual mandate. There is, however, a three-month grace period to allow the taxpayer to obtain health insurance coverage or to make the transition between health insurance policies. See G.L. c. 111M, § 2(b) and Administrative Information Bulletin 03-10: Guidance Regarding M.G.L. c. 111M and M.G.L. c. 176Q, as implemented by 956 CMR 6.00 (clarifying that for purposes of penalty calculation, taxpayers will not be subject to penalty if they had lapses in coverage consisting of three or fewer consecutive calendar months). The Connector's regulations also provide for a waiver of the tax penalty in cases of hardship. See 956 CMR 6.07-08.

To determine if the penalty should be waived in whole or in part, there must be a determination as to whether affordable insurance that met MCC standards was available to the Appellant through the private market, through employment, or through a government-subsidized program. If affordable insurance was available, it must be determined whether such insurance was not in fact affordable to the Appellant because the Appellant experienced a hardship as defined in 956 CMR 6.08. Each of these issues is addressed below.

First, I conclude that the Appellant did not have access to affordable health insurance meeting MCC standards through the private market in 2023. According to Table 3 of the Schedule HC, the Appellant could have afforded to pay \$104 per month for health insurance, but according to Table 4 of the Schedule HC, the least expensive health insurance plan available to the Appellant cost \$312 per month and therefore was unaffordable for them. Findings of Fact Nos. 11 and 12.

Second, I conclude that the Appellant did not have access to affordable health insurance meeting MCC standards through employment because the Appellant credibly testified that they were laid off in 2022 and were unemployed during the months in 2023 that they lived in Massachusetts. Findings of Fact Nos. 13 and 14.

Third, I conclude that the Appellant theoretically had access to affordable health insurance meeting MCC standards through a government-subsidized program because the Appellant's AGI was less than 300% of

the FPL. Finding of Fact No. 10. I find, however, that this government-subsidized insurance was not actually affordable to the Appellant during the months that they lived in Massachusetts. The Appellant credibly testified that their basic monthly expenses during the months that they lived in Massachusetts were \$2,425, which totals \$29,100 per year. Given that the Appellant's yearly expenses of \$29,100 were just \$1,350 less than their AGI of \$30,450, I find that the Appellant did not have sufficient after-tax income to afford to purchase health insurance, even on a subsidized basis. I further find that if the Appellant had purchased such health insurance, they likely would have suffered a serious deprivation of food, shelter, clothing, or other necessities.

Reviewing the totality of the evidence, I find that it is appropriate to waive the Appellant's five-month tax penalty in its entirety. See G.L. c. 111M, § 2 and 956 CMR 6.07(8) and 6.08(1)(e).

The Appellant should note that the waiver of their penalty is based upon the facts that I have determined to be true in 2023. The Appellant should not assume that a similar determination will be made for subsequent tax years should they again be assessed a penalty for failure to have health insurance.

PENALTY ASSESSED

Number of Months Appealed: 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 2023.

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: PA221192

Appeal Decision : Penalty waived in full

Hearing Issue: Appeal of the 2022 Tax Year Penalty

Hearing Date: December 26, 2023

Decision Date: May 6, 2024

AUTHORITY

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

JURISDICTION

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

HEARING RECORD

The appellant appeared at the hearing which was held by telephone on December 26, 2023. The procedures to be followed during the hearing were reviewed with the appellant. The appellant was sworn in. Exhibits were marked and admitted in evidence with no objection from the appellant. Appellant testified. At the end of the hearing, the record was left open until January 24, 2024 to give the appellant time to submit additional evidence. Documents were received from the appellant on January 22, 2024. They have been marked as an exhibit and admitted in evidence. The record is now closed.

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

Exhibit 1: Statement of Grounds for Appeal 2022 signed and dated by Appellant on May 10, 2023 with Form 1099HC for 2022 attached

Exhibit 2: Appeal Case Information from Schedule HC 2022

Exhibit 3: Notice of Hearing sent to Appellant dated December 4, 2023 for hearing on December 26, 2023

Exhibit 4: Summary of Benefits and Coverage for Appellant's health plan, 2022 and print-out showing coverage for Appellant for all of 2022

FINDINGS OF FACT:

The record shows, and I so find:

1. Appellant was 23 years old in 2022. Appellant filed a 2022 Massachusetts tax return as a single person with no dependents claimed (Exhibit 2, Testimony of Appellant).
2. Appellant lived in Middlesex County, MA beginning in May, 2022 when Appellant moved to the Commonwealth (Exhibit 2).
3. Appellant had a Federal Adjusted Gross Income of \$63,386 in 2022 (Testimony of Appellant, Exhibit 2).
4. Appellant had health insurance coverage through his parents' health insurance plan in 2022. The plan did not meet the Commonwealth's minimum creditable coverage standards (Testimony of Appellant, Exhibit 4).

5. Appellant's health insurance plan had broad coverage. It included coverage for in-patient hospital services, physician in-patient services, in-patient rehabilitation services, maternity and newborn care, ambulatory and out-patient surgery services, emergency services, mental health care services, substance abuse treatment, routine and preventive care, diagnostic imaging and screening procedures, laboratory services, primary care office visits, and specialty care office visits. It also covered prescriptions. It had an annual deductible for an individual of \$300 and an out of pocket annual maximum of \$6,400. There was no deductible for emergency room care and transport for emergency medical care, preventive services, immunizations, pre-natal office visits, children's eye exams, home health care, and hospice care. The plan met the minimum value standards. There was no cap on coverage (Exhibit 4).

6. The appellant has been assessed a penalty from August through December, 2022. Appellant has appealed this assessment (Exhibits 1 and 2, Testimony of Appellant).

ANALYSIS AND CONCLUSIONS OF LAW

Appellant had health insurance during all of 2022 under his parents' plan. The insurance, however, did not meet the Commonwealth's minimum creditable coverage standards. The appellant who moved to Massachusetts in May, 2022 has been assessed a penalty for five months, August through December. After Appellant moved to Massachusetts, he had three months to obtain coverage without a tax penalty being imposed. See Massachusetts General Laws Chapter 111M, Section 2. The appellant has appealed the penalty. See Exhibit 1 and 2. The issue on appeal is whether the tax penalty 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 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 financial hardship. See 956 CMR 6.08. 956 CMR 6.08(2)(d) provides that the Connector may also consider the extent to which insurance obtained deviated from or substantially met minimum creditable coverage standards when determining if a penalty should be waived. See 956 CMR 5.00 et. seq. for minimum creditable coverage standards. See the Patient Protection and Affordable Care Act, 36B(c)(2)(C)(ii) for a definition of minimum value.

To determine if the penalty should be waived in whole or in part, we must consider whether the insurance the appellant had in 2022 substantially met the Commonwealth's minimum creditable coverage standards as set out in 956 CMR 5.00 et. seq. See also 956 CMR 6.08(2)(d).

Appellant's health insurance plan had broad coverage. It included coverage for in-patient hospital services, physician in-patient services, in-patient rehabilitation services, maternity and newborn care, ambulatory and out-patient surgery services, emergency services, mental health care services, substance abuse treatment, routine and preventive care, diagnostic imaging and screening procedures, laboratory services, primary care office visits, and specialty care office visits. It also covered prescriptions. The plan had an annual deductible for an individual of \$300 and an out of pocket annual maximum of \$6,400. There was no deductible for emergency room care and transport for emergency medical care, preventive services, immunizations, pre-natal office visits, children's eye exams, home health care, and hospice care. The plan met the minimum value standards. There was no cap on coverage. The plan met minimum value standards. See Exhibit 4.

While the coverage did not meet the Commonwealth's minimum creditable coverage standards (See Exhibit 2), I find that it substantially met the requirements of 956 CMR 5.03. One of the major requirements is that the plan had to have broad coverage. The plan in question did. The annual deductible, \$300 for in-network care for an individual, is significantly less than the deductible set by the Commonwealth, \$2,000 for an individual. See 956 CMR 5.03 (2)(b)(1). There was no cap or limit to benefits. The plan met minimum value standards. See Exhibit 4.

Given that the appellant's plan substantially met the Commonwealth's standards, the appellant's penalty is waived in its entirety. See 956 CMR 6.08(2)(d).

Appellant should note that this waiver of the penalty is based upon the facts that I have determined to be true for this 2022 appeal. Appellant should not assume that a similar determination will be made in the future should Appellant again be assessed a penalty for failure to have health insurance.

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 2022.

NOTIFICATION OF YOUR RIGHT TO APPEAL TO COURT

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

Hearing Officer

Cc: Connector Appeals Unit

Massachusetts Health Connector Appeals Unit

FINAL APPEAL DECISION: PA22-1525

Appeal Decision Appeal Denied

Hearing Issue: Appeal of the 2022 Tax Year Penalty

Hearing Date: April 10, 2024

Decision Date: May 20, 2024

AUTHORITY

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

JURISDICTION

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

HEARING RECORD

The Appellant appeared at the hearing, which was held by telephone, on April 10, 2024. The procedures to be followed during the hearing were reviewed with the Appellant's wife who was then sworn in. Exhibits were marked and admitted into evidence with no objection from the Appellant.

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

- Exhibit 1: Notice of Hearing dated March 11, 2024
- Exhibit 2: Appeal Case Information from form Schedule HC
- Exhibit 3: Statement of Grounds for Appeal, dated November 12, 2023
- Exhibit 4: Written Statement of Appeal Dated November 12, 2023
- Exhibit 5: Open Record Request

FINDINGS OF FACT

The record shows, and I so find:

1. The appellant's wife is forty-three years old and is married. Her husband is forty-eight years old. They live in Essex County, Massachusetts.
2. Appellants work in the real estate business. Appellants cited as a reason for their appeal that they did not believe in corporate insurance medical doctors and believed in homeopathic and alternative practitioners to treat themselves and their children. Appellants indicated that it was their religious belief that homeopathy was essential to their well-being. When asked if the Appellants had filed for a religious exemption, the wife indicated that she thought that she had but was unsure. Appellants were requested through an open record request to furnish their 2022 tax return with Schedule HC. The Appellants failed to furnish their 2022 tax return.
3. Appellants did not have health insurance in 2022, 2023 & 2024.
4. The Appellant did not submit a Statement of Grounds for Appeal-2022 but could have appealed under "Other. During 2022 other circumstances, such as: Applying the Affordability Tables in Schedule HC to you is inequitable" I will hear this appeal under this ground.
5. I take administrative notice of the information set forth in tables 1 through 6 in the Department of Revenue Schedule HC Health Care Instructions and Worksheets (Schedule HC Instructions). Tables 3 & 4 incorporate the affordability schedules adopted by the board of directors of the Commonwealth Health Insurance Connector Authority for 2022. Table 1 sets forth the income eligibility standards for various family sizes at 150% of the federal poverty level and Table 2 sets forth the income eligibility standards for various family sizes at 300 per cent of the federal poverty level, which is the income eligibility standard for the government-subsidized health insurance program. See Mass. G.L. c. 118H, s.3(a)(1). Tables 5 and 6 set forth the tax penalties for 2022.

ANALYSIS AND CONCLUSIONS OF LAW

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

Appellants work in the real estate business. Appellants cited as a reason for their appeal that they did not believe in corporate insurance medical doctors and believed in homeopathic and alternative

practitioners to treat themselves and their children. Appellants indicated that it was their religious belief that homeopathy was essential to their well-being. When asked if the Appellants had filed for an religious exemption, the wife indicated that she thought that she had but was unsure.

The Appellant did not submit a Statement of Grounds for Appeal-2022 but could have appealed under “Other. During 2022 other circumstances, such as: Applying the Affordability Tables in Schedule HC to you is inequitable” I will hear this appeal under this ground.

The Health Care Reform Act of 2006 requires every adult resident of Massachusetts to obtain and maintain creditable insurance coverage “so long as it is deemed affordable” under the schedule established by the board of the Connector. Mass. Gen. Laws ch. 111M, § 2(a). Massachusetts residents who fail to indicate on their state tax returns that they obtained the mandated creditable coverage are subject to a tax penalty for each month in which that the individual did not have creditable health insurance. *Id.* at § 2(b). However, individuals with incomes up to 150 percent of the Federal Poverty Level (“FPL”) are not subject to any penalty for non-compliance with the individual mandate. *See* Massachusetts Department of Revenue Technical Information Release (“TIR”) 13-1, available at <http://www.mass.gov/dor/businesses/help-and-resources/legal-library/tirs/tirs-by-years/2013-releases/tir-13-1.html>. For 2022, 150 percent of the FPL was \$26,130.00 for a married person. *Id.* In addition, a lapse in coverage of 63 days or less is not subject to the section 2(b) penalty. *See* Administrative Bulletin 03-10 (Dec. 7, 2010), available at <https://www.mahealthconnector.org/portal/binary/com.epicentric.contentmanagement.servlet.ContentDeliveryServlet/Health%2520Care%2520Reform/Regulations/documents/Administrative%20Information%20Bulletin%2003-10.pdf>; *see also* 830 Mass. Code Regs. 111M.2.1(5)(c) (2008). Thus, no penalty is imposed for lapses in coverage consisting of three or fewer consecutive calendar months. *Id.*

In this particular case, Appellants must conform to the statute and regulation dealing with a religious exemption. 830 CMR 111M.2.1(6)(b) and MGL c. 111M 2 & 3, which state that an individual seeking a religious exemption must file a sworn affidavit with his personal income tax return stating he or she did not have credible coverage and that his or her sincerely held religious beliefs are the basis of the refusal to obtain and maintain creditable coverage. Claiming the religious exemption on Schedule HC along with the signature on his or her income tax return fulfills the affidavit requirement. The Appellant did not return their 2022 tax return with Schedule HC, pursuant to the Open Record request.

On these facts, I find that Appellants have not shown that they were precluded from purchasing affordable health insurance during 2022 or that they were entitled to a religious exemption. 830 CMR 111M.2.1(6)(b) and MGL c. 111M 2 & 3. Accordingly, I conclude that they are not exempt from a tax penalty for their non-compliance with the individual mandate.

Accordingly, Appellant’s appeal is **DENIED**, and the 2022 penalty assessed is **UPHELD**.

PENALTY ASSESSED

Number of Months Appealed: ____24____ Number of Months Assessed: ____24____

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

OR

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

NOTIFICATION OF YOUR RIGHT TO APPEAL TO COURT

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

Hearing Officer

Cc: Connector Appeals Unit

Massachusetts Health Connector Appeals Unit

FINAL APPEAL DECISION: PA22-1532

Appeal Decision: Appeal Approved.

Hearing Issue: Appeal of the 2022 Tax Year Penalty

Hearing Date: April 12, 2024

Decision Date: April 30, 2024

AUTHORITY

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

JURISDICTION

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

HEARING RECORD

The Appellant appeared at the hearing, which was held by telephone, on April 12, 2024. The procedures to be followed during the hearing were reviewed with the Appellant who was then sworn in. Exhibits were marked and admitted into evidence with no objection from the Appellant. The hearing record consists of the Appellant's testimony and the following documents which were admitted into evidence:

- Exhibit 1: Health Connector Appeals Unit Notice of Hearing dated March 11, 2024.
- Exhibit 2: Appeal Case Information from Schedule HC- 2022.
- Exhibit 3: Statement of Grounds for Appeal dated November 28, 2023.
- Exhibit 4: Appellant's letter in support of the appeal, with attachments.
- Exhibit 5: Additional information submitted by the Appellant on April 26, 2024.

FINDINGS OF FACT

The record shows, and I so find:

1. The Appellant, age 50 in August, 2022 filed their 2022 Federal Income Tax return as a single person with no dependents claimed (Exhibit 2).
2. The Appellant was a part year resident living in Norfolk County, MA for the period of January 1, 2022 through October 31, 2022 (Exhibit 2).
3. The Appellant's Federal Adjusted Gross Income for 2022 was \$63,560 (Exhibit 2).
4. According to the Schedule HC 2022, the Appellant did not have health insurance for the ten-month period of Massachusetts residency in tax year 2022 (Exhibit 2).
5. The Appellant has been assessed a seven-month tax penalty. The Appellant filed an appeal of the assessment in November, 2023 (Exhibits 2, 3, 4).

6. I take administrative notice of the financial information set forth in Tables 1 through 6 in the DOR 2022 Massachusetts Schedule HC Health Care Instructions and Worksheets. Tables 3 and 4 incorporate affordability and premium schedules adopted by the Board of Directors for the Commonwealth Health Insurance Connector Authority for 2022. Table 2 sets forth income at 300% of the Federal poverty level and Tables 5 and 6 set forth tax penalties in effect for 2022.
7. In accordance with Table 3 of Schedule HC for 2022, the Appellant filing the Federal tax return as a single person with no dependents claimed, with an annual adjusted gross income of \$63,560 could afford to pay \$424 per month for health insurance. In accordance with Table 4, the Appellant, age 50, living in Norfolk County, could have purchased private insurance for \$422 per month for a plan (Schedule HC for 2022). Private insurance was affordable for the Appellant in tax year 2022.
8. The Appellant was not financially eligible for ConnectorCare coverage in 2022 because the Appellant's income of \$63,560 was greater than 300% of the federal poverty level, which was \$38,640 for a household of one in 2022 (See Table 2 of Schedule HC-2022 and 956 CMR 12.04) (Exhibit 2).
9. The Appellant testified that their adjusted gross income figure does not accurately reflect their financial circumstances for all of tax year 2022. The Appellant explained that they lost their job in February 2024 and their unemployment compensation income was approximately half of what they were making. The Appellant said that they did pick up some part time jobs, but the unemployment was reduced when this happened. The Appellant reported that they purchased private health insurance at the end of June and had this coverage for the months of July through October. The Appellant said that they got hired for an out of state job in August, but the job did not start until October. The Appellant said that they had to pay for moving and storage expenses in addition to their day-to-day living expenses. I found the Appellant to be credible (Appellant Testimony).
10. The Record was left open until April 26, 2024 to allow the Appellant to submit additional information (Exhibit 5).
11. The Appellant submitted additional documentation on April 26, 2024 (Exhibit 6).
12. The Appellant submitted a copy of Form 1095- C for 2022 verifying that the Appellant was enrolled in employer sponsored health insurance for the months of January and February in tax year 2022. The Appellant was offered coverage for the month of March but did not enroll. It is unclear if he insurance was compliant with Massachusetts minimum creditable coverage requirements (MCC) (Exhibit 6).
13. The Appellant received unemployment compensation of \$914 weekly during the period of 2/25/22-9/25/22 (Exhibit 6).
14. The Appellant enrolled in a Universal Health Share program on June 28, 2022. The Appellant's monthly premium payment for this plan was \$235.67. The Plan did not meet MCC requirements. The Plan's limits and fee sharing provisions were not in compliance with MCC standards (Exhibit 6).
15. The Appellant's monthly living expenses of \$3,152 Included: rent-\$1,410; electricity-\$75; car and home insurance \$300; gasoline-\$80; telephone-\$200; cable/internet \$312; computer software-\$75

and food/laundry/medication \$500. For the months of July through October the Appellant paid a health insurance premium of \$235.67. During the months of August through October when the Appellant's new job and out of state move were pending, the Appellant had moving and storage expenses of \$3,732 (Exhibit 6 and Appellant Testimony).

ANALYSIS AND CONCLUSIONS OF LAW

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

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

The Appellant filed their 2022 tax return as a single person with no dependents claimed. The Appellant was a part year resident of Massachusetts for the period of January through October. According to the Appellant's Schedule HC, the Appellant did not have health insurance that met MCC standards for the ten-month period of residency in Massachusetts. The Appellant has been assessed a seven-month penalty. The Appellant appealed the penalty in November 2023.

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

In accordance with Table 3 of Schedule HC for 2022, the Appellant filing the Federal tax return as a single person with no dependents claimed with an adjusted gross income of \$63,560 could afford to pay \$424 per month for health insurance. According to Table 4, the Appellant, age 50, living in Norfolk County, could have purchased a private insurance plan for \$422 month. See Schedule HC for 2022. Private insurance was barely affordable for the Appellant in tax year 2022.

The Appellant would not have been eligible for ConnectorCare coverage based upon the household's income that was greater than 300% of the federal poverty level which was \$38,640 for their household of one. See Table 2 of Schedule HC 2022 and 956 CMR 12.04 for eligibility criteria. Since affordable insurance was available to the Appellant in 2022, it must be determined whether the Appellant experienced a financial hardship pursuant to 956 CMR 6.08 (1).

The Appellant was enrolled in employer sponsored health insurance for the months of January and February in tax year 2022. It is unclear if this insurance met MCC standards. To be MCC compliant, a Health Benefit Plan may not

impose an overall Annual Maximum Benefit limitation for the plan that applies to all covered services collectively. 956 CMR 5.0 (1)(c). The Appellant's plan imposes a limit. The Health Plan must cover Preventive Health Services on an annual basis without imposing a deductible 956 CMR 5.03(1)(e). The Appellant's plan has a cost sharing provision for these services. The Appellant's Universal Health Share plan was not MCC compliant. The Appellant paid \$235.67 monthly for this plan for the months of July through October. Purchasing additional insurance was not affordable to the Appellant given that in accordance with Table 3 of Schedule HC for 2022, the Appellant could only afford a monthly insurance cost of \$424.

The Appellant testified that the adjusted gross income figure does not accurately reflect their financial circumstances for all months of tax year 2022. The Appellant explained that they lost their job in February of tax year 2022. Their unemployment compensation income was about half of what they were earning prior to being laid off but their monthly expenses remained the same. The Appellant attested to significant monthly expenses of approximately \$3,152, health insurance premiums of \$235.67 for the months of July through October and moving/storage expenses of \$3,732 for the months of August through October. The Appellant indicated that it was difficult to meet these expenses with unemployment compensation and sporadic part time employment. Under these circumstances the Appellant has demonstrated that purchasing health insurance would have caused the Appellant significant financial hardship. 956 CMR 6.08. The Appellant's seven-month penalty is waived in full. 956 CMR 6.08.

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

PENALTY ASSESSED

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

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

NOTIFICATION OF YOUR RIGHT TO APPEAL TO COURT

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

Cc: Connector Appeals Unit

Massachusetts Health Connector Appeals Unit

FINAL APPEAL DECISION: PA22-1533

Appeal Decision: Appeal Approved.

Hearing Issue: Appeal of the 2022 Tax Year Penalty

Hearing Date: April 12, 2024

Decision Date: April 29, 2024

AUTHORITY

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

JURISDICTION

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

HEARING RECORD

The Appellants appointed an Authorized Representative to attend the Hearing, which was held by telephone, on April 12, 2024. The Appellants did not appear. The procedures to be followed during the hearing were reviewed with the Representative who was then sworn in. Exhibits were marked and admitted into evidence with no objection from the Representative. The hearing record consists of the Representative's testimony and the following documents which were admitted into evidence:

- Exhibit 1: Authorized Representative Appeal Form dated April 8, 2024.
- Exhibit 2: Health Connector Appeals Unit Notice of Hearing dated March 11, 2024.
- Exhibit 3: Appeal Case Information from Schedule HC 2022.
- Exhibit 4: A letter from the Authorized Representative requesting an appeal dated November 28, 2023 .
- Exhibit 5: The Appellants' Form 1095-B for tax year 2022.
- Exhibit 6: Health Connector Appeals Unit Open Record Form dated April 12, 2024.
- Exhibit 7: Additional information submitted by the Appellants' Representative on April 19, 2024.

FINDINGS OF FACT

The record shows, and I so find:

1. The Appellant, age 35 and their spouse, age 33 in 2022 filed their Federal Income Tax return as a married couple with no dependents claimed (Exhibit 3).
2. The Appellants were part year residents of Massachusetts living in Suffolk County for the period of February 14, 2022 through December 31, 2022 (Exhibit 3).
3. The Appellants' Federal Adjusted Gross Income for 2022 was \$221,779 (Exhibit 3).

4. The Appellants had employer sponsored health insurance for the period of February through December in tax year 2022, but the insurance did not meet Massachusetts minimum creditable coverage requirements (MCC) (Exhibits 3, 5, 7).
5. The Appellants have each been assessed an eight-month tax penalty for 2022. The Appellants, by their Authorized Representative filed an appeal of the assessment in November 2023. The Appellants cited circumstances other than financial hardship as the basis for their appeal (Exhibits 1, 3, 4).
6. I take administrative notice of the financial information set forth in Tables 1 through 6 in the DOR 2022 Massachusetts Schedule HC Health Care Instructions and Worksheets. Tables 3 and 4 incorporate affordability and premium schedules adopted by the Board of Directors for the Commonwealth Health Insurance Connector Authority for 2022. Table 2 sets forth income at 300% of the Federal poverty level and Tables 5 and 6 set forth tax penalties in effect for 2022.
7. In accordance with Table 3 of Schedule HC for 2022, the Appellants filing the Federal tax return as a married couple with no dependents claimed, with an annual adjusted gross income of \$221,779 could afford to pay \$1,479 per month for health insurance. In accordance with Table 4, the Appellants, with one person age 35, living in Suffolk County, could have purchased private insurance for \$595 per month for a plan (Schedule HC for 2022). Private insurance was affordable for the Appellants in 2022.
8. The Appellants would not have been eligible for ConnectorCare coverage in 2022 because the Appellants' income of \$221,779 was greater than 300% of the federal poverty level, which was \$52,260 for a household of two in 2022 (See Table 2 of Schedule HC-2022 and 956 CMR 12.04).
9. The Appellant's Representative testified that the Appellants are foreign nationals hired to work in Massachusetts by an out of state company. The Appellants had health insurance under an International Health Insurance Plan and therefore no 1099-HC for Massachusetts is available. Tax Form 1095-B for 2022 was provided as proof of insurance. The Representative explained that other US employees covered under the employer sponsored health insurance for citizens did receive form 1099-HC and the plan provided to the foreign nationals is similar. The Representative indicated that five to ten employees of the company have been determined subject to a Massachusetts tax penalty (Exhibits 4, 5 and Representative Testimony).
10. The Record was left open until April 26, 2024 to allow the Appellants' Representative to submit evidence of the Appellants' employer sponsored insurance plan, including a Benefit Summary (Exhibit 6).
11. On April 19, 2024 the Representative submitted a copy of the Aetna Allianz Employee Benefit Guide for an International Healthcare Plan. The Plan does not meet MCC coverage because there is a maximum benefit amount that applies to all services and there is cost sharing for employees receiving well visit services (Exhibit 7, pp. 64-68).

ANALYSIS AND CONCLUSIONS OF LAW

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

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

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

The Appellants filed their 2022 tax return as a married couple living in Suffolk County Massachusetts for the period of February 14, 2022 through December 31, 2022. The Appellants had employer sponsored health insurance for the period of February through December in tax year 2022 but the insurance did not meet Massachusetts MCC standards. As part year residents, the Appellants have each been assessed an eight-month tax penalty. The Appellants, by their Authorized Representative have appealed the assessment citing circumstances other than financial hardship as the basis for the appeal.

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

In accordance with Table 3 of Schedule HC for 2022, the Appellants filing the Federal tax return as a married couple with no dependents claimed with an adjusted gross income of \$221,779 could afford to pay \$1,479 per month for health insurance. According to Table 4, the Appellant, with one person age 35, living in Suffolk County, could have purchased a private insurance plan for \$595 month. See Schedule HC for 2022. Private insurance was affordable for the Appellants in tax year 2022.

The Appellants would not have been eligible for ConnectorCare coverage based upon the household's income of \$221,770 that was greater than 300% of the federal poverty level which was \$52,260 for their household of two See Table 2 of Schedule HC 2022 and 956 CMR 12.04 for eligibility criteria. Since affordable insurance was available to the Appellants in 2022, it must be determined whether the Appellants experienced a financial hardship pursuant to 956 CMR 6.08 (1).

The Appellants were foreign nationals employed by an out of state employer to work in Massachusetts for the period of February through December in tax year 2022. The Appellants had employer sponsored health insurance while living in Massachusetts and believed the insurance met Massachusetts standards. The Appellants' Representative submitted a copy of the Aetna Allianz Plan Employee Benefit Guide for the International Healthcare Plan. To be MCC compliant, a Health Benefit Plan may not impose an overall Annual Maximum Benefit limitation for the plan that applies to all covered services collectively. 956 CMR 5.0 (1)(c). The Appellants' plan imposes a limit of \$1,125,000. The Health Plan must cover Preventive Health Services on an annual basis without imposing a deductible 956 CMR 5.03(1)(e). The Appellants' plan has a cost sharing provision for these services. The Appellants' Aetna Allianz International Healthcare Plan is not MCC compliant.

The Appellants did not allege financial hardship as the basis for this appeal. The Appellants' Representative explained that the Appellants' employer purchased this health plan for five to ten foreign national employees working in Massachusetts, believing the coverage was sufficient. The regulations do allow consideration to be given to a request to waive the penalty in circumstances where the health insurance provided substantially met MCC requirements. 956 CMR 6.08(d). The Appellants' plan did provide a wide range of medical and dental services which the Representative indicated were sufficient to meet their needs. Under these circumstances, the Appellants' eight-month penalties are waived.

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

PENALTY ASSESSED

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

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

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

NOTIFICATION OF YOUR RIGHT TO APPEAL TO COURT

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

Cc: Connector Appeals Unit

ADDENDUM

The Appellant Representative is advised that they may submit the Aetna Allianz for International Healthcare Plan for review for MCC Certification by the Health Connector. The Certification Application may be found at mahealthconnector.org/minimum-creditable-coverage. The Representative may contact Health Connector Customer Service at 1-877-623-6765 for further assistance.