

Massachusetts Health Connector Appeals Unit

FINAL APPEAL DECISION: PA19570

Appeal Decision: The penalty is overturned in full.

Hearing Issue: Appeal of the 2019 Tax Year Penalty

Hearing Date: September 15, 2020

Decision Date: November 12, 2020

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 September 15, 2020. 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 kept open until October 9th to give the appellant and the Connector time to submit additional evidence. Documents were received from both on October 7th. The appellant was given additional time to respond to the documents submitted by the Connector. A response was received on October 26th. 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 2019 signed and dated by Appellant on May 21, 2020 with letter in support, dental bill, undated, and letter to Appellant from Internal Revenue Service attached
- Exhibit 1a: Appellant's 1095-C, 2019
- Exhibit 1b: Connector bill dated February 1, 2019 sent to Appellant
- Exhibit 1c: Letters written by Appellant's relatives signed and dated May 21, 2020
- Exhibit 1d: May 21, 2020 email from Appellant to Connector regarding appeal
- Exhibit 2: Appeal print-out from Appellant's 2019 Massachusetts Tax Return, 2019 with information from Schedule HC
- Exhibit 3: Connector Notice of Hearing sent to Appellant dated August 12, 2020 for September 15, 2020 hearing
- Exhibit 4: Employer Information sheet regarding 2019 health insurance benefits offered with summary of premiums and letter from employer regarding Appellant's eligibility for coverage in 2019
- Exhibit 5: Connector correspondence to Appellant regarding eligibility and coverage, and payment history, 2018-2019
- Exhibit 6: Appellant's response to Connector correspondence submitted

FINDINGS OF FACT

The record shows, and I so find:

1. Appellant, who filed a 2019 Massachusetts tax return as a single person with no dependents claimed, was 28 years old in 2019 (Exhibit 2, Testimony of Appellant).
2. Appellant resided in Essex County in 2019 (Testimony of Appellant, Exhibit 2).

3. Appellant had a Federal Adjusted Income of \$45,991 in 2019 (Testimony of Appellant, Exhibit 2).
4. Appellant was employed all of 2019; Appellant was offered health insurance which met the Commonwealth's minimum creditable coverage standards. The appellant would have had to pay \$85 a month for the coverage. Appellant did not enroll (Testimony of Appellant, Exhibit 4).
5. Appellant had health insurance coverage through the Connector for part of 2018. The coverage was terminated as of November 30, 2018 because of non-payment (Testimony of Appellant, Exhibit 5).
6. Starting in late 2018 and throughout 2019, the appellant tried to obtain coverage through the Connector again. In response, the Connector sent the appellant numerous letters, some dated on the same date, some with conflicting information. Several times, Appellant was found to be eligible for coverage, but was found to be ineligible to enroll because Appellant was trying to get coverage outside of the open enrollment period. Appellant did not have any qualifying event which would have allowed her to enroll (Testimony of Appellant, Exhibits 1b.5, 6).
7. Appellant obtained health insurance through the Connector as of January 1, 2020 (Testimony of Appellant).
8. Appellant has been assessed a penalty for all of 2019. Appellant has appealed this assessment (Testimony of Appellant, Exhibits 1 and 2).
9. I take administrative notice of the financial information set forth in Tables 1 through 6 in the DOR 2019 Massachusetts Schedule HC Health Care Instructions and Worksheets. Tables 3 and 4 incorporate affordability and premium schedules adopted by the Board of Directors for the Commonwealth Health Insurance Connector Authority for 2019. Table 2 sets forth income at 300% of the Federal poverty level and Tables 5 and 6 set forth tax penalties in effect for 2019.
10. According to Table 3 of Schedule HC for 2019, the appellant with no dependents claimed with an adjusted gross income of \$45,991 could afford to pay \$291 per month for health insurance. According to Table 4, Appellant, 28 years old and living in Essex County, could have purchased insurance for \$257 per month for a plan for an individual. Insurance on the individual market was affordable for the appellant (Schedule HC for 2019 Tables 3 and 4, Exhibit 2, Testimony of Appellant).
11. According to Table 2 of Schedule HC for 2019, Appellant earning more than \$36,420 per year, would have been ineligible for the ConnectorCare program based upon income (Table 2 of Schedule HC-2019, and Exhibit 2).
12. The insurance offered to Appellant through her job which would have cost the appellant \$85 a month would have been affordable for the appellant (See Schedule HC, Table 3, 2019, Exhibit 4).
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; or fire, flood, or other natural or man-made disaster in 2019 (Testimony of Appellant).
14. Appellant did not receive any shutoff or terminations notices for any basic utility (Testimony of Appellant).
15. Appellant fell more than thirty days behind in rent payments in 2019 (Testimony of Appellant).
16. Appellant's mother who had mental health issues, became homeless, and Appellant's sister, who also had mental health issues, became pregnant in 2019. Appellant had to provide financial support to both. Appellant ended up giving them approximately \$6,000 during the year for housing, car insurance, and other assistance (Testimony of Appellant, Exhibit 1 attachment).

17. Appellant had the following monthly expenses for basic necessities in 2019: rent, including heat-\$250; electricity-\$35; telephone and internet-\$120; food-\$500; car insurance-\$210; gas-\$250; clothing-\$170; old credit card debt-\$85; student loans-\$100. In August, the appellant had emergency dental care which cost Appellant over \$1,000. Appellant also spent \$1,600 during the year for prescription drugs, \$1,500 for car repairs, and \$700 to pay off an old electric bill (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 2019 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 has been assessed a penalty for all of 2019. The appellant has appealed the assessment. Exhibits 1, 2. Appellant obtained health insurance as of January 1, 2020. Since Appellant is entitled to a three-month grace period prior to obtaining coverage, Appellant’s penalty for October through December is waived. See Exhibit 2 and the testimony of the appellant which I find to be credible.

To determine if the rest of 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 2019, the appellant with no dependents claimed with an adjusted gross income of \$45,991 could afford to pay \$291 per month for health insurance. According to Table 4, Appellant, 28 years old and living in Essex County, could have purchased insurance for \$257 per month for a plan for an individual. Insurance on the individual market was affordable for the appellant. See Schedule HC for 2019 Tables 3 and 4, Exhibit 2, and the testimony of Appellant.

According to Table 2 of Schedule HC for 2019, Appellant earning more than \$36,420 per year, would have been ineligible for the ConnectorCare program based upon income (Table 2 of Schedule HC-2019, and Exhibit 2).

Appellant had access to health insurance through employment. Appellant was offered coverage which would have cost \$85 a month. See the testimony of the appellant which I find to be credible, and Exhibit 4. According to Schedule HC for 2019, Tables 3 and 4, at the salary Appellant was earning, the appellant could have afforded to pay \$291 a month. The coverage was affordable for Appellant.

Since the appellant could have obtained affordable health insurance through employment, and on the individual market, we need to determine if Appellant had a financial hardship such that the cost of purchasing health insurance

would have caused Appellant to experience a serious deprivation of basic necessities or some other financial hardship as defined in 956 CMR 6.08 (a), (b), (d), and or (e), and 6.08(3).

Appellant had the following monthly expenses for basic necessities in 2019: rent, including heat-\$250; electricity-\$35; telephone and internet-\$120; food-\$500; car insurance-\$210; gas-\$250; clothing-\$170; old credit card debt-\$85; student loans-\$100. In August, the appellant had emergency dental care which cost Appellant over \$1,000. Appellant also spent \$1,600 during the year for prescription drugs, \$1,500 for car repairs, and \$700 to pay off an old electric bill.

In addition, Appellant's mother who had mental health issues, became homeless, and Appellant's sister, who also had mental health issues, became pregnant. in 2019. Appellant had to provide financial support to both. Appellant ended up giving them approximately \$6,000 during the year for housing, car insurance, and other assistance. See Exhibit 1 attachment and the testimony of Appellant which I find to be credible.

Appellant also fell more than 30 days behind in her rent payments at least once during the year. See the testimony of the appellant which I find to be credible.

Based upon these facts summarized above, I determine that the appellant had a financial hardship such that health insurance was unaffordable for Appellant during 2019. I determine that the cost of purchasing coverage would have caused Appellant to experience a serious deprivation of basic necessities. See 956 CMR 6.08(1)(e). See also 6.08(3) which allows the consideration of other financial issues raised by the appellant during the hearing and 956 CMR 6.08(1)(a) which allows consideration of late rent payments. I determine that Appellant's expenses, including the financial support the appellant gave to relatives (mother and sister) and that Appellant's falling more than 30 days behind in rent payments caused financial hardship.

I also note that Appellant tried to obtain health insurance through the Connector numerous times during the year. She had coverage for most of 2018. Coverage was terminated at the end of November, 2018. Appellant then tried to be reinsured again and again. See Exhibits 1b, 5 and 6. Appellant was not someone who tried once and then gave up. She clearly wanted to be insured; she received many notices from the Connector in response to her attempts. Often these were contradictory and confusing to the appellant. See Exhibit 6.

Appellant's penalty is waived in full.

Appellant should note that any waiver granted here is for 2019 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 2018.

NOTIFICATION OF YOUR RIGHT TO APPEAL TO COURT

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

Hearing Officer

Cc: Connector Appeals Unit

Massachusetts Health Connector Appeals Unit
Final Appeal Decision PA 19-627

Appeal Decision: XX Penalty Upheld ___Penalty Overturned in Full ___Penalty Overturned in Part

Hearing Issue: Whether the 2019 Tax Year Penalty Should Be Waived in Whole or in Part

Hearing Date: September 21, 2020

Decision Date: November 4, 2020

AUTHORITY

This hearing was conducted pursuant to section 1411(f) of the Patient Protection and Affordable Care Act (2010), 45 C.F.R 155, M.G.L. c. 30A c. 111M and c. 176Q, 956 C.M.R 12.00, 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 M.G.L. c. 30A and c. 111M, 45 C.F.R. 155, 801 C.M.R. 1.02, 956 C.M.R. 6.07, 956 C.M.R. 12.00, and the rules and regulations promulgated thereunder.

HEARING RECORD

Appellant appeared at the hearing, which was held by telephone on September 21, 2020. The procedures to be followed during the hearing were reviewed with Appellant, who was sworn in. Exhibits were marked and admitted into evidence without objection. The hearing record consists of the Appellant's testimony, and the following documents, which were admitted into evidence:

- Exhibit 1: HC Appeals Unit Notice of Hearing dated August 17, 2020.
- Exhibit 2: Appeal Case Information from Schedule HC 2019.
- Exhibit 3: Statement of Grounds for Appeal dated May 18, 2020.
- Exhibit 4: Appellant's letter in support of this Appeal.
- Exhibit 5: Copy of lease.
- Exhibit 6: Copy of lease.

FINDINGS OF FACT

Based on the testimony and documentary evidence contained in the record and reasonable inferences drawn from the evidence, I find that the following facts are established by a preponderance of the evidence:

1. Appellant turned 36 years old and resided in Worcester County in 2019. (Exhibit 2).
2. Appellant filed his Federal Income Tax return as single with no dependents claimed, reporting an Adjusted Gross Income for 2019 of \$29,254. (Exhibit 2).
3. Appellant filed his 2019 Tax return as a Massachusetts resident. (Appellant Testimony).

4. Appellant was uninsured for the entirety of 2019. (Exhibit 2; Appellant Testimony).

In addition to the foregoing facts, I take administrative notice of the 2019 Schedule HC Instructions and Worksheets, and in particular Tables 1-6 which includes the Affordability Schedule and other financial information used in making 2019 individual mandate tax penalty determinations.

ANALYSIS AND CONCLUSIONS OF LAW

The Massachusetts legislature enacted the tax penalty to encourage compliance with M.G.L. c. 111M, § 2, also called the “individual mandate”, which requires that every adult resident of Massachusetts obtain insurance coverage “[s]o long as it is deemed affordable.” 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 the individual did not have health insurance. The Connector’s regulations provide for a waiver of the tax penalty in the case of financial hardship. *See* 956 C.M.R. 6.08.

Pursuant to the Connector’s Administrative Bulletin 03-10, applying M.G.L. c. 111M, §2(b), taxpayers are given a three-month grace period for any lapse in coverage to allow the taxpayer to obtain health insurance coverage or to make the transition between health insurance policies. Because Appellant did not have health insurance for the entirety of 2019, the three-month grace period is inapplicable and he is appealing a twelve-month tax penalty for 2019. (Exhibit 2). In support of his appeal, Appellant claims that the individual mandate tax penalty does not apply to him because in 2019 he was unable to afford health insurance. (Appellant Testimony).

The issue before me is whether the twelve-month 2019 Tax Year penalty assessed against Appellant should be waived in whole or in part. To make this determination, there must be an evaluation of whether affordable insurance which met minimum creditable coverage standards was available to Appellant in 2019. 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 to Appellant through employer-sponsored plans, government-subsidized programs or on the private insurance market. *See* 2019 Schedule HC Instructions and Worksheets. If affordable insurance was available, it must be determined if such insurance was, in fact, not affordable based on Appellant experiencing a financial hardship, as defined in 956 C.M.R. 6.08.

While Appellant explained that in 2019 he bounced between his partner’s Massachusetts residence, and two different leased residences, one in Maine and one in Massachusetts, he testified that he filed his 2019 Tax return as a Massachusetts resident. (Exhibits 4-6; Appellant Testimony). I find that Appellant was a Massachusetts resident for the entirety of 2019.

According to Schedule HC for 2019 Table 2, I find that Appellants’ 2019 Adjusted Gross Income of \$29,254 made him eligible for Connector Care (eligibility for government-subsidized health insurance is based on income being no more than 300% of the Federal Poverty Level, which in 2019 was \$36,420 for an individual). *See* 2019 Schedule HC Instructions and Worksheets, *supra*, at Table 2. Appellant testified that in 2019 he did explore Health Connector plans, deeming it unaffordable at the time. (Appellant Testimony). Appellant testified that he does not remember the plan cost. (Appellant Testimony).

Based on the Affordability Schedule, Appellant filing the Federal tax return as single, with no dependents, with an annual Adjusted Gross Income of \$29,254 could afford to pay \$102 monthly for a single health insurance plan. See 2019 Schedule HC Instructions and Worksheets, *supra*, at Table 3. Based on Schedule HC for 2019 Table 4, it would have cost Appellant, age 36 and living in Worcester County, \$286 per month to purchase a single plan on the private insurance market. I conclude that private insurance was not affordable for Appellant in 2019.

Appellant began working in Massachusetts in March of 2019 for an employer offering employer-sponsored health insurance with an open enrollment period occurring in April of 2019. (Appellant Testimony). Appellant provided conflicting testimony in response to questions regarding his reason(s) for declining employer-sponsored health insurance, claiming he declined coverage because he was not living in Massachusetts and was unsure if he'd be moving to Massachusetts, then claiming he could not afford the premiums because he was paying on two apartment leases at the time of open enrollment. (Exhibits 4-6; Appellant Testimony). Based on the record showing that Appellant did not enter into one of the leases until May, and his obligation to begin paying on this lease did not begin until June 1, well after his employer's open enrollment period in April, I do not credit this testimony. (Exhibits 5 and 6; Appellant Testimony).

Appellant's testimony was less than forthright when questioned whether in 2019 the availability of employer-sponsored health insurance offered depended on the number of weekly hours or shifts worked, and if Appellant was eligible based on the number of hours or shifts he worked. (Appellant Testimony). While Appellant claims employer-sponsored was not affordable for him in 2019, he does not remember the monthly premium cost. Based on the record before me, I conclude that Appellant had affordable employer-sponsored health insurance available to him in 2019.

Since Appellant had access to affordable insurance in 2019, it must be determined whether Appellant experienced a financial hardship as defined by 956 C.M.R. 6.08. Financial hardship considerations include homelessness or rent or mortgage payments in arrears for more than thirty days, receiving utility shutoff notices, incurring significant, unexpected increases in essential expenses resulting from domestic violence, death of a family member, sudden responsibility for providing care for a family member or experiencing fire, flood or a natural disaster, if the expense of purchasing health insurance would have caused a serious deprivation of food, shelter or other necessities, or any other grounds that demonstrate unaffordability. See 956 C.M.R. 6.08 and 956 C.M.R. 12.11.

I find that Appellant's average monthly gross pay in 2019 was \$2,437 and he had the following monthly expenses for basic necessities in 2019, totaling \$1,850: rent- \$935; electricity - \$50; cable/internet - \$40; telephone - \$60; car payment - \$250; Car insurance - \$115; food - \$400. (Exhibits 2 and 4; Appellant Testimony). Appellant claims that paying rent and utilities on two separate leases made purchasing health insurance unaffordable for him in 2019. (Exhibits 4-6; Appellant Testimony). Based on the record before me, I find that Appellant was obligated on both leases solely for a period of two months, and he did not enter into one of these leases until after his employer's open enrollment period. (Exhibits 5 and 6; Appellant Testimony).

Based on Appellant's gross pay exceeding his expenses by almost \$600 per month, I conclude that Appellant did not experience a financial hardship such that Appellant could not purchase otherwise affordable health insurance available to him in 2019. (Exhibit 2; Appellant Testimony).

Accordingly, I conclude that in 2019 Appellant had access to affordable health insurance, and did not experience a financial hardship as defined by 956 C.M.R. 6.08.

Appellants' appeal is **DENIED** and the twelve-month 2019 Tax Penalty is **UPHELD**.

PENALTY ASSESSED

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

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

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 M.G.L. c. 30A. To appeal, you must file a complaint with the Superior Court in the county where you reside, or Suffolk County Superior Court, within thirty (30) days of your receipt of this decision.

Hearing Officer

Cc: Connector Appeals Unit

Massachusetts Health Connector Appeals Unit
Final Appeal Decision PA 19-628

Appeal Decision: XX Penalty Upheld ___Penalty Overturned in Full ___Penalty Overturned in Part

Hearing Issue: Whether the 2019 Tax Year Penalty Should Be Waived in Whole or in Part

Hearing Date: September 21, 2020

Decision Date: November 4, 2020

AUTHORITY

This hearing was conducted pursuant to section 1411(f) of the Patient Protection and Affordable Care Act (2010), 45 C.F.R 155, M.G.L. c. 30A c. 111M and c. 176Q, 956 C.M.R 12.00, 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 M.G.L. c. 30A and c. 111M, 45 C.F.R. 155, 801 C.M.R. 1.02, 956 C.M.R. 6.07, 956 C.M.R. 12.00, and the rules and regulations promulgated thereunder.

HEARING RECORD

Appellant appeared at the hearing, which was held by telephone on September 21, 2020. The procedures to be followed during the hearing were reviewed with Appellant, who was sworn in. Exhibits were marked and admitted into evidence without objection. The hearing record consists of the Appellant's testimony, and the following documents, which were admitted into evidence:

- Exhibit 1: HC Appeals Unit Notice of Hearing dated August 17, 2020.
- Exhibit 2: Appeal Case Information from Schedule HC 2019.
- Exhibit 3: Statement of Grounds for Appeal undated, unsigned.
- Exhibit 4: Appellant's letter in support of this Appeal.
- Exhibit 5: Letter to Appellant from his landlord dated July 9, 2019.
- Exhibit 6: School loan account documents.
- Exhibit 7: Appellant's Form 1099-HC for 2019.

FINDINGS OF FACT

Based on the testimony and documentary evidence contained in the record and reasonable inferences drawn from the evidence, I find that the following facts are established by a preponderance of the evidence:

1. Appellant turned 35 years old and resided in Middlesex County in 2019. (Exhibit 2).
2. Appellant filed his Federal Income Tax return as single with no dependents claimed, reporting an Adjusted Gross Income for 2019 of \$59,277. (Exhibit 2).

3. Appellant was unemployed from January through June 30, 2019, and collected unemployment benefits of \$785 per week for all or a portion of this time period.
4. Appellant obtained employment in July of 2019 and enrolled in employer-sponsored health at his first opportunity.
5. In 2019 Appellant was uninsured from January through August, and insured under an employer-sponsored health insurance plan from September through December. (Exhibit 2; Appellant Testimony).

In addition to the foregoing facts, I take administrative notice of the 2019 Schedule HC Instructions and Worksheets, and in particular Tables 1-6 which includes the Affordability Schedule and other financial information used in making 2019 individual mandate tax penalty determinations.

ANALYSIS AND CONCLUSIONS OF LAW

The Massachusetts legislature enacted the tax penalty to encourage compliance with M.G.L c. 111M, § 2, also called the “individual mandate”, which requires that every adult resident of Massachusetts obtain insurance coverage “[s]o long as it is deemed affordable.” 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 the individual did not have health insurance. The Connector’s regulations provide for a waiver of the tax penalty in the case of financial hardship. See 956 C.M.R. 6.08.

Pursuant to the Connector’s Administrative Bulletin 03-10, applying M.G.L. c. 111M, §2(b), taxpayers are given a three-month grace period for any lapse in coverage to allow the taxpayer to obtain health insurance coverage or to make the transition between health insurance policies. Because Appellant had a period of health insurance coverage in 2019, Appellant is entitled to a three-month grace period and is appealing a five-month tax penalty for 2019. (Exhibit 2). In support of his appeal, Appellant claims that the individual mandate tax penalty does not apply to him because in 2019 he was unable to afford health insurance. (Appellant Testimony).

The issue before me is whether the five-month 2019 Tax Year penalty assessed against Appellant should be waived in whole or in part. To make this determination, there must be an evaluation of whether affordable insurance which met minimum creditable coverage standards was available to Appellant in 2019. 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 to Appellant through employer-sponsored plans, government-subsidized programs or on the private insurance market. See 2019 Schedule HC Instructions and Worksheets. If affordable insurance was available, it must be determined if such insurance was, in fact, not affordable based on Appellant experiencing a financial hardship, as defined in 956 C.M.R. 6.08.

Appellant testified that he was unemployed from October 2018 to June 30, 2019, when he found a position with an employer offering employer-sponsored health insurance. (Exhibit 4; Appellant Testimony). Appellant enrolled in this employer-sponsored health insurance at the first opportunity, with coverage beginning September of 2019. (Exhibit 4; Appellant Testimony).

According to Schedule HC for 2019 Table 2, I find that Appellants' 2019 Adjusted Gross Income of \$59,277 made him ineligible for Connector Care (eligibility for government-subsidized health insurance is based on income being no more than 300% of the Federal Poverty Level, which in 2019 was \$36,420 for an individual). See 2019 Schedule HC Instructions and Worksheets, *supra*, at Table 2. Appellant testified that at some point during his unemployment he did explore Health Connector plans, but he was not permitted to enroll and is unsure of the basis for this denial. (Appellant Testimony).

Based on the Affordability Schedule, Appellant filing the Federal tax return as single, with no dependents, with an annual Adjusted Gross Income of \$59,277 could afford to pay \$395 monthly for a single health insurance plan. See 2019 Schedule HC Instructions and Worksheets, *supra*, at Table 3. Based on Schedule HC for 2019 Table 4, it would have cost Appellant, living in Middlesex County, \$250 per month at age 34, and \$257 per month at age 35 to purchase a single plan on the private insurance market. Appellant testified that he looked solely at COBRA and Health Connector options after losing his employer-sponsored health insurance in 2018. Based on the Affordability Schedule and Schedule HC for 2019 Table 4, and the wide margin between what Appellant could afford to pay on the private insurance market (\$395 per month) and the cost of a private plan (\$257 per month), I conclude that private insurance was affordable for Appellant in 2019.

Since Appellant had access to affordable insurance in 2019, it must be determined whether Appellant experienced a financial hardship as defined by 956 C.M.R. 6.08. Financial hardship considerations include homelessness or rent or mortgage payments in arrears for more than thirty days, receiving utility shutoff notices, incurring significant, unexpected increases in essential expenses resulting from domestic violence, death of a family member, sudden responsibility for providing care for a family member or experiencing fire, flood or a natural disaster, if the expense of purchasing health insurance would have caused a serious deprivation of food, shelter or other necessities, or any other grounds that demonstrate unaffordability. See 956 C.M.R. 6.08 and 956 C.M.R. 12.11.

Considering that weekly unemployment benefits are untaxed at the time of receipt, Appellant collected roughly the same weekly salary during his employed and unemployed periods in 2019. Accordingly, I find that Appellant's average monthly gross pay in 2019 was \$4,940, while his monthly expenses for basic necessities totaled just \$2,317. (Exhibit 2; Appellant Testimony). Appellant testified that he has neither a car nor a cell phone payment, and that he had the following monthly expenses for basic necessities in 2019: rent - \$1,550; heat/hot water - \$80; cable/internet - \$120; car insurance - \$167; food - \$400. (Appellant Testimony). Even after accounting for Appellant's 2019 school loan payments of \$938 per month from January through March, and \$460 per month thereafter, expenses not normally considered in a hardship analysis, Appellant's monthly income far exceeds his expenses for basic necessities. (Exhibit 6; Appellant Testimony).

Accordingly, I conclude that Appellant did not experience a financial hardship such that Appellant could not purchase otherwise affordable health insurance in 2019.

Based on the record before me, I conclude that in 2019 Appellant had access to affordable health insurance, and did not experience a financial hardship as defined by 956 C.M.R. 6.08.

Appellants' appeal is **DENIED** and the five-month 2019 Tax Penalty is **UPHELD**.

PENALTY ASSESSED

Number of Months Appealed: Number of Months Assessed: 5

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

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 M.G.L. c. 30A. To appeal, you must file a complaint with the Superior Court in the county where you reside, or Suffolk County Superior Court, within thirty (30) days of your receipt of this decision.

Hearing Officer

Cc: Connector Appeals Unit

Massachusetts Health Connector Appeals Unit

FINAL APPEAL DECISION: PA19-686

Appeal Decision: Appeal Approved

Hearing Issue: Appeal of the 2019 Tax Year Penalty

Hearing Date: October 5, 2020

Decision Date: November 3, 2020

AUTHORITY

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

JURISDICTION

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

HEARING RECORD¹

The Appellant listed as the Primary Taxpayer's spouse on the Appeal Case Information from Schedule HC for 2019 (Appellant Spouse) appeared at the hearing, which was held by telephone on October 5, 2020. The Primary Taxpayer was not present at the hearing. The Appellant Spouse asked permission to testify for themselves as well as the Primary Taxpayer, at the Primary Taxpayer's request. That permission was granted. Appellant Spouse was sworn in.

Post-hearing documents were received from Appellant Spouse on October 28, 2020 in response to an Open Record Request. Those documents have been added as Exhibits 7 through 9, together with documents that were marked and admitted into evidence with no objection at the hearing.

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

Exhibit 1: Hearing Notice dated September 3, 2020 (2 pages)

Exhibit 2: Appeal Case Info. from Sch. HC 2019 (1 page)

Exhibit 3: Statement of Grounds for Appeal Email, 5/1/20 (1 page)

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

Exhibit 4: Appellant Spouse's Supporting Letter (1 page)

Exhibit 5: Email Letter from J Barrett, SR. Director Total Rewards, 8/30/19 (1 page)

Exhibit 6: Form MA 1099-HC, G.M. (1 page)

Exhibit 7: Form MA 1099-HC, E.M. (1 page)

Exhibit 8: Letter from P Hughes, Town of Duxbury, 10/20/20 (1 page)

Exhibit 9: Summary of Benefits and Coverage: AvidExchange, Inc. (8 pages)

FINDINGS OF FACT

The record shows, and I so find:

1. The Appellant Primary Taxpayer (Primary Taxpayer) turned 33 years old in March 2019. The Primary Taxpayer filed their Federal Income Tax Return as a married person filing jointly with no dependents claimed. (Exhibit 2).
2. The Appellant Spouse turned 34 years old in January 2019. (Exhibit 2).
3. The Appellants lived in Plymouth County, MA in 2019. (Exhibit 2).
4. The Appellants' Federal Adjusted Gross Income for 2019 was \$113,752.00. (Exhibit 2).
5. The Primary Taxpayer did not have health insurance during twelve (12) months of tax year 2019 according to Appeal Information from Schedule HC for 2019. (Exhibit 2). The Primary Taxpayer was assessed a twelve-month tax penalty for 2019. (Exhibit 2)
6. Appellant Spouse did not have health insurance for nine (9) months during 2019. (Exhibit 2). Appellant Spouse was not assessed a tax penalty for 2019. (Exhibit 2).
7. The Appellants filed an appeal of the penalty assessment in September 2020. (Exhibits 3).
8. I take administrative notice of the financial information set forth in Tables 1 through 6 of the DOR 2019 Massachusetts Schedule HC Health Care Instructions and Worksheet. Tables 3 and 4 incorporate affordability and premium schedules adopted by the Board of Directors for the Commonwealth Health Insurance Connector Authority for 2019. Table 2 sets forth income at 300% of the Federal poverty level and Tables 5 and 6 set forth tax penalties in effect for 2019.
9. In accordance with Table 3 of Schedule HC for 2019, the Primary Taxpayer filing the Federal tax return as a married person, filing jointly, with no dependents claimed, with an annual adjusted gross income of \$113,752.00, could afford to pay \$758.35 per month for government-sponsored health insurance. In accordance with Table 4, the Primary Taxpayer and Appellant Spouse, age 33 and 34, respectively, living in Plymouth County, could have

purchased private market health insurance for \$558.00 per month. (Table 4, Schedule HC for 2019). Private insurance was affordable for the Appellants in 2019.

10. The Primary Taxpayer worked for a Massachusetts public school system in 2019 and was enrolled throughout 2019 in MCC-compliant health insurance offered by their employer. (Exhibits 7 and 8 and Appellant Spouse's Testimony).
11. Appellant Spouse had a new job with a company based outside Massachusetts in 2019 and was enrolled in health insurance offered by their employer. (Exhibits 3 and 4 and Appellant Spouse's Testimony). Appellant Spouse learned for the first time in September 2019 that although their company's insurance met federal Affordable Care Act requirements, it was not MCC-compliant under Massachusetts law in one respect. The one non-compliant aspect was Dependent Child Maternity, which was not applicable to the Appellants in 2019. (Exhibits 3, 4, 5 and Appellant Spouse's Testimony).
12. As soon as Appellant Spouse learned that their employer's health insurance was not MCC-compliant, they joined their spouse's health plan for the months of October through December 2019. (Exhibits 7 & 8 and Appellant Spouse's Testimony).
13. Both the Primary Taxpayer and the Appellant Spouse remain enrolled in the Primary Taxpayer's employer's family health plan during 2020. (Appellant Spouse's testimony and Exhibit 8).

ANALYSIS AND CONCLUSIONS OF LAW

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

The Primary Taxpayer appeals their assessed tax penalty of twelve (12) months. Documentation and Appellant Spouse's Testimony establishes that the Primary Taxpayer was enrolled in their employer's MCC-compliant health insurance plan throughout all of 2019. (Exhibits 7 & 8 and Appellant's Testimony). Thus, I conclude that the Appeal Case Information from Schedule HC indicating that the Primary Taxpayer was not insured any months in 2019 and assessing them a twelve-month penalty was completed in error. Accordingly, the Primary Taxpayer should not be assessed any tax penalty for 2019.

The Appellant Spouse did not have MCC-compliant insurance for nine months in 2019 (January through September). (Exhibits 2, 3, 7 and Appellant Spouse’s Testimony). They checked the box on the Statement of Grounds for Appeal saying that their employer’s insurance which they purchased was not MCC-compliant. (Exhibits 3 & 4 and Appellant Spouse’s Testimony). Applying the three-month grace period discussed above to Appellant Spouse’s nine uninsured months leaves six penalty months.

The Appellant Spouse testified, which was corroborated by documents, that they did not learn until September 2019 that their new out-of-state employer’s insurance was not Massachusetts MCC-compliant in one respect. (Exhibits 3, 4, 5 and Appellant Spouse’s Testimony). As soon as they learned this information, they joined their spouse’s health plan, which is MCC-compliant, in October 2019. (Appellant’s Testimony and Exhibits 4 & 8). Further, Appellant Spouse and the Primary Taxpayer both are enrolled in health insurance through the Primary Taxpayer’s employer’s insurance in 2020, which is corroborated by documentation and Appellant’s Testimony. (Appellant’s Testimony and Exhibit 8).

I conclude that the Penalty Months on Appeal Case Information from Schedule HC showing zero (0) as to Appellant Spouse appears to be completed in error for 2019. I further conclude based on the totality of the circumstance presented and the administrative record as a whole, that where Appellant Spouse did not learn until September 2019 that their new employer’s health insurance was not MCC-compliant, given that they immediately enrolled in their spouse’s MCC-compliant health plan upon receiving this information and that both the Primary Taxpayer and Appellant Spouse are currently enrolled in an MCC-compliant health plan for 2020, requiring Appellant Spouse to pay for additional insurance in 2019 would have caused Appellants unnecessary financial hardship in 2019. 956 CCMR 6.07(8). Thus, for this reason and for equitable reasons, Appellant Spouse’s 2019 penalty months, even if corrected, are waived.

In summary, both the Primary Taxpayer’s and Appellant Spouse’s penalty months are waived.

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

PENALTY ASSESSED

Appellant Primary Taxpayer:

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

Appellant Spouse:

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

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

NOTIFICATION OF YOUR RIGHT TO APPEAL TO COURT

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

Hearing Officer

Cc: Connector Appeals Unit

Massachusetts Health Connector Appeals Unit

FINAL APPEAL DECISION: PA19-738

Appeal Decision: Appeal Approved in Part/Denied in Part

Hearing Issue: Appeal of the 2019 Tax Year Penalty

Hearing Date: October 21, 2020

Decision Date: November 4, 2020

AUTHORITY

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

JURISDICTION

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

HEARING RECORD¹

The Appellant appeared at the hearing, which was held by telephone, on October 21, 2020.

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

Exhibit 1: Hearing Notice dated September 24, 2020 (1 page)

Exhibit 2: Appeal Case Info. from Sch. HC 2019 (1 page)

Exhibit 3: Statement of Grounds for Appeal (3 pages)

Exhibit 4: Appellant's Supporting Letter (3 pages)

FINDINGS OF FACT

The record shows, and I so find:

1. The Appellant turned 41 years old in November 2019. The Appellant filed their Federal Income Tax Return as a single person with no dependents claimed. (Exhibit 2).

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

2. The Appellant lived in Bristol County, MA in 2019. (Exhibit 2 and Appellant's Testimony).
3. The Appellant's Federal Adjusted Gross Income (AGI) for 2019 was \$32,338.00. (Exhibit 2).
4. The Appellant did not have health insurance during twelve (12) months of tax year 2019 according to the Appeal Case Information from Schedule HC. (Exhibit 2 and Appellant's Testimony).
5. The Appellant has been assessed a twelve (12)-month tax penalty for 2019. (Exhibit 2 and Appellant's Testimony). The Appellant filed an appeal of the assessment in June 2020. (Exhibits 3 and Appellant's Testimony).
6. I take administrative notice of the financial information set forth in Tables 1 through 6 of the DOR 2019 Massachusetts Schedule HC Health Care Instructions and Worksheet. Tables 3 and 4 incorporate affordability and premium schedules adopted by the Board of Directors for the Commonwealth Health Insurance Connector Authority for 2019. Table 2 sets forth income at 300% of the Federal poverty level and Tables 5 and 6 set forth tax penalties in effect for 2019.
7. In accordance with Table 3 of Schedule HC for 2019, the Appellant filing the Federal tax return as a single person, with no dependents claimed, with an annual adjusted gross income of \$32,338.00, could afford to pay \$134.33 per month for government-sponsored health insurance. In accordance with Table 4, the Appellant, age 41, living in Bristol County, could have purchased private market health insurance for \$306.00 per month. (Table 4, Schedule HC for 2019). Private insurance was not affordable for the Appellant in 2019.
8. The Appellant worked for a grocery store chain doing kitchen preparation work in 2019. Their employer offered health insurance. An individual HMO plan cost \$27.50 weekly or \$110 monthly. An individual PPO Plan cost \$41.50 weekly or \$166 monthly. (Exhibit 4 and Appellant's Testimony). Thus, affordable employer-sponsored HMO insurance was available to the Appellant according to Table 3 of Schedule HC for 2019.
9. The Appellant testified and stated in documents that they believed the annual deductible of \$2,000.00 before co-pays kicked in for the employer's HMO Plan was too high and while the PPO Plan had a lower annual deductible, the co-pays were too high. (Exhibit 4 and Appellant's Testimony). Thus, the Appellant testified did not purchase employer-sponsored insurance in 2019. (Exhibit 2 and Appellant's Testimony).
10. Appellant's weekly take-home pay after taxes was \$477.84 or \$24,847.68. (Exhibit 4 and Appellant's Testimony).
11. The Appellant's 2019 monthly living expenses of \$1,145.00 included: Rent - \$700.00, Heat - \$40, Electricity - \$40.00, Telephone - \$65.00, Cable - \$100.00, Food - \$150.00, Household

and incidentals - \$50.00. (Exhibit 4 and Appellant's Testimony). Their weekly living expenses amounted to \$286.25.

12. The Appellant did not testify to any rent arrearages, utility shut-offs, unexpected expenses because of care of a family member or natural disasters. (Appellant's Testimony).
13. The Appellant acknowledged their need for health insurance and to be seen by doctors. They further testified they did not understand how the Health Connector exchange works or the individual mandate requirement. (Appellant's Testimony). I credit Appellant's Testimony.
14. The Appellant's work hours have been reduced considerably and became fluctuating in 2020 because of the COVID-19 pandemic. (Appellant's Testimony). The Appellant expressed anxiety about this situation. (Appellant's Testimony).
15. The Appellant does not currently have health insurance. (Appellant's Testimony).

ANALYSIS AND CONCLUSIONS OF LAW

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

The Appellant is appealing the assessed tax penalty of twelve (12) months. They checked the box on the Statement of Grounds for Appeal saying that expense of purchasing health insurance in 2019 would have caused them a deprivation of food and other living expenses. (Exhibit 3 & 4 and Appellant's Testimony).

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

In accordance with Table 3 of Schedule HC for 2019, the Appellant filing the Federal tax return as a single person with no dependents claimed, with an adjusted gross income of \$32,338.00, could afford to pay \$134.33 per month for government-sponsored health insurance. In accordance with Table 4, the Appellant, age 41, living in Bristol County, could have purchased

private market health insurance for \$306.00 per month. (Schedule HC for 2019). Private insurance was not affordable for the Appellant in 2019 based on adjusted gross income.

Appellant's employer offered health insurance. An individual HMO plan cost \$27.50 weekly or \$110 monthly. (Exhibit 4 and Appellant's Testimony). Thus, affordable employer-sponsored HMO insurance was available to the Appellant according to Table 3 of Schedule HC for 2019. I take administrative notice that a \$2,000.00 annual deductible is permissible for a health plan that meets minimum creditable coverage requirements in Massachusetts. (Health Connector Minimum Creditable Coverage (MCC) Requirements, Health Connector website).

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

The Appellant's adjusted gross income was \$32,338.00. Their net take home pay after taxes was \$24,847.68. Their weekly take-home pay after taxes was \$477.84. (Exhibit 4 and Appellant's Testimony) (See Paragraph 10 above). The Appellant's weekly living expenses amounted to \$286.25. (Appellant's Testimony and Exhibit 4). (See Paragraph 11 above). The Appellant did not testify to any rent arrearages, utility shut-offs, unexpected expenses because of care of a family member or natural disasters. (Appellant's Testimony). [

Appellant has acknowledged the need for health insurance and to seek medical services. They testified to a desire to obtain insurance but a lack of understanding about the Health Connector marketplace and the individual mandate requirements. (Appellant's Testimony). The Appellant's work hours have been reduced considerably and became fluctuating beginning in March 2020 because of the COVID-19 pandemic. (Appellant's Testimony). The Appellant expressed anxiety about this situation. (Appellant's Testimony).

Under the totality of these circumstances and based on the administrative record as a whole, I conclude that paying for health insurance in 2019 would have caused Appellant hardship. 956 CMR 6.08(1)(e) &(3). Nonetheless, I further conclude based on the administrative record that the hardship does not warrant waiving the entire twelve-month penalty given that the Appellant also had a twelve-month tax penalty assessed for the 2018 tax year, and they still do not have health insurance currently. 956 CMR 6.07(8). Given that Appellant did not understand the individual mandate requirement and how the Health Connector Exchange works and would like to enroll in health insurance, I conclude that reducing the tax penalty from twelve (12) months to two (2) months will mitigate the harshness of the penalty and serve as an incentive for Appellant to contact the Health Connector directly by telephone for assistance in completing an application, if appropriate, based on their reduced work hours and in obtaining affordable coverage if they are eligible, including consideration of the Connector's unsubsidized plans.² 956 CMR 6.07(8). A primary purpose of the tax penalty is to serve as an incentive to taxpayers to obtain affordable insurance in order to satisfy the individual mandate requirements.

² The Appellant was advised to contact a Health Connector Customer Service Representative at 1-877-623-6765 to explore if Appellant qualifies for ConnectorCare coverage or other health insurance made available through the Connector marketplace.

The Appellant should note that the waiver of ten (10) months of their twelve (12)-month penalty for 2019 is based upon facts that I have determined to be true in 2019. The Appellant should not assume that a similar determination will be made for subsequent tax years should they again be assessed a tax penalty for failure to have health insurance as the individual mandate requires, especially given that they have had a tax penalty assessed in a prior year. Appellant is advised to contact the Health Connector at 1-877-623-6765 to explore the availability of affordable health insurance coverage.

PENALTY ASSESSED

Number of Months Appealed: ____12____ Number of Months Assessed: ____2____

NOTIFICATION OF YOUR RIGHT TO APPEAL TO COURT

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

Hearing Officer

Cc: Connector Appeals Unit

Massachusetts Health Connector Appeals Unit

FINAL APPEAL DECISION: PA19-740

Appeal Decision: Appeal Approved

Hearing Issue: Appeal of the 2019 Tax Year Penalty

Hearing Date: October 21, 2020

Decision Date: November 4, 2020

AUTHORITY

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

JURISDICTION

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

HEARING RECORD¹

The Appellant appeared at the hearing, which was held by telephone, on October 21, 2020.

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

Exhibit 1: Hearing Notice dated September 24, 2020 (1 page)

Exhibit 2: Appeal Case Info. from Sch. HC 2019 (1 page)

Exhibit 3: Statement of Grounds for Appeal (3 pages)

Exhibit 4: Appellant's Supporting Letter (1 page)

FINDINGS OF FACT

The record shows, and I so find:

1. The Appellant turned 24 years old in October 2019. The Appellant filed their Federal Income Tax Return as a single person with no dependents claimed. (Exhibit 2).

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

2. The Appellant lived in Suffolk County, MA in 2019. (Exhibit 2 and Appellant's Testimony).
3. The Appellant's Federal Adjusted Gross Income (AGI) for 2019 was \$36,882.00. (Exhibit 2).
4. The Appellant did not have health insurance during eleven (11) months of tax year 2019. (Exhibit 2 and Appellant's Testimony).
5. The Appellant has been assessed an eight (8)-month tax penalty for 2019. (Exhibit 2 and Appellant's Testimony). The Appellant filed an appeal of the assessment in June 2020. (Exhibits 3 and Appellant's Testimony).
6. I take administrative notice of the financial information set forth in Tables 1 through 6 of the DOR 2019 Massachusetts Schedule HC Health Care Instructions and Worksheet. Tables 3 and 4 incorporate affordability and premium schedules adopted by the Board of Directors for the Commonwealth Health Insurance Connector Authority for 2019. Table 2 sets forth income at 300% of the Federal poverty level and Tables 5 and 6 set forth tax penalties in effect for 2019.
7. In accordance with Table 3 of Schedule HC for 2019, the Appellant filing the Federal tax return as a single person, with no dependents claimed, with an annual adjusted gross income of \$36,882.00, could afford to pay \$229.00 per month for government-sponsored health insurance. In accordance with Table 4, the Appellant, age 24, living in Suffolk County, could have purchased private market health insurance for \$257.00 per month. (Table 4, Schedule HC for 2019). Private insurance was not affordable for the Appellant in 2019.
8. The Appellant worked for a national grocery store chain until November 2019. Their employer offered health insurance that cost about \$120.00 per month but was not available until after the first sixty days of employment. (Appellant's Testimony). Thus, affordable employer-sponsored insurance was available to the Appellant according to Table 3 of Schedule HC for 2019.
9. Appellant graduated from college in May 2018. (Appellant's Testimony). They did not enroll in health insurance through their grocery store employer in 2019 because they believed that they were still covered by their college's student health insurance given that they had never received an insurance cancellation notice. (Appellant's Testimony and Exhibit 4). Appellant testified further that when they checked the Blue Cross Student Health insurance portal periodically throughout 2019, it read that they were still an active member. (Appellant's Testimony).
10. In late 2019, the Appellant was hired to work as a graphic designer, which is Appellant's area of training and specialization. (Appellant's Testimony). They enrolled in health insurance through their new employer and had insurance coverage from December 2019

until May 2020, when they were furloughed because of the COVID-19 pandemic. (Appellant's Testimony).

11. The Appellant was not eligible for government-subsidized ConnectorCare coverage in 2019 because the Appellant's employer offered insurance and, additionally, their adjusted gross income of \$36,882.00 was greater than 300% of the Federal poverty level, which was \$36,420.00 in 2019. (Schedule HC, Table 2).
12. The Appellant did not initially understand the Health Connector marketplace or the individual mandate requirement. However, after they became unemployed in 2020, they did purchase health insurance through the Health Connector and currently have insurance. (Appellant's Testimony)
13. The Appellant's 2019 monthly living expenses of \$1,240.00 included: Rent, heat and electricity - \$350.00, Car payments- \$300.00, car insurance - \$150.00, Gas - \$40.00, Student loans - \$200.00, Personal items - \$200.00.
14. The Appellant did not testify to any rent arrearages, utility shut-offs, unexpected expenses because of care of a family member or natural disasters. (Appellant's Testimony).

ANALYSIS AND CONCLUSIONS OF LAW

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

The Appellant is appealing the assessed tax penalty of eight (8) months. They did not check a box on the Statement of Grounds for Appeal form. (Exhibit 3). Appellant testified that the basis for their appeal was a mistaken belief upon graduating from college in May 2018 that they continued to be insured under their college student health plan based on the Blue Cross insurance portal and lack of receipt of a cancellation notice. (Appellant's Testimony).

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

In accordance with Table 3 of Schedule HC for 2019, the Appellant filing the Federal tax return as a single person, with no dependents claimed, with an annual adjusted gross income of \$36,882.00, could afford to pay \$229.00 per month for government-sponsored health insurance. In accordance with Table 4, the Appellant, age 24, living in Suffolk County, could have purchased private market health insurance for \$257.00 per month. (Table 4, Schedule HC for 2019). Private insurance was not affordable for the Appellant in 2019.

The Appellant's employer offered health insurance that was not available until after the first sixty days of employment and cost about \$120.00 per month. (Appellant's Testimony). Thus, affordable employer-sponsored insurance was available to the Appellant according to Table 3 of Schedule HC for 2019.

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

The Appellant's adjusted gross income was \$36,882.00. Their monthly living expenses in 2019 were \$1,240.00. Considering the totality of the circumstance presented in the administrative record; namely, that the Appellant was a 24-year old recent college graduate in 2019, did not find a graphic design job immediately upon graduation but rather took a job working in a grocery store to support themselves while looking for a graphic design job, misunderstood their college student health insurance plan, initially did not understand the Health Connector marketplace, later in 2019 found a graphic design job but soon became unemployed because of COVID-19, is currently unemployed but testified they have purchased health insurance through the Health Connector in 2020, I conclude that requiring the Appellant to pay for health insurance during 2019 would have created a financial hardship for Appellant. 956 CMR 6.07(8) and 956 CMR 6.08. Accordingly, the Appellant's eight-month penalty is waived.

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

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 2011.

NOTIFICATION OF YOUR RIGHT TO APPEAL TO COURT

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

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

Hearing Officer

Cc: Connector Appeals Unit

Massachusetts Health Connector Appeals Unit

FINAL APPEAL DECISION: PA19-773

Appeal Decision The appeal is approved; the tax penalty is waived in part.

Hearing Issue: Appeal of the 2019 Tax Year Penalty

Hearing Date: October 28, 2020

Decision Date: November 5, 2020

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 October 28, 2020. 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 sheet containing information from Appellant's Schedule HC (1 page)¹

Exhibit 3: Statement of Grounds (with attachment) (8 pages)

FINDINGS OF FACT

The record shows, and I so find:

1. Appellant was 35 at the end of 2019.
2. During 2019, Appellant lived in Suffolk County.
3. Appellant filed his 2019 Massachusetts taxes as single with no dependents.
4. Appellant reported on his Massachusetts tax return, and confirmed at the hearing, that he had adjusted gross income in 2019 of \$83,700. See Exhibit 2

¹ Exhibit 2 is a computer printout continuing information extracted from the Schedule HC that Appellant submitted as part of her 2019 Massachusetts tax return. The Schedule HC is the form on which Massachusetts taxpayers report information relevant to the individual mandate penalty, which is the subject of this appeal.

5. Appellant reported in the Schedule HC that he filed with his 2019 state income taxes, and confirmed at the hearing, that he did not have health insurance meeting minimum creditable (MCC) standards at any point during 2019.
6. Appellant had health insurance through employment steadily from the time he was no longer covered by his parents' plan until the start of 2019. See Exhibit 3.
7. In mid-2018, Appellant started working for a new employer, which was a small company. At the time, he still had health insurance being provided by a former employer, which covered him through the end of 2018. As a result, he did not sign up for health insurance with his new employer at the time of hire.
8. In late 2018, Appellant was traveling for his job. During that time, his employer had open enrollment during which employees were required to sign up for health insurance for 2019. Appellant missed the open enrollment period without realizing it.
9. At some point in 2019, Appellant wished to schedule a doctor's visit, and realized that he did not have health insurance. He contacted the insurance company offered by his employer, but was told that he could not sign up until the next open enrollment period at the end of 2019.
10. Appellant signed up for health insurance through his employment in November 2019. That insurance was effective at the start of 2020. Appellant was covered through that insurance plan as of the date of the hearing. The cost of the health insurance to Appellant was approximately \$150 a month.

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

ANALYSIS AND CONCLUSIONS OF LAW

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

To determine whether Appellant should face a penalty for not having insurance, I must first determine whether he had affordable insurance available to him.

Appellant would have not qualified for government-subsidized insurance. His annual income in 2019 was above \$36,420, which is 300 percent of the federal poverty limit. (I obtain the figure of \$36,420 from Table 2 to the instructions for the 2019 Schedule HC.) Persons with household incomes above 300 percent of the federal poverty limit are not eligible for Connector Care, which is government-subsidized insurance. See 956 CMR 12.04 (Connector Care eligibility requirements.)

However, Appellant was eligible for insurance through his employment, and could have afforded that insurance. Using affordability standards set by the Health Connector's board in accordance with state law, M.G.L. c. 111M, an individual such as Appellant who was in a household of one person and had

income of \$83,700 was deemed able to afford 8 percent of income for health insurance. In this case, that amounted to \$6,696 annually or \$558 a month. In 2020, the cost of the employer-sponsored health insurance was \$150 a month; the cost would not have been significantly different in 2019. Thus, Appellant could have easily afforded the employer-sponsored insurance.

Similarly, Appellant could have afforded to purchase unsubsidized insurance on the individual market. In 2019, a person like Appellant who lived in Suffolk County and was 35 years old would have had to pay a premium of \$286 for unsubsidized health insurance in the individual market. (I obtain that premium figure from Table 4, Premiums, printed in the instructions to Schedule HC.) Thus, using state-established standards, based on his annual income, Appellant was deemed able to afford unsubsidized insurance in 2019.

Despite the fact that he was eligible for affordable insurance through his employment, Appellant did not enroll in that insurance because he missed the employer's annual open enrollment period. This was due to an unusual set of circumstances, which included the facts that Appellant didn't sign up for insurance at the time of hire because he had other insurance then and that he was travelling out of state during the employer's short open enrollment period. Appellant stated that he was unaware that he was not enrolled in insurance because he had always been covered in the past and did not realize that he was required to sign up during open enrollment. By the time he realized this, it was too late to sign up for his employer's insurance. He also did not buy insurance on the individual market because he intended to sign up for his employer's insurance at the time of the next open enrollment.

Given these circumstances, I will exercise my discretion to reduce the penalty for 2019 to only 3 months. In doing this, I take into account the fact that Appellant was insured as of the start of 2020.

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 2019.

NOTIFICATION OF YOUR RIGHT TO APPEAL TO COURT

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

Hearing Officer

Cc: Connector Appeals Unit

Massachusetts Health Connector Appeals Unit

FINAL APPEAL DECISION: PA19-775

Appeal Decision The appeal is approved; the tax penalty is waived in full.

Hearing Issue: Appeal of the 2019 Tax Year Penalty

Hearing Date: October 28, 2020

Decision Date: November 5, 2020

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

There were two Appellants, who will be referred to as Husband and Wife. Husband appeared at the hearing, which was held by telephone, on October 28, 2020. The hearing record consists of the testimony of Husband, and the following documents, which were admitted into evidence:

Exhibit 1: Health Connector Hearing Notice (2 pages)

Exhibit 2: Appeal Case Information sheet containing information from Appellant's Schedule HC (1 page)¹

Exhibit 3: Statement of Grounds (with attachment) (9 pages)

FINDINGS OF FACT

The record shows, and I so find:

1. Husband was 63 and Wife was 59 at the end of 2019.
2. During 2019, Appellants lived in Essex County.
3. Appellants filed their 2019 Massachusetts taxes as married filing jointly with no dependents.
4. Appellants reported on their Massachusetts tax return, and confirmed at the hearing, that they had adjusted gross income in 2019 of \$423,516. See Exhibit 2. This figure represented revenue derived from the sale of Husband's business. Neither Husband nor Wife was employed in 2019.

¹ Exhibit 2 is a computer printout continuing information extracted from the Schedule HC that Appellant submitted as part of her 2019 Massachusetts tax return. The Schedule HC is the form on which Massachusetts taxpayers report information relevant to the individual mandate penalty, which is the subject of this appeal.

5. Appellants reported in the Schedule HC that they filed with their 2019 state income taxes, and confirmed at the hearing, that they had insurance meeting minimum creditable (MCC) standards from January through July 2019, but did not have such insurance for the remaining five months of the year.
6. In 2017, Husband sold a manufacturing business that he owned and thus retired from employment.
7. At that point, he exercised his right under COBRA to continue in the insurance plan that he and his Wife had been covered through while he was still working. COBRA is a federal law providing, among other things, that an individual who leaves an employer-sponsored health plan due to the end of employment will be offered the option to purchase that coverage at full cost but at a group rate for 18 months after the end of employment. 29 U.S.C. § 1161.
8. The 18-month COBRA period for Appellants ended in July 2019. At that point, Appellants were no longer eligible to remain in their COBRA plan and had to find new insurance.
9. Husband stated that he tried to shop for health insurance on the Internet. At some point in that search, he must have gone to a website that collected contact information from him. Within a very short time, he was contacted on the telephone by a number of salespeople.
10. One salesperson offered him a plan through a company called Evolve. This is not a licensed insurer in the state of Massachusetts. This plan cost approximately \$600 a month to cover both Appellants, which was cheaper than the \$1400 a month they had been paying for the COBRA plan.
11. The Evolve plan that Appellants purchased did not meet minimum creditable coverage (MCC) standards set by the Health Connector board. The Evolve plan was a high deductible plan, which meant that the covered person would not receive coverage from Evolve for medical services until they had first expended the amount of the deductible.
12. As a consequence, Appellants wound up incurring considerable health care costs that were not covered by the plan they were paying for.
13. Husband realized at some point that the plan he had chosen was not adequate. In late 2019, when annual open enrollment for the non-group market occurred, Husband consulted an insurance adviser and wound up signing up for a plan through a licensed Massachusetts insurer. Appellants were covered in that plan as of the date of the hearing.

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

ANALYSIS AND CONCLUSIONS OF LAW

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

Further, according to M.G.L. c. 111M, § 2, residents are permitted a 63-day gap between periods of

coverage without facing a penalty. Administrative Bulletin 03-10: Guidance Regarding M.G.L. c. 111M and M.G.L. c. 176Q, as implemented by 956 CMR 6.00, interprets the 63-day gap in coverage to be three months. As a result, gaps of three months are not subject to penalty. In Appellants' case, they reported on their Schedule HC that they were without insurance for five months in 2019. Because they are entitled to a three-month gap without penalty, they have only been assessed a penalty for two months.

To determine whether Appellants should face a penalty for not having insurance, I must first determine whether they had affordable insurance available to them.

Appellants were not employed in 2019, and so were not eligible for employer-sponsored insurance. Further, Appellants would have not qualified for government-subsidized insurance. Their annual income in 2019 was above \$36,420, which is 300 percent of the federal poverty limit. (I obtain the figure of \$36,420 from Table 2 to the instructions for the 2019 Schedule HC.) Persons with household incomes above 300 percent of the federal poverty limit are not eligible for Connector Care, which is government-subsidized insurance. See 956 CMR 12.04 (Connector Care eligibility requirements.)

However, Appellants could have afforded unsubsidized insurance in the non-group market. Using affordability standards set by the Health Connector's board in accordance with state law, M.G.L. c. 111M, individuals such as Appellants who were in a household of two persons and had income of above \$83,121 were deemed able to afford 8 percent of income for health insurance. In this case, that amounted to \$33,881 annually or \$2,832 a month. In 2020, a married couple, such as Appellants, with no dependents living in Essex County and with the older spouse being over 55 years of age, would have been able to obtain coverage for a cost of \$836 a month. In fact, Appellants were able to afford coverage meeting MCC standards in 2020. Thus, Appellants could have afforded non-group coverage meeting MCC standards in 2019.

Despite this, Appellants did not have insurance meeting MCC standards in 2019 because they instead purchased a coverage plan that did not meet those standards. The state law mandating that residents obtain health insurance provides that residents must obtain "creditable coverage" if it is affordable to them. M.G.L. c. 111M, § 2(a). "Creditable coverage" is defined as a plan which meets the definition of "minimum creditable coverage" (or "MCC") under regulations promulgated by the Health Connector's board. M.G.L. c. 111M, § 1. Under those regulations, a coverage plan ordinarily does not meet MCC standards if it has deductibles of over \$2,000 for an individual or \$4,000 for a family. 956 CMR 5.03(2)(b)(2). A so-called "high deductible" plan can only satisfy MCC standards if it is paired with a sponsored health reimbursement account, in which the plan sponsor, such as an employer, contributes money for the insured person to use to meet medical expenses incurred before the deductible is satisfied. 956 CMR 5.03(3)(c)(4). The plan Appellants purchased did not meet these standards.

Because Appellants could have afforded MCC-compliant insurance, but didn't, I must consider whether they have established grounds for waiving the individual mandate penalty under Health Connector regulations. 956 CMR 6.08(d). Here, Appellants made an effort to obtain health insurance once their COBRA coverage ended. Unfortunately, because they were misinformed about the nature of the plan they purchased, they obtained coverage that subjected them to high deductibles and that also did not meet MCC standards. When Appellants realized this problem, it would have been too late to purchase a

new plan in 2019, because the annual open enrollment period for non-group insurance had ended. They did change plans during the annual open enrollment period at the end of 2019 so that, in 2020, they were enrolled in insurance that met MCC standards. Although the coverage Appellants purchased in 2019 did not provide MCC compliant coverage, it was still costly to the Appellants. In determining whether to waive the penalty on appeal, I am permitted to consider whether an appellant purchased insurance and, if so, what the cost of that insurance was. 956 CMR 6.08(2)(c). In this case, I conclude that Appellants did not purchase the coverage they did in order to avoid paying for MCC-compliant insurance, but rather they took that coverage because they were misinformed or did not understand the implications of their choice. Accordingly, I will exercise my discretion to waive the penalty in its entirety.

PENALTY ASSESSED

Number of Months Appealed by Appellant Husband : 5__ Number of Months Assessed: __0

Number of Months Appealed by Appellant Wife : 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 2019.

NOTIFICATION OF YOUR RIGHT TO APPEAL TO COURT

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

Hearing Officer

Cc: Connector Appeals Unit

Massachusetts Health Connector Appeals Unit

FINAL APPEAL DECISION: PA19-776

Appeal Decision The appeal is approved; the tax penalty is waived in full.

Hearing Issue: Appeal of the 2019 Tax Year Penalty

Hearing Date: October 28, 2020

Decision Date: November 5, 2020

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 October 28, 2020. 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 sheet containing information from Appellant's Schedule HC (1 page)¹

Exhibit 3: Statement of Grounds (with attachment) (8 pages)

FINDINGS OF FACT

The record shows, and I so find:

1. Appellant was 58 at the end of 2019.
2. During 2019, Appellant lived in Berkshire County.
3. Appellant filed her 2019 Massachusetts taxes as single with no dependents.
4. Appellant reported on her Massachusetts tax return and confirmed at the hearing that she had adjusted gross income in 2019 of \$30,914. See Exhibit 2
5. Appellant reported in the Schedule HC that she filed with her 2019 state income taxes that she had health insurance meeting minimum creditable (MCC) standards in February of 2019 but did

¹ Exhibit 2 is a computer printout continuing information extracted from the Schedule HC that Appellant submitted as part of her 2019 Massachusetts tax return. The Schedule HC is the form on which Massachusetts taxpayers report information relevant to the individual mandate penalty, which is the subject of this appeal.

not have insurance at any other point during 2019. In testifying at the hearing, Appellant stated that she was insured through the Health Connector in both January and February of 2019. Based on her credible testimony, I find that she was insured for the first two months of the year but was not insured for the remaining 10 months.

6. Appellant was employed throughout 2019 at a private school. She was paid by the hour worked. The work is seasonal, because the school is closed over the summer and at other vacation times; during those periods, she is not paid.
7. Her employer offered her health insurance, which cost more than \$240 a month. Given the seasonal nature of her income, she felt that she could not afford that monthly expense.
8. Appellant was hospitalized at the start of 2019. When she entered the hospital, an employee of the hospital assisted her in applying for health coverage through the Health Connector, which she obtained. However, at some point, she stated to a representative in charge of updating her eligibility application that she was working for an employer who offered insurance. The representative determined that she was no longer eligible for insurance through the Health Connector as a result of that fact, and so her coverage ended.
9. At the end of 2019, Appellant learned that the cost of health insurance through her employment had been reduced somewhat to a point where she felt it was affordable. She testified that she had thus enrolled in that insurance and was covered at the time of the hearing.

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

ANALYSIS AND CONCLUSIONS OF LAW

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

Further, according to M.G.L. c. 111M, § 2, residents are permitted a 63-day gap between periods of coverage without facing a penalty. Administrative Bulletin 03-10: Guidance Regarding M.G.L. c. 111M and M.G.L. c. 176Q, as implemented by 956 CMR 6.00, interprets the 63-day gap in coverage to be three months. As a result, gaps of three months are not subject to penalty. In Appellant’s case, she was without insurance for 10 months in 2019. Because she is entitled to a three-month gap without penalty, she should be assessed a penalty for only seven months.

To determine whether Appellant should face a penalty for not having insurance, I must first determine whether she had affordable insurance available to her.

Appellant’s employer offered her insurance, but she would not have been deemed able to afford that insurance under affordability standards established by the Health Connector board in accordance with G.L. c. 111M. Under those standards, an individual like Appellant in a household of one person with an

income of \$30,914 was deemed able to afford only 4.2 percent of income for health insurance. In this case, that amounted to \$1,298 annually or \$108 a month. In 2019, the cost of Appellant’s employer-sponsored health insurance was at least \$240 a month. Thus, Appellant could not have afforded the employer-sponsored insurance under state standards. Moreover, Appellant could not have afforded to purchase unsubsidized insurance on the individual market. In 2019, a person like Appellant who lived in Berkshire County and was 58 years old would have had to pay a premium of \$375 for unsubsidized health insurance in the individual market. (I obtain that premium figure from Table 4, Premiums, printed in the instructions to Schedule HC.) Thus, using state-established standards, based on her annual income, Appellant was deemed unable to afford unsubsidized insurance in 2019.

However, Appellant should have qualified for government-subsidized insurance. Her annual income in 2019 was below \$36,420, which is 300 percent of the federal poverty limit. (I obtain the figure of \$36,420 from Table 2 to the instructions for the 2019 Schedule HC.) Persons with household incomes below 300 percent of the federal poverty limit are eligible for Connector Care, which is government-subsidized insurance, provided they meet the other eligibility criteria. See 956 CMR 12.04 (Connector Care eligibility requirements.) To be eligible for Connector Care, a person must be eligible to receive premium tax credits offered by the federal government under the Affordable Care Act (ACA). 956 CMR 12.04. Under the ACA, an individual is not eligible for premium tax credits if that individual is eligible for a form of “minimum essential coverage.” 26 U.S.C. § 36B(c)(2)(1). “Minimum essential coverage” is in turn defined to include, among other things, an employer-sponsored health plan. 26 U.S.C. § 5000A(f)(1)(b). However, the federal law further provides that eligibility for an employer-sponsored health plan coverage” will *not* exclude an individual from receiving premium tax credits if the cost of the employer plan is unaffordable, i.e., the cost exceeds 8 percent of the individual’s income. *Id.* § 5000A(e)(1)(A). Under these rules, therefore, Appellant would have been eligible for premium tax credits because the cost of her employer sponsored insurance, which was over \$240 a month, exceeded 8 percent of her income, which was \$206 a month.

Nonetheless, Appellant dropped her Connector Care coverage after she reported to an eligibility representative from the hospital that she had employer sponsored insurance. Apparently this was done without consideration of whether the employer sponsored insurance was unaffordable. This confusion is understandable because Appellant’s annual income varies, due to the variability of her work schedule, and thus it could have been difficult in February to project whether or not the cost of her employer-sponsored insurance would have exceeded 8 percent of her annual income.

Given these unusual circumstances, I will exercise my discretion to waive the penalty for 2019. Appellant testified that she is covered in 2020. Further, her income was variable, and she had significant fixed expenses, including the cost of rent, fuel, utilities and snow removal. Thus, she has demonstrated that the purchase of insurance would have been a significant financial hardship for her in 2019, which constitutes grounds for waiving the penalty under applicable regulations. 956 CMR 6.08(1)(e).

PENALTY ASSESSED

Number of Months Appealed : 7 _____ Number of Months Assessed: ___0

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

NOTIFICATION OF YOUR RIGHT TO APPEAL TO COURT

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

Hearing Officer

Cc: Connector Appeals Unit

Massachusetts Health Connector Appeals Unit

FINAL APPEAL DECISION: PA19-660

Appeal Decision: Penalty Overturned in Full
Hearing Issue: Appeal of the 2019 Tax Year Penalty
Hearing Date: October 6, 2020
Decision Date: November 20, 2020

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 October 6, 2020. Appellant also appeared for Appellant spouse. The procedures to be followed during the hearing were reviewed with Appellant. Appellant was sworn in. Exhibits were marked and admitted in evidence with no objection from Appellant. Appellant testified.

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

- Exhibit 1: Correspondence from the Health Connector, dated September 2, 2020
- Exhibit 2: Appeal Case Information from Schedule HC 2019
- Exhibit 3: Notice of Appeal, dated March 16, 2020
- Exhibit 4: Statement in Support of Appeal

FINDINGS OF FACT

The record shows, and I so find:

1. Appellants were 31 and 32 years old in 2019. Appellants filed a Massachusetts 2019 tax return as married filing jointly with no dependents claimed (Exhibit 2).
2. Appellants resided in Worcester County, MA in 2019 (Exhibit 2).
3. Appellants had an Adjusted Gross Income for 2019 of \$25,648.00 (Exhibit 2).
4. Appellants both worked for the same union (Testimony of Appellant).
5. Appellants' income was unsteady as it depended on how many hours they were assigned to work (Testimony of Appellant).
6. During 2019, neither Appellant worked the required amount of hours to be eligible for employer sponsored health insurance (Testimony of Appellant).
7. Appellants struggled to pay the bills for necessities in 2019 (Testimony of Appellant).
8. Appellants had the following monthly expenses during 2019: rent \$700; phone \$200; food \$433; supplies \$50; clothing \$16; car payment \$339; car insurance \$225; gasoline \$433; medical \$53. Appellant's monthly expenses were \$2,449.

9. I take administrative notice of the financial information set forth in Tables 1 through 6 in the DOR 2019 Massachusetts Schedule HC Health Care Instructions and Worksheets. Tables 3 and 4 incorporate affordability and premium schedules adopted by the Board of Directors for the Commonwealth Health Insurance Connector Authority for 2019. Table 2 sets forth income at 300% of the Federal poverty level and Tables 5 and 6 set forth tax penalties in effect for 2019.

10. According to Table 3 of Schedule HC for 2019 a couple filing as married filing jointly with no dependents with an adjusted gross income of \$25,648 could afford to pay \$92 per month for private insurance. According to Table 4, Appellants, aged 31 and 32 and living in Worcester County could have purchased private insurance for \$558 per month.

11. Private insurance was not considered to be affordable for Appellants in 2019 (Schedule HC for 2019).

12. Appellants, earning less than \$49,380, would have been income eligible for government subsidized health insurance (Schedule HC for 2019).

13. Appellants did not have health insurance for twelve months in 2019 (Testimony of Appellant and Exhibit 2).

14. Appellants have each been assessed a penalty for twelve months for 2019 (Exhibit 2).

15. Appellants filed a hardship appeal on March 16, 2020 (Exhibits 3).

16. Appellants were working more hours in 2020 and had signed up for health insurance through their union (Testimony of Appellant).

ANALYSIS AND CONCLUSIONS OF LAW

G.L.c. 111M, § 2, also called the “individual mandate,” requires every adult resident of Massachusetts to obtain health insurance that meets minimum creditable coverage standards “[s]o long as it is deemed affordable” under the schedule set by the board of directors for the Commonwealth Health Insurance Connector Authority. Residents who do not obtain insurance or who do not obtain insurance that meets the minimum creditable coverage standard are subject to a tax penalty for “each of the months” that the individual did not have health insurance as required by the individual mandate. There is a three-month grace period to allow the taxpayer to obtain health insurance coverage or to make the transition between health insurance policies. See G.L.c. 111M, sec. 2(b) and for Tax Year 2019, Administrative Bulletin 03-10: Guidance Regarding M.G.L.c. 111M and M.G.L.c. 176Q, as implemented by 956 CMR 6.00, which interprets the 63-day gap in coverage to be three months. The Connector’s regulations provide for a waiver of the tax penalty in the case of a financial hardship. See 956 CMR 6.08.

Appellants have each been assessed a tax penalty for twelve months. To determine if the penalty should be waived in whole or in part, we must consider whether affordable insurance was available to Appellants, before we consider whether Appellants suffered a financial hardship such that the purchase of insurance which met minimum creditable coverage standards would have caused Appellants to experience a serious deprivation of basic necessities. See 956 CMR 6.

Appellants were not eligible for employer sponsored health insurance in 2019. According to Tables 2, 3 and 4 of Massachusetts Schedule HC 2019, Appellants would have been income eligible for subsidized health insurance. Since Appellants potentially had access to affordable insurance, we need to consider whether Appellants experienced a financial hardship as defined by 956 CMR 6.08.

Appellants’ income was unsteady in 2019. Appellants had monthly expenses of \$2,449. Appellants’ monthly income before taxes was \$2,137. Purchasing health insurance would have caused a serious deprivation of food, shelter, clothing or other necessities. See Testimony of Appellant, which I find to be credible and 956 CMR 6.08 (1)(e).

I find the penalty assessed against Appellants for 2019 should be waived in its entirety.

PENALTY ASSESSED

Number of Months Appealed: 12/12

Number of Months Assessed: 0/0

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

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 2019.

NOTIFICATION OF YOUR RIGHT TO APPEAL TO COURT

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

Massachusetts Health Connector Appeals Unit

FINAL APPEAL DECISION: PA19-662

Appeal Decision: Penalty Overturned in Full
Hearing Issue: Appeal of the 2019 Tax Year Penalty
Hearing Date: October 6, 2020
Decision Date: November 18, 2020

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 October 6, 2020. The procedures to be followed during the hearing were reviewed with Appellant. Appellant was sworn in. Exhibits were marked and admitted in evidence with no objection from Appellant. Appellant testified.

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

- Exhibit 1: Correspondence from the Health Connector, dated September 2, 2020
- Exhibit 2: Appeal Case Information from Schedule HC 2019
- Exhibit 3: Notice of Appeal, dated May 14, 2020
- Exhibit 4: Statement in Support of Appeal

FINDINGS OF FACT

The record shows, and I so find:

1. Appellant was 31 years old in 2019. Appellant filed a Massachusetts 2019 tax return as single with no dependents claimed (Exhibit 2).
2. Appellant resided in Norfolk County, MA in 2019 (Exhibit 2).
3. Appellant had an Adjusted Gross Income for 2019 of \$33,883 (Exhibit 2).
4. Appellant worked at two jobs in January 2019 and employer sponsored health insurance was available to Appellant in January 2019 (Testimony of Appellant).
5. Appellant lost the job with the employer sponsored insurance in February 2019 and Appellant did not have access to employer sponsored health insurance for the rest of the year (Testimony of Appellant).
6. Appellant worked from January through September and was laid off in September 2019 (Testimony of Appellant).
7. Appellant was unemployed from September through December (Testimony of Appellant)
8. Appellant lived with and supported a family member who did not work in 2019 (Testimony of Appellant).

9. Appellant had the following monthly expenses during 2019: rent \$1,388; utilities \$300; phone \$280; food \$867; clothing \$100; car payment \$339; car insurance \$150; gasoline \$150; student loans \$150. Appellant's monthly expenses were \$3,724.

10. I take administrative notice of the financial information set forth in Tables 1 through 6 in the DOR 2019 Massachusetts Schedule HC Health Care Instructions and Worksheets. Tables 3 and 4 incorporate affordability and premium schedules adopted by the Board of Directors for the Commonwealth Health Insurance Connector Authority for 2019. Table 2 sets forth income at 300% of the Federal poverty level and Tables 5 and 6 set forth tax penalties in effect for 2019.

11. According to Table 3 of Schedule HC for 2019 a person filing as single with no dependents with an adjusted gross income of \$33,883.00 could afford to pay \$141 per month for private insurance. According to Table 4, Appellant, aged 31 and living in Norfolk County could have purchased private insurance for \$279 per month.

12. Private insurance was not considered to be affordable for Appellant in 2019 (Schedule HC for 2019).

13. Appellant, earning less than \$36,420 would have been income eligible for government subsidized health insurance (Schedule HC for 2019).

14. Appellant did not have health insurance for eleven months of 2019 (Testimony of Appellant and Exhibit 2).

15. Appellant has been assessed a penalty for eight months for 2019 (Exhibit 2).

16. Appellant filed an Appeal on April 16, 2020 stating that the expense of purchasing health insurance would have caused a serious deprivation of food, shelter, clothing or other necessities (Exhibits 3 and 4).

ANALYSIS AND CONCLUSIONS OF LAW

G.L. c. 111M, § 2, also called the "individual mandate," requires every adult resident of Massachusetts to obtain health insurance that meets minimum creditable coverage standards "[s]o long as it is deemed affordable" under the schedule set by the board of directors for the Commonwealth Health Insurance Connector Authority. Residents who do not obtain insurance or who do not obtain insurance that meets the minimum creditable coverage standard are subject to a tax penalty for "each of the months" that the individual did not have health insurance as required by the individual mandate. There is a three-month grace period to allow the taxpayer to obtain health insurance coverage or to make the transition between health insurance policies. See G. L. c. 111M, sec. 2(b) and for Tax Year 2019, Administrative Bulletin 03-10: Guidance Regarding M.G.L. c. 111M and M.G.L. c. 176Q, as implemented by 956 CMR 6.00, which interprets the 63-day gap in coverage to be three months. The Connector's regulations provide for a waiver of the tax penalty in the case of a financial hardship. See 956 CMR 6.08.

Appellant has been assessed a tax penalty for eight months. To determine if the penalty should be waived in whole or in part, we must consider whether affordable insurance was available to Appellant, before we consider whether Appellant suffered a financial hardship such that the purchase of insurance which met minimum creditable coverage standards would have caused Appellant to experience a serious deprivation of basic necessities. See 956 CMR 6.

Appellant was not eligible for employer sponsored health insurance from February through December. According to Tables 2, 3 and 4 of Massachusetts Schedule HC 2019, Appellant would have been income eligible for subsidized health insurance. Since Appellant potentially had access to affordable insurance, we need to consider whether Appellant experienced a financial hardship as defined by 956 CMR 6.08.

Appellant helped to support a family member who could not work and Appellant was unemployed from September through December. Appellant had monthly expenses of \$3,724.00. Appellant's monthly income before taxes was \$2,823.00. Purchasing health insurance would have caused a serious deprivation of food, shelter clothing or other necessities. See Testimony of Appellant, which I find to be credible and 956 CMR 6.08 (1) (e).

I find the penalty assessed against Appellant for 2019 should be waived in its entirety.

PENALTY ASSESSED

Number of Months Appealed: 8

Number of Months Assessed: 0

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

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 2019.

NOTIFICATION OF YOUR RIGHT TO APPEAL TO COURT

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

Massachusetts Health Connector Appeals Unit

FINAL APPEAL DECISION: PA19-665

Appeal Decision: Penalty Overturned in Full
Hearing Issue: Appeal of the 2019 Tax Year Penalty
Hearing Date: October 6, 2020
Decision Date: November 23, 2020

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 October 6, 2020. The procedures to be followed during the hearing were reviewed with Appellant. Appellant was sworn in. Exhibits were marked and admitted in evidence with no objection from Appellant. Appellant testified.

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

- Exhibit 1: Correspondence from the Health Connector, dated September 2, 2020
- Exhibit 2: Appeal Case Information from Schedule HC 2019
- Exhibit 3: Notice of Appeal, dated May 10, 2020
- Exhibit 4: Statement in Support of Appeal

FINDINGS OF FACT

The record shows, and I so find:

1. Appellant was 61 years old in 2019. Appellant filed a Massachusetts 2019 tax return as single with no dependents claimed (Exhibit 2).
2. Appellant resided in Middlesex County, MA in 2019 (Exhibit 2).
3. Appellant had an Adjusted Gross Income for 2019 of \$27,034 (Exhibit 2).
4. Appellant did not work in 2019 or 2020 (Testimony of Appellant).
5. Appellant's income was from a settlement from Appellant's mother's estate (Testimony of Appellant).
6. Appellant filed the appeal stating that Appellant was claiming a religious exemption (Exhibit 4).
7. Appellant testified that the refusal to have health insurance was due to personal beliefs (Testimony of Appellant).
8. Appellant does not want to go to doctors or hospitals (Testimony of Appellant).
9. During 2019, Appellant went to a health clinic when Appellant had a chest infection and Appellant began a course of antibiotics (Testimony of Appellant).
10. Appellant struggled financially in 2019 and 2020, as Appellant's only source of money was the money that Appellant received in 2019 (Testimony of Appellant).

11. I take administrative notice of the financial information set forth in Tables 1 through 6 in the DOR 2019 Massachusetts Schedule HC Health Care Instructions and Worksheets. Tables 3 and 4 incorporate affordability and premium schedules adopted by the Board of Directors for the Commonwealth Health Insurance Connector Authority for 2019. Table 2 sets forth income at 300% of the Federal poverty level and Tables 5 and 6 set forth tax penalties in effect for 2019.
12. According to Table 3 of Schedule HC for 2019 a person filing as single with no dependents with an adjusted gross income of \$27,034 could afford to pay \$95 per month for private insurance. According to Table 4, Appellant, aged 61 and living in Middlesex County could have purchased private insurance for \$418 per month.
13. Private insurance was not considered to be affordable for Appellant in 2019 (Schedule HC for 2019).
14. Appellant, earning less than \$36,420 would have been income eligible for government subsidized health insurance (Schedule HC for 2019).
15. Appellant did not have health insurance for twelve months of 2019 (Testimony of Appellant and Exhibit 2).
16. Appellant has been assessed a penalty for twelve months for 2019 (Exhibit 2).
17. Appellant filed an Appeal on May 10, 2020 stating that Appellant was claiming a religious exemption (Exhibits 3 and 4).

ANALYSIS AND CONCLUSIONS OF LAW

G.L.c. 111M, § 2, also called the “individual mandate,” requires every adult resident of Massachusetts to obtain health insurance that meets minimum creditable coverage standards “[s]o long as it is deemed affordable” under the schedule set by the board of directors for the Commonwealth Health Insurance Connector Authority. Residents who do not obtain insurance or who do not obtain insurance that meets the minimum creditable coverage standard are subject to a tax penalty for “each of the months” that the individual did not have health insurance as required by the individual mandate. There is a three-month grace period to allow the taxpayer to obtain health insurance coverage or to make the transition between health insurance policies. See G. L. c. 111M, sec. 2(b) and for Tax Year 2019, Administrative Bulletin 03-10: Guidance Regarding M.G.L. c. 111M and M.G.L. c. 176Q, as implemented by 956 CMR 6.00, which interprets the 63-day gap in coverage to be three months. The Connector’s regulations provide for a waiver of the tax penalty in the case of a financial hardship. See 956 CMR 6.08.

Appellant has been assessed a tax penalty for twelve months. To determine if the penalty should be waived in whole or in part, we must consider whether affordable insurance was available to Appellant, before we consider whether Appellant suffered a financial hardship such that the purchase of insurance which met minimum creditable coverage standards would have caused Appellant to experience a serious deprivation of basic necessities. See 956 CMR 6.

According to Tables 2, 3 and 4 of Massachusetts Schedule HC 2019, Appellant would have been income eligible for subsidized health insurance. Since Appellant potentially had access to affordable insurance, we need to consider whether Appellant experienced a financial hardship as defined by 956 CMR 6.08.

Appellant filed the appeal stating that Appellant was claiming a religious exemption. A religious exemption must be claimed when filing the Massachusetts tax return. A religious exemption is not grounds for a hardship appeal. Additionally, Appellant may still be subject to a penalty even had Appellant claimed the religious exemption when filing taxes or an Amended tax return if Appellant received medical care during 2019. Appellant did receive medical care during 2019 (See Schedule HC 2019, Line 8 instructions and Testimony of Appellant which I find to be credible).

However, due to Appellant's testimony that the \$27,034 income was from an estate settlement and that Appellant had no income in 2020, I will find that purchasing insurance in 2019 would cause Appellant a serious deprivation of food, shelter, clothing or other necessities.

I find the penalty assessed against Appellant for 2019 should be waived in its entirety.

Appellant should note that this decision is based on the facts as I have found them for 2019. Appellant should not assume that a similar decision will be reached if Appellant fails to have health insurance 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 2019 for the amount equal to one half of the lowest cost health insurance plan available to you for each month you have been assessed the penalty, as listed above, plus applicable interest back to the due date of the return without regard to extension.

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 2019.

NOTIFICATION OF YOUR RIGHT TO APPEAL TO COURT

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

ADDENDUM

If Appellant wishes to file for a religious exemption in the future, Appellant is required to file the request for exemption when the taxes are filed. Appellant is encouraged to contact the Health Connector at 1 877 623-6765 to review the options for subsidized health insurance since Appellant sometimes finds it necessary to obtain medical treatment.

Massachusetts Health Connector Appeals Unit

FINAL APPEAL DECISION: PA19691

Appeal Decision: The penalty is overturned in full.

Hearing Issue: Appeal of the 2019 Tax Year Penalty

Hearing Date: October 6, 2020

Decision Date: November 18, 2020

AUTHORITY

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

JURISDICTION

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

HEARING RECORD

Both of the appellants appeared at the hearing which was held by telephone on October 6, 2020. The procedures to be followed during the hearing were reviewed with Appellants who were then sworn in. Exhibits were marked and admitted in evidence with no objection from the appellants. Appellants testified.

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 2019 signed and dated by Appellants on April 27, 2020 with 1095-C for 2019 attached

Exhibit 2: Appeal Case Information from Schedule HC 2019

Exhibit 3: Notice of Hearing sent to Appellant dated September 3, 2020 for October 6, 2020 hearing

FINDINGS OF FACT

The record shows, and I so find:

1. Appellants, who filed a 2019 Massachusetts tax return jointly with no dependents claimed, were 25 and 24 years old in 2019 (Exhibit 2, Testimony of Appellant).
2. Appellants lived in Worcester County in 2019 (Exhibit 2, Testimony of Appellant).
3. Appellants' Federal Adjusted Gross Income for 2019 was \$57,764 (Exhibit 2, Testimony of Appellant).
4. One of the appellants was employed all year. This appellant worked at a store on average thirty hours a week, though sometimes Appellant worked as little as twenty hours and sometimes as much as forty hours. Appellant worked fewer hours in April, May, and June. Appellant earned about \$31,000 during the year (Testimony of Appellant).
5. The other appellant worked in one restaurant until October, 2019. In July, the appellant started work at a second restaurant where Appellant worked for the rest of the year. In October when Appellant left the first job, Appellant got another job, so that Appellant again had two jobs. This second job was also at a restaurant. Appellant worked fewer hours from January through June when the appellant only had one job (Testimony of Appellant)

6. One of the appellants had health insurance all of 2019 which met the Commonwealth's minimum creditable coverage standards. The appellant was covered under Appellant's parents' plan (Testimony of Appellant, Exhibit 2).
7. The other appellant had insurance from October through December, but the plan did not meet the Commonwealth's minimum creditable coverage standards. It did not coverage hospitalizations or emergency room visits. Appellant obtained this coverage through employment. It was the only coverage offered to Appellant all year. From January through September, the appellant had no coverage. (Testimony of Appellant, Exhibit 2).
8. The appellant who did not have coverage has been assessed a penalty for all of 2019 (Exhibit 2, Testimony of Appellant).
9. I take administrative notice of the financial information set forth in Tables 1 through 6 in the DOR 2019 Massachusetts Schedule HC Health Care Instructions and Worksheets. Tables 3 and 4 incorporate affordability and premium schedules adopted by the Board of Directors for the Commonwealth Health Insurance Connector Authority for 2019. Table 2 sets forth income at 300% of the Federal poverty level and Tables 5 and 6 set forth tax penalties in effect for 2019.
10. According to Table 3 of Schedule HC for 2019, the appellants with no dependent claimed with an adjusted gross income of \$57,764 could afford to pay \$365 per month for health insurance. According to Table 4, Appellants, ages 24 and 25 and living in Worcester County, could have purchased insurance for \$514 per month for a plan for a married couple. Such coverage would have been unaffordable for the appellants. However, only one of the appellants needed coverage. A plan for an individual would have cost \$257 and would have been affordable for the uninsured appellant. The appellant who had coverage did not pay the premium; Appellant was covered by Appellant's parents (Schedule HC for 2019, Tables 3 and 4; Exhibit 2; Testimony of Appellant).
11. According to Table 2 of Schedule HC for 2019, Appellants earning more than \$49,380, the income limit for a family of two, would have been ineligible for the ConnectorCare program based upon income (Exhibit 2, Table 2 of Schedule HC-2019, 956 CMR 12.00 et. seq.).
12. Appellants did not incur significant and unexpected increases in essential expenses as a result of domestic violence; the death of a spouse, family member, or partner who shared household expenses; the sudden responsibility for providing full care for an aging parent or other family member; or fire, flood, or other natural or man-made disaster in 2019 (Testimony of Appellant).
12. Appellants did not fall more than thirty days behind in rent payments in 2019 (Testimony of Appellant).
13. Appellants did not receive any shut-off notices for basic utilities during 2019 (Testimony of Appellant).
14. Appellants had the following monthly expenses for basic necessities in 2019: rent-\$800; electricity-\$150; heat-\$100; telephone and internet-\$70; food and household and personal items-\$580; car insurance-\$196; gas-\$275; car payments- \$228 from January through July and \$515 from August through December; clothing-\$25; student loan repayment-\$100. In August, one of the appellant's car was repossessed. The appellant had to pay \$1,200 to get the car back. One of the appellants was in graduate school during the first semester. The appellant paid \$1,000 in tuition and \$200 for texts. The appellants also spent \$100 on dental care during the year (Testimony of Appellant).
15. In March, 2020 the appellants moved to another state where the uninsured appellant obtained covered through the state's exchange (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 2019 should be waived, either in whole or in part. One of the appellants has been assessed a tax penalty for all of 2019. Appellants have appealed the penalty. See Exhibits 1 and 2.

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

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

According to Table 3 of Schedule HC for 2019, the appellants with no dependent claimed with an adjusted gross income of \$57,764 could afford to pay \$365 per month for health insurance. According to Table 4, Appellants, ages 24 and 25 and living in Worcester County, could have purchased insurance for \$514 per month for a plan for a married couple. Such coverage would have been unaffordable for the appellants. However, only one of the appellants needed coverage. A plan for an individual would have cost \$257 and would have been affordable for the uninsured appellant. The appellant who had coverage did not pay the premium; Appellant was covered by Appellant’s parents See Schedule HC for 2019, Tables 3 and 4; Exhibit 2; and the testimony of Appellant which I find credible.

The uninsured appellant worked at three restaurants during 2019. Two did not offer any health insurance coverage. The third offered coverage but the plan offered did not meet the Commonwealth’s minimum creditable coverage standards. For example, it did not cover emergency room visits or hospitalizations. Appellant enrolled in the plan from October through December. See the testimony of the appellant which I find to be credible.

Appellant could not have obtained coverage through the Connector’s ConnectorCare program. The couple earned more than the income cap for a household of two (\$49,380). See Exhibit 1, Table 2 of Schedule HC-2019, 956 CMR 12.00 et. seq.

Since affordable coverage was available to the uninsured appellant through the individual market, we need to consider whether the appellants had a financial hardship such that the cost of purchasing health insurance would have caused them 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).

Appellants had the following monthly expenses for basic necessities in 2019: rent-\$800; electricity-\$150; heat-\$100; telephone and internet-\$70; food and household and personal items-\$580; car insurance-\$196; gas-\$275; car payments- \$228 from January through July and \$515 from August through December; clothing-\$25; student loan repayment-\$100. In August, one of the appellant’s car was repossessed. The appellant had to pay \$1,200 to get the car back. One of the appellants was in graduate school during the first semester. The appellant paid \$1,000 in tuition and \$200 for texts. The appellants also spent \$100 on dental care during the year. Appellants’ income was inconsistent. The appellant who had the same job all year in a grocery store worked different hours from week to

Massachusetts Health Connector Appeals Unit

FINAL APPEAL DECISION: PA19715

Appeal Decision: The penalty is upheld in part.

Hearing Issue: Appeal of the 2019 Tax Year Penalty

Hearing Date: October 15, 2020

Decision Date: November 2, 2020

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 October 15, 2020. 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 2019 signed and dated by Appellant on May 26, 2020 with letter in support attached
- Exhibit 2: Appeal Case Information from Schedule HC 2019
- Exhibit 3: Notice of Hearing sent to Appellant dated September 17, 2020 for October 15, 2020 hearing
- Exhibit 4: Connector Final Appeal Decision for Tax Year 2016, dated November 12, 2017

FINDINGS OF FACT

The record shows, and I so find:

1. Appellant, who filed a 2019 Massachusetts tax return jointly as a single person with no dependents claimed, was 29 years old in 2019. (Exhibit 2, Testimony of Appellant).
2. The appellant resided in Suffolk County in 2019, until the beginning of December when Appellant moved out of state. Appellant had a Federal adjusted gross income of \$89,323. Appellant was a consultant during 2019 (Exhibit 2, Testimony of Appellant).
3. Appellant came to the United States from her country of origin in 2015 on a visa. to study. Appellant moved to Massachusetts in 2016 while she was still in a graduate program. While in Massachusetts, she finished her studies and got a job. Appellant was still in the United States on a visa (Exhibit 4).
4. In 2016 and 2018, Appellant did not have health insurance and was assessed a penalty. In 2016, Appellant attended a hearing after appealing the assessment. A final decision on Appellant's appeal was issued on November 17, 2017. Appellant's penalty was waived in part. In the decision, Appellant was put on notice that if she resided in Massachusetts she was subject to the law requiring health insurance coverage, even if Appellant was in the country on a visa. Appellant received a copy of the decision (Exhibits 1 and 4; Testimony of Appellant).

5. Appellant has been an assessment for all of 2019. Appellant appealed the assessment, claiming that she was not required to have health insurance while residing in Massachusetts because she was in the United States on a visa (Exhibits 1 and 2, Testimony of Appellant).
6. In 2019, Appellant looked into getting health insurance. The appellant decided she could not afford the premium payments of between \$400 and \$500 a month, so she did not get coverage. Her employer did not offer her any coverage. As of the date of this hearing, Appellant still did not have health insurance (Testimony of Appellant).
7. I take administrative notice of the financial information set forth in Tables 1 through 6 in the DOR 2019 Massachusetts Schedule HC Health Care Instructions and Worksheets. Tables 3 and 4 incorporate affordability and premium schedules adopted by the Board of Directors for the Commonwealth Health Insurance Connector Authority for 2019. Table 2 sets forth income at 300% of the Federal poverty level and Tables 5 and 6 set forth tax penalties in effect for 2019.
8. According to Table 3 of Schedule HC for 2019, the appellant who filed a Massachusetts tax return as a single person with no dependents claimed with a Federal adjusted gross income of \$89,323 could afford to pay \$595 per month for health insurance. According to Table 4, Appellant, 29 years old and living in Suffolk County, could have purchased insurance for \$257 per month. Insurance on the individual market was affordable to the appellant (Schedule HC for 2019, Tables 3 and 4, Exhibit 2; Testimony of Appellant).
9. Appellant would have not been eligible for ConnectorCare coverage based upon the income limit, less than \$36,420 for one person (Testimony of Appellant, Exhibit 2, Schedule HC-2019 Table 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 fire, flood, or other natural or man-made disaster in 2019 (Testimony of Appellant).
13. Appellant did not fall more than thirty days behind in rent payments in 2019 (Testimony of Appellant).
14. Appellant did not receive any shut-off notices or terminations of utilities in 2019 (Testimony of Appellant).
15. Appellant had the following monthly expenses for basic necessities: rent-\$950; electricity-\$50; heat-\$80; telephone and internet-\$165; car payment-\$412; car insurance-\$575; gas-\$200; excise tax-\$23; food and household supplies-\$630; clothing-\$375; student loan payments-\$1,300 (Testimony Appellant).

ANALYSIS AND CONCLUSIONS OF LAW

The issue on appeal is whether the tax penalty assessed by the Massachusetts Department of Revenue for 2019 should be waived, either in whole or in part.

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 appellant has been assessed a penalty for all of 2019. However, Appellant moved out of Massachusetts in early December, 2019. Appellant's penalty for December is waived because she was not a resident of Massachusetts during that month and was, therefore, not subject to the laws of the Commonwealth. See Massachusetts General Laws, Chapter 111M, Section 2. See Exhibits 1, 2 and the testimony of the appellant which I find to be credible.

Appellant still faces a penalty for January through November. Appellant claimed that she was not subject to the requirements of M.G. L. Chapter 111M, Section 2 because Appellant was present in the United States on a visa. Appellant, who resided in Massachusetts from January through November, and who filed a Massachusetts tax return, had to comply with the law. See M. G.L. Chapter 111M, Sections 1 and 2. In 2017, Appellant made the same claim on appeal for Tax Year 2016. Her argument was found to be without merit then and her penalty was not fully waived. She received this decision in writing. At the hearing for tax year 2019, Appellant testified that she received a copy of the Tax Year 2016 decision. Appellant clearly was on notice that she had to comply with the Massachusetts requirements regarding health insurance coverage during 2019. See Exhibits 1, 2, and 4, and the testimony of the appellant.

To determine if the remaining 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 while the 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 2019, the appellant who filed a Massachusetts tax return as a single person with no dependents claimed with a Federal adjusted gross income of \$89,323 could afford to pay \$595 per month for health insurance. According to Table 4, Appellant, 29 years old and living in Suffolk County, could have purchased insurance for \$257 per month. Insurance on the individual market was affordable to the appellant See Schedule HC for 2019, Tables 3 and 4, Exhibit 2, and the testimony of Appellant which I find to be credible, and Exhibit 1, attachment.

Since affordable health insurance was available to the appellant 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 had the following monthly expenses for basic necessities: rent-\$950; electricity-\$50; heat-\$80; telephone and internet-\$165; car payment-\$412; car insurance-\$575; gas-\$200; excise tax-\$23; food and household supplies-\$630; clothing-\$375; student loan payments-\$1,300. 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 2019. Appellant did not fall more than thirty days behind in rent payments in 2019, nor did she receive any shut-off or termination notices for basic utilities. See the testimony of the appellant which I find to be credible.

Appellant's monthly expenses for basic necessities came to approximately \$5,000. Her monthly income before taxes amounted to \$7,400. Appellant had about \$2,500 to cover taxes and the cost of health insurance. According to Table 4 of Schedule HC for 2019, Appellant could have purchased a plan which met the Commonwealth's standards for as little as \$257 per month. Based upon the facts, I determine that the cost of purchasing health

insurance would not have caused the appellants to experience a serious deprivation of basic necessities (See 956 CMR 6.08(1)(e)).

In addition, 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 2019. The appellant did not fall more than thirty days behind in rent payments, and she did not receive any termination notices for basic utilities or have any utility shut off in 2019. See the testimony of the appellant which I find to be credible and 956 CMR 6.08 (1)(a), (b), and (d).

Appellant's penalty is waived in part only. Coverage was available and affordable. Appellant did not suffer any financial hardship as defined in 956 CMR 6.08. Appellant moved out of the Commonwealth in early December. The penalty for December is waived. In addition, I determine that Appellant's penalty for October and November is waived considering her planned move out of the Commonwealth.

Appellant should note that the partial waiver of the penalty is based upon the facts I have found to be true in 2019. Should Appellant move back to the Commonwealth, she has notice that despite being in the United States on a visa, she would be subject to the provisions of Massachusetts law.

PENALTY ASSESSED

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

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

NOTIFICATION OF YOUR RIGHT TO APPEAL TO COURT

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

Hearing Officer

Cc: Connector Appeals Unit

Massachusetts Health Connector Appeals Unit

FINAL APPEAL DECISION: PA19-722

Appeal Decision: Appeal Denied.

Hearing Issue: Appeal of the 2019 Tax Year Penalty

Hearing Date: October 16, 2020

Decision Date: November 5, 2020

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 October 16, 2020. The Appellant's parent attended the hearing but did not testify. The procedures to be followed during the hearing were reviewed with the parties who were then sworn in. Exhibits were marked and admitted into evidence with no objection from the Appellant. 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 September 17, 2020.
- Exhibit 2: Appeal Case Information from Schedule HC 2019.
- Exhibit 3: Statement of Grounds for Appeal signed by the Appellant on May 23, 2020.
- Exhibit 4: Appellant's letter in support of this appeal.
- Exhibit 5: Health Connector Appeals Unit Open Record Form dated October 16, 2020.

FINDINGS OF FACT

The record shows, and I so find:

1. The Appellant turned 34 years old in October 2019. The Appellant filed their Federal Income Tax return as a single person with no dependents claimed (Exhibit 2).
2. The Appellant lived in Middlesex County, MA in 2019 (Exhibit 2).
3. The Appellant's Federal Adjusted Gross Income for 2019 was \$47,337 (Exhibit 2).
4. The Appellant did not have health insurance for any months in tax year 2019 (Exhibit 2).
5. The Appellant has been assessed a twelve-month tax penalty for 2019 (Exhibit 2).

6. The Appellant filed an appeal of the assessment in May 2020. The Appellant wrote that they intended to purchase health insurance during open enrollment but needed a medical procedure not covered by insurance and as a result made the decision to pay for the procedure rather than health insurance (Exhibits 3, 4).
7. I take administrative notice of the financial information set forth in Tables 1 through 6 in the DOR 2019 Massachusetts Schedule HC Health Care Instructions and Worksheets. Tables 3 and 4 incorporate affordability and premium schedules adopted by the Board of Directors for the Commonwealth Health Insurance Connector Authority for 2019. Table 2 sets forth income at 300% of the Federal poverty level and Tables 5 and 6 set forth tax penalties in effect for 2019.
8. In accordance with Table 3 of Schedule HC for 2019, the Appellant filing the Federal tax return as a single person, with no dependents claimed, with an annual adjusted gross income of \$47,337 could afford to pay \$300 per month for health insurance. In accordance with Table 4, the Appellant, age 34, living in Middlesex County, could have purchased private insurance for \$279 per month for a single plan (Schedule HC for 2019). Private insurance was affordable for the Appellant.
9. The Appellant testified that they did not have access to employer sponsored health insurance in tax year 2019. The Appellant would not have been eligible for ConnectorCare coverage in 2019 because the Appellant's income was greater than 300% of the federal poverty level, which was \$36,420 in 2019. (See Table 2 of Schedule HC-2019 and 956 CMR 12.04).
10. The Appellant testified that they had MassHealth in 2018 and looked into purchasing insurance when their MassHealth ended. The Appellant said to keep the Tufts plan they had required a monthly premium of \$345 with a large deductible. The Appellant stated that they do not go to the doctor very often and it was cheaper to pay out of pocket. The Appellant said that they needed dental surgery that would not have been covered so they made the decision to pay for the dental procedure rather than the monthly health insurance premium. When asked, the Appellant said that they spent over \$17,000 and had additional expenses for plumbing school (Appellant Testimony).
11. After the hearing concluded, the record was left open until October 30, 2020 to allow the Appellant to submit receipts to verify their testimony regarding their out of pocket medical, dental, and educational expenses for tax year 2019 (Exhibit 5).
12. The Appellant did not submit any additional information during the record open period.

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 did not have health insurance for any months in tax year 2019 and has consequently been assessed a twelve-month penalty. The Appellant submitted a statement of grounds for this appeal citing financial hardship as the basis for the Appeal. The Appellant wrote that they required a medical procedure not covered by health insurance and made the decision to pay for the procedure and other out of pocket medical expenses rather than pay the cost of a monthly premium with a deductible.

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 2019, the Appellant filing the Federal tax return as a single person with no dependents claimed, with an adjusted gross income of \$47,337 could afford to pay \$300 per month for health insurance. In accordance with Table 4, the Appellant, age 34, living in Middlesex County, could have purchased private insurance for \$279 per month for a plan (Schedule HC for 2019). Private insurance was affordable for the Appellant in 2019.

The Appellant did not have access to employer sponsored health insurance in tax year 2019. The Appellant would not have been eligible for ConnectorCare coverage because the Appellant's income was greater than 300% of the federal poverty level, which was \$36,420 in 2019. (See Table 2 of Schedule HC-2018 and 956 CMR 12.04). Since affordable insurance was available to the Appellant in 2019, it must be determined whether the Appellant experienced a financial hardship pursuant to 956 CMR 6.08 (1).

The Appellant testified that they needed dental surgery that would not have been covered by insurance in tax year 2019. The Appellant said that they spent \$17,000 in medical/dental expenses and spent an additional \$1,300 for an educational program and the required book. After the October 16, 2020 hearing concluded, the record was left open until October 30, 2020 to allow the Appellant to submit documentation of their medical, dental and education expenses. The Appellant did not submit any documentation during the record open period.

The Appellant's adjusted gross income was \$47,337 in tax year 2019. Private insurance was available to the Appellant at a cost of \$279 per month which is less than the \$300 deemed affordable under Table 3 of Schedule HC for 2019. The record was left open for two weeks after the October 16, 2020 hearing to allow the Appellant to verify their testimony that they could not afford health insurance because they paid \$17,000 for out of pocket dental expenses not covered by insurance in tax year 2019. The Appellant did not submit any documentation with their appeal or during the record open period to substantiate their claim that purchasing health insurance would have caused the Appellant to experience a serious financial hardship in tax year 2019. The Appellant's twelve-month penalty is upheld. See 956 CMR 6.08.

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 2019 for the amount equal to one half of the lowest cost health insurance plan available to you for each month you have been assessed the penalty, as listed above, plus applicable interest back to the due date of the return without regard to extension.

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: PA19747

Appeal Decision: The penalty is overturned in full.

Hearing Issue: Appeal of the 2019 Tax Year Penalty

Hearing Date: October 22, 2020

Decision Date: November 19, 2020

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 October 22, 2020. 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 2019 signed and dated by Appellant on May 26, 2020 with letter in support attached
- Exhibit 2: Appeal Case Information from Schedule HC 2019
- Exhibit 3: Notice of Hearing sent to Appellant dated September 24, 2020 for October 22, 2020 hearing
- Exhibit 4: 2019 year-end summary of credit card use
- Exhibit 5: College tuition and fee bill, September, 2019

FINDINGS OF FACT

The record shows, and I so find:

1. Appellant, who filed a 2019 Massachusetts tax return as a single person with no dependents claimed, was 28 years old in 2019 (Exhibit 2, Testimony of Appellant).
2. Appellant resided in Middlesex County in 2019 (Testimony of Appellant, Exhibit 2).
3. Appellant had a Federal Adjusted Income of \$30,370 in 2019 (Testimony of Appellant, Exhibit 2).
4. Appellant was a part-time student in 2019. Appellant also had two part-time jobs, one all year, and one from January through August. His income dropped by 50% at the end of August (Testimony of Appellant, Exhibit 1 attachment).
5. Appellant was not offered health insurance through either job or through the school Appellant attended (Testimony of Appellant, Exhibit 1 attachment).

6. Appellant had no health insurance coverage in 2019. Appellant did look for coverage but Appellant thought the coverage was too expensive (Testimony of Appellant, Exhibit 2).

7. Appellant has been assessed a penalty for all of 2019. Appellant has appealed this assessment, claiming that the cost of purchasing health insurance would have caused Appellant to experience a serious deprivation of basic necessities (Testimony of Appellant, Exhibits 1 and 2).

8. I take administrative notice of the financial information set forth in Tables 1 through 6 in the DOR 2019 Massachusetts Schedule HC Health Care Instructions and Worksheets. Tables 3 and 4 incorporate affordability and premium schedules adopted by the Board of Directors for the Commonwealth Health Insurance Connector Authority for 2019. Table 2 sets forth income at 300% of the Federal poverty level and Tables 5 and 6 set forth tax penalties in effect for 2019.

9. According to Table 3 of Schedule HC for 2019, the appellant with no dependents claimed with an adjusted gross income of \$30,370 could afford to pay \$126 per month for health insurance. According to Table 4, Appellant, 28 years old and living in Middlesex County, could have purchased insurance for \$257 per month for a plan for an individual. Insurance on the individual market was unaffordable for the appellant (Schedule HC for 2019 Tables 3 and 4, Exhibit 2).

10. According to Table 2 of Schedule HC for 2019, Appellant earning less than \$36,420 per year, would have been eligible for the ConnectorCare program based upon income (Table 2 of Schedule HC-2019, and Exhibit 2).

11. Appellant did not incur significant and unexpected increases in essential expenses as a result of domestic violence; the death of a spouse, family member, or partner who shared household expenses; the sudden responsibility for providing full care for an aging parent or other family member; or fire, flood, or other natural or man-made disaster in 2019 (Testimony of Appellant).

13. Appellant did not fall more than thirty days behind in rent payments in 2019 (Testimony of Appellant).

14. Appellant did not receive any shut-off notices for basic utilities in 2019 (Testimony of Appellant).

15. Appellant had the following monthly expenses for basic necessities in 2019: rent-\$950 from January through March, and \$900 the rest of the year; heat, electricity, and internet-\$70 on average; telephone-\$0.00; food-\$600 on average; transportation-\$270; clothing-\$10.00. Appellant also paid \$210 a month for college tuition and fees. Appellant had travel (to see family), technology, and eye glass expenses of about \$1,500 during the year (Testimony of Appellant, Exhibit 1 attachment).

ANALYSIS AND CONCLUSIONS OF LAW

The issue on appeal is whether the tax penalty assessed by the Massachusetts Department of Revenue for 2019 should be waived, either in whole or in part.

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 has been assessed for a penalty for all of 2019. The appellant has appealed the assessment. Exhibits 1, 2. Appellant obtained health insurance which met the Commonwealth's minimum creditable coverage standards as of August, 2020 when Appellant became a full-time student. See the testimony of the appellant which I find to be credible and Exhibit 2.

To determine if the rest of 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 2019, the appellant with no dependents claimed with an adjusted gross income of \$30,370 could afford to pay \$126 per month for health insurance. According to Table 4, Appellant, 28 years old and living in Middlesex County, could have purchased insurance for \$257 per month for a plan for an individual. Insurance on the individual market was unaffordable for him. See Schedule HC for 2019, Tables 3 and 4, Exhibit 2.

Appellant had no access to health insurance through employment in 2019. Appellant had two part-time jobs, neither of which offered health insurance to Appellant. See the testimony of the appellant which I find to be credible.

Appellant could have had affordable coverage through the ConnectorCare program. His annual Federal Adjusted Income was \$30,370, less than the income limit for one person (\$36,420). He also had no access to employer-sponsored insurance during the months for which he has been assessed a penalty. See 956 CMR 12.00 et. seq.

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

Appellant had the following expenses for basic necessities in 2019: rent-\$950 from January through March, and \$900 the rest of the year; heat, electricity, and internet-\$70 on average; telephone-\$0.00; food-\$600 on average; transportation-\$270; clothing-\$10.00. Appellant also paid \$210 a month for college tuition and fees. Appellant had travel, technology, and eye glass expenses of about \$1,500 during the year. See the testimony of Appellant, which I find to be credible, and Exhibit 1.

Appellant, a part-time student with two part-time jobs, had little or no disposable income left after paying for basic necessities and the cost of college tuition and fees. Given his expenses listed above and his income which varied throughout the year, I determine that the appellant had a financial hardship such that health insurance was unaffordable for him. The cost of purchasing coverage would have caused him to experience a serious deprivation of basic necessities. See 956 CMR 6.08(1)(e). See also 956 CMR 6.08(3) which allows the consideration of other financial issues raised by the appellant during the hearing, in this case educational costs.

I also note that Appellant obtained coverage as soon as he became a full-time student and could purchase coverage through the college.

Appellant's penalty is waived.

Appellant should note that any waiver granted here is for 2019 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 2019.

NOTIFICATION OF YOUR RIGHT TO APPEAL TO COURT

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

Hearing Officer

Cc: Connector Appeals Unit

Massachusetts Health Connector Appeals Unit

FINAL APPEAL DECISION: PA19-765

Appeal Decision: Penalty Overturned in Full

Hearing Issue: Appeal of the 2019 Tax Year Penalty

Hearing Date: October 27, 2020

Decision Date: November 5, 2020

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 October 27, 2020, and testified under oath. The hearing record consists of the appellant's testimony and the following documents which were admitted into evidence without her objection:

- Ex. 1—Statement of Grounds for Appeal—2019
- Ex. 2—Appeal Case Information from Schedule HC ¹
- Ex. 3—Notice of Hearing

FINDINGS OF FACT

The record shows, and I so find:

1. The appellant is 28-years-old, is single, and does not have children. In 2019, she resided in Middlesex County, MA for the months of January and February, and in Norfolk County for the rest of the year. She did not have health insurance in 2019. (Testimony, Ex. 2)
2. In 2018, the appellant had employer health insurance for part of the year and was uninsured for the remainder. She was assessed a tax penalty for the months during which she was without insurance which she paid. (Testimony)
3. The appellant worked as an independent contractor in 2019 for three different employers. None of the employers offered health insurance. She investigated insurance options through the Health Connector, and determined that a monthly premium would have cost approximately \$284.00/month which she could not afford. (Testimony)

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

4. For 2020, the appellant enrolled in health insurance through the Connector beginning in July. Her monthly premium is \$223.00. (Testimony)
5. The appellant reported an adjusted gross income of \$49,762.00 on her 2019 federal tax return, and reported that she was single with no dependents. (Ex. 2)
6. The appellant was on a payment plan in 2019 with the Internal Revenue Service and the MA Department of Revenue for which she paid approximately \$300.00/month. (Testimony, Ex. 1)
7. The appellant had to tap into her savings in 2019 in order to cover many of her expenses. (Ex. 1)
8. In January and February, 2019, when the appellant resided in Middlesex County, she had regular monthly expenses of approximately \$2980.00 for rent (\$1169.00), heat (\$275.00), electricity (\$150.00), cable and internet services (\$150.00), automobile loan (\$560.00), automobile insurance (\$320.00), cell phone (\$141.00), food (\$175.00) and gasoline (\$40.00). In addition, the appellant paid \$450.00/month for two student loans and approximately \$400.00/month for credit card debt. From March through December, when the appellant resided in Norfolk County, she had regular monthly expenses of \$3582.00 for rent (\$1771.00), heat (\$225.00), electricity (\$200.00) and the remainder of the above-listed items. (Testimony, Ex. 1)

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

ANALYSIS AND CONCLUSIONS OF LAW

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

The appellant submitted a statement of grounds for appeal (Ex. 1), claiming that the individual mandate did not apply to her during 2019 because the expense of purchasing health insurance would have caused a serious deprivation of food, clothing, shelter or other necessities. She also submitted a letter with her statement in which she stated in part that she did not have sufficient income to cover her monthly expenses, thereby making the cost of health insurance unaffordable.

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

The appellant testified credibly that she worked as an independent contractor in 2019 for three different employers, none of whom offered health insurance. She testified that she investigated insurance options through the Health Connector and concluded that the monthly cost of approximately \$284.00 was beyond her means. Finally, she testified that for 2020, she was able to enroll in health insurance through the Connector in July.

The evidence provided by the appellant established that her income for 2019, \$49,762.00, was greater than 300% of the federal poverty level (FPL), which for 2019 was \$36,420.00 for an individual. Table 3 of the Affordability Schedule indicates that an individual filing separately with no dependents with a federal adjusted gross income above \$48,560.00 is deemed to be able to afford a monthly premium of \$331.75 (8.00% of \$49,762.00/12). Table 4 of the Premium Schedule indicates that a 27-year-old individual (the age of the appellant in 2019) in Middlesex and Norfolk Counties (where the appellant resided in 2019) could have purchased private health insurance for \$257.00 per month, less than the monthly amount deemed affordable from Table 3. Thus, according to the foregoing analysis, the appellant could have purchased affordable private health insurance in 2019.

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

The evidence presented by the appellant in this case is sufficient to establish that she experienced a financial hardship as defined by law so as to waive her penalty for the months in question. The appellant testified that in 2019 she incurred basic monthly expenses of approximately \$4130.00 including her tax payment plan, student loans and credit card debt for January and February, and \$4732.00 for the remainder of the year. Those expenses were more than her regular monthly pre-tax income of approximately \$4147.00 for most of the year and only slightly less than her income for the first two months, thereby making a private health insurance premium of \$257.00/month unmanageable. Hence, it is concluded that the totality of the evidence presented by the appellant established that she experienced financial circumstances such that the expense of purchasing health insurance that met minimum creditable coverage standards would have caused her to experience a serious deprivation of food, shelter, clothing or other necessities. See 956 CMR 6.08 (1)(e).

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

PENALTY ASSESSED

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

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

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

NOTIFICATION OF YOUR RIGHT TO APPEAL TO COURT

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

Hearing Officer

Cc: Connector Appeals Unit

Massachusetts Health Connector Appeals Unit

FINAL APPEAL DECISION: PA19-778

Appeal Decision: Appeal Approved

Hearing Issue: Appeal of the 2019 Tax Year Penalty

Hearing Date: October 29, 2020

Decision Date: November 24, 2020

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 October 29, 2020. The Appellant offered testimony under oath or affirmation. At the end of the hearing, the record was closed.

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

Exhibit 1: Appeal Case Information from 2019 Schedule HC (1 page)

Exhibit 2: 6/14/20 Appeal (4 pages)

Exhibit 3: 10/1/20 Hearing Notice (2 pages)

FINDINGS OF FACT

The record shows, and I so find:

1. The Appellant's filing status for 2019 was Single with no dependents. The Appellant's federal AGI in 2019 was \$42,264. The Appellant turned thirty years old in January 2019. The Appellant resided in Worcester County in 2019. (Exhibit 1)
2. On June 14, 2020, the Appellant appealed from the assessment of a twelve-month penalty on his 2019 income tax return, checking off "Other" on the appeal form, as the basis for his appeal, and stating that he could not afford to pay the tax penalty for 2019 unless he received a stimulus check in 2020. (Exhibit 2)
3. The Appellant worked for the same employer throughout 2019. (Appellant's testimony)
4. The Appellant's monthly expenses for basic necessities in 2019 included: rent, \$550; Internet, \$55; phone, \$75; car, gas, \$260; car payment, \$135; car insurance, \$170; tires, \$17; food, \$650; clothing, \$217; and, credit card minimum monthly payment, \$35, for a total of \$2,164/monthly and \$25,968 for the year. (Appellant's testimony)

5. According to Table 2 of the 2019 Schedule HC Guidelines, the Appellant did not qualify for government-subsidized health insurance coverage in 2019, since his income was more than \$36,420 for a family size of one.
6. According to Table 3, Affordability, of the Schedule HC 2019, based on his 2019 AGI and Single with no dependents tax filing status, the Appellant could have afforded to pay up to \$262/monthly for health insurance coverage in 2019.
7. According to Table 4, Premiums, the Appellant could have purchased health insurance coverage in the private market in 2019 for a monthly premium of \$257, and \$3,084 for the year.

ANALYSIS AND CONCLUSIONS OF LAW

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

The Appellant contends that he could not have afforded to obtain health insurance coverage in 2019. However, the evidence in the record shows otherwise. As the Appellant worked for the same employer throughout 2019 and his employer did not offer health insurance coverage, the Appellant had no choice but to seek health insurance coverage on his own. If he had done so, the Appellant would have found health insurance coverage in the private market at a cost of \$257/monthly. While the Appellant argues that he could not have afforded to pay \$257/monthly for coverage in 2019, his 2019 AGI of \$42,264 and 2019 expenses for basic necessities of \$25,968 left him with considerable income remaining to pay the \$257/monthly premium for coverage in the private market.

Therefore, I conclude that the Appellant did not experience financial circumstances in 2019 such that the cost of purchasing health insurance coverage in 2019 would have caused him a serious deprivation of basic necessities.

Accordingly, the Appellant’s twelve-month penalty for 2019 shall not be waived or reduced.

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 2019 for the amount equal to one half of the lowest cost health insurance plan available to you for each month you have been assessed the penalty, as listed above, plus applicable interest back to the due date of the return without regard to extension.

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 2019.

NOTIFICATION OF YOUR RIGHT TO APPEAL TO COURT

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

Hearing Officer

Cc: Connector Appeals Unit

Massachusetts Health Connector Appeals Unit

FINAL APPEAL DECISION: PA19-783

Appeal Decision: Appeal Approved

Hearing Issue: Appeal of the 2019 Tax Year Penalty

Hearing Date: October 29, 2020

Decision Date: November 24, 2020

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 October 29, 2020. The Appellant offered testimony under oath or affirmation. At the end of the hearing, the record was closed.

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

- Exhibit 1: Appeal Case Information from 2019 Schedule HC (1 page)
- Exhibit 2: 6/16/20 Appeal, part 1 (8 pages)
- Exhibit 3: 6/16/20 Appeal, part 2 (8 pages)
- Exhibit 4: 10/1/20 Hearing Notice (2 pages)

FINDINGS OF FACT

The record shows, and I so find:

1. The Appellant's filing status for 2019 was Single with no dependents. The Appellant's federal AGI in 2019 was \$96,785. The Appellant turned thirty-four years old in 2019. The Appellant resided in Middlesex County in 2019. (Exhibit 1)
2. On June 16, 2020, the Appellant appealed from the assessment of a seven-month penalty on his 2019 income tax return, checking off "Other" on the appeal form, as the basis for his appeal, and stating that it was not possible for him to get coverage in 2019 due to his employer's confusing policies and his changing financial circumstances during 2019. (Exhibit 2)
3. The Appellant worked for the same employer from October 1, 2018, through October 2019. His employer was a recruitment agency, and the Appellant worked on a temporary basis with his employer's customers. (Appellant's testimony)
4. The Appellant's employer offered health insurance coverage to employees following a 90-day waiting period. When the Appellant went to enroll for coverage beginning January 1, 2019, his employer told him

that he should have opted for coverage earlier and that he was too late to enroll for 2019. (Appellant's testimony)

5. According to Table 2 of the 2019 Schedule HC Guidelines, the Appellant did not qualify for government-subsidized health insurance coverage in 2019, since his income was more than \$36,420 for a family size of one.
6. According to Table 3, Affordability, of the Schedule HC 2019, based on his 2019 AGI and Single with no dependents tax filing status, the Appellant could have afforded to pay up to \$645/monthly for health insurance coverage in 2019.
7. According to Table 4, Premiums, the Appellant could have purchased health insurance coverage in the private market in 2019 for a monthly premium of \$279.
8. The Appellant did not check the private market for health insurance coverage in 2019, because he assumed that the cost would be too high. (Appellant's testimony)
9. The Appellant acknowledges that he "likely" could have afforded to pay a monthly premium of \$279 for health insurance coverage in 2019. (Appellant's testimony)

ANALYSIS AND CONCLUSIONS OF LAW

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

As the Appellant had a three-month grace period at the start of 2019 to obtain health insurance coverage and the Appellant had health insurance coverage in November and December 2019, at issue here are the seven months from April through September 2019, when the Appellant had no health insurance coverage. The Appellant contends that he was unable to get coverage during this time due to his employer's confusing policies and because of a puzzling message from the Health Connector when he applied for coverage that he already had an application pending with the Health Connector. I do not find either argument persuasive. With respect to the latter reason, the undated, one-page document without any name or date on it is insufficient to show that the Appellant made a reasonable effort to obtain coverage through the Health Connector in 2019. While his employer's policies may have made it difficult for him to obtain coverage due to the nature of his work as a temp, the Appellant had other ways to obtain affordable coverage. Health insurance coverage was available to the Appellant in the private market in 2019 for a monthly premium of \$279, and the Appellant acknowledged at hearing that he could have afforded coverage at this cost. It was not reasonable for the Appellant to assume that he could not afford coverage through the private market without directly checking the private market for how much coverage would cost him.

Therefore, I conclude that the Appellant has not established that health insurance that provided minimum creditable coverage in 2019 was not affordable to him because he experienced a hardship. 956 CMR 6.08(1).

Accordingly, the Appellant's seven-month penalty for 2019 shall not be waived or reduced.

PENALTY ASSESSED

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

The Connector has notified the Department of Revenue that, pursuant to its decision, you should be assessed a penalty for Tax Year 2019 for the amount equal to one half of the lowest cost health insurance plan available to

you for each month you have been assessed the penalty, as listed above, plus applicable interest back to the due date of the return without regard to extension.

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 2019.

NOTIFICATION OF YOUR RIGHT TO APPEAL TO COURT

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

Hearing Officer

Cc: Connector Appeals Unit

Massachusetts Health Connector Appeals Unit

FINAL APPEAL DECISION: PA19-785

Appeal Decision: Appeal Approved

Hearing Issue: Appeal of the 2019 Tax Year Penalty

Hearing Date: November 3, 2020

Decision Date: November 25, 2020

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 3, 2020. The Appellant offered testimony under oath or affirmation. At the end of the hearing, the record was closed.

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

Exhibit 1: Appeal Case Information from 2019 Schedule HC (1 page)

Exhibit 2: 6/24/20 Appeal (5 pages)

Exhibit 3: 10/7/20 Hearing Notice to PO Box (2 pages)

FINDINGS OF FACT

The record shows, and I so find:

1. The Appellant's filing status for 2019 was Married Filing Separate with a family size of two. The Appellant's federal AGI in 2019 was \$35,267. The Appellant resided in Middlesex County and turned fifty-seven years old in 2019. (Exhibit 1)
2. The Appellant appealed from the assessment of a four-month penalty on her 2019 income tax return, checking off on the appeal form: "During 2019, 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)
3. The Appellant checked off the wrong basis for her appeal on the form. The Appellant is appealing her tax penalty because, she contends, the cost of health insurance coverage in 2019 would have caused her a serious deprivation of basic necessities. (Appellant's testimony)
4. The Appellant was employed by the same employer during all of 2019. (Appellant's testimony)

5. The Appellant’s employer offered health insurance coverage for employees, and the Appellant was eligible for the coverage for a monthly premium that varied each month between \$160 and \$200 during the year. (Appellant’s testimony)
6. The Appellant considered enrolling in her employer’s coverage in 2019 but was concerned that she could not afford the cost. (Appellant’s testimony; Exhibit 2)
7. In July 2019, the Appellant applied to MassHealth for health insurance coverage and was approved for insurance coverage for a monthly premium of \$85 plus \$20 for dental coverage. The Appellant enrolled in the coverage and maintained the coverage from August through December 2019. The Appellant had health insurance coverage in 2019 only during those five months. (Appellant’s testimony; Exhibit 1)
8. The Appellant’s 2019 monthly expenses for basic necessities included: \$1,000, rent (including utilities, Internet, phone); \$120, car insurance; \$60, gas; \$300, food; and, \$25, clothing, for a total of \$1,505/monthly and \$18,060 for the year. (Appellant’s testimony)
9. According to Table 2 of the 2019 Schedule HC Guidelines, the Appellant qualified for government-subsidized health insurance coverage, since her income was less than \$49,380 for a family size of two.
10. According to Table 3, Affordability, of the Schedule HC 2019, based on the Appellant’s 2019 AGI and Married Filing Separate with one dependent tax filing status, the Appellant could have afforded to pay up to \$182/monthly for health insurance coverage in 2019.
11. According to Table 4, Premiums, health insurance coverage in the private market was available to the Appellant in 2019 for a monthly premium of \$418, based on her age and county of residence.

ANALYSIS AND CONCLUSIONS OF LAW

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

As the Appellant had a three-month grace period at the start of 2019 and had health insurance coverage from August through December 2019, at issue are the four months from April through July 2019, when the Appellant failed to have health insurance coverage. While the Appellant was eligible for the health insurance coverage offered by her employer, it was reasonable for the Appellant to be concerned about whether she could afford the employer’s coverage due to the premium varying from month to month. However, the Appellant offered no explanation for why she waited until July before applying to MassHealth for health insurance coverage in 2019. When she did so, the Appellant qualified for health insurance coverage with a monthly premium of \$85, significantly less than the \$182 monthly premium that her 2019 income indicated that she could afford to pay for health insurance. The coverage was effective beginning in August 2019, and through the remainder of 2019.

As affordable health insurance coverage was available to the Appellant in 2019, I conclude that the Appellant has not established that she could not have afforded to purchase health insurance coverage that met minimum creditable coverage standards during 2019, under 956 CMR 6.8(1)(e).

Accordingly, the Appellant’s four-month penalty for 2019 shall not be waived or reduced.

PENALTY ASSESSED

Number of Months Appealed: 4 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 2019 for the amount equal to one half of the lowest cost health insurance plan available to you for each month you have been assessed the penalty, as listed above, plus applicable interest back to the due date of the return without regard to extension.

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 2019.

NOTIFICATION OF YOUR RIGHT TO APPEAL TO COURT

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

Hearing Officer

Cc: Connector Appeals Unit

Massachusetts Health Connector Appeals Unit

FINAL APPEAL DECISION: PA19-787

Appeal Decision: Appeal Approved

Hearing Issue: Appeal of the 2019 Tax Year Penalty

Hearing Date: November 3, 2020

Decision Date: November 27, 2020

AUTHORITY

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

JURISDICTION

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

HEARING RECORD

The Appellant/husband appeared at the hearing, which was held by telephone, on November 3, 2020. The Appellant offered testimony under oath or affirmation. At the end of the hearing, the record was closed.

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

- Exhibit 1: Appeal Case Information from 2019 Schedule HC (1 page)
- Exhibit 2: 6/23/20 Appeal (4 pages)
- Exhibit 3: 10/7/20 Hearing Notice (2 pages)

FINDINGS OF FACT

The record shows, and I so find:

1. The Appellants' filing status for 2019 was Married Filing Joint with no dependents. The Appellants' federal AGI in 2019 was \$72,836. The Appellants turned sixty-four and sixty-one years old in 2019. The Appellants lived in Essex County in 2019. (Exhibit 1)
2. The Appellants appealed from the assessment of two five-month penalties on their 2019 income tax return without checking off any of the boxes for their grounds for appeal. In their cover letter, the Appellant/husband stated that they had health insurance coverage through a new employer in 2019 and did not learn that the coverage was not MCC compliant until he did their 2019 tax return and requested a 1099-HC from his employer. (Exhibit 2; Appellant's testimony)
3. The Appellants had health insurance coverage through COBRA during the first four months of 2019. (Appellant's testimony)
4. In early 2019, the Appellant/husband began working for a new employer. The new employer was based in Hudson, New Hampshire. Many of the company's employees commuted to work from Massachusetts, as he did. (Appellant's testimony)

5. The Appellant/husband's new employer offered health insurance coverage. As soon as he was eligible, the Appellants enrolled in the new employer's coverage, effective at the beginning of May 2019. The Appellants paid a bi-weekly premium of \$300 for the coverage. While this coverage was very expensive for them, the Appellants wanted to have comprehensive health insurance benefits and the coverage appeared to meet their needs. As the employer had many Massachusetts-resident employees, the Appellants assumed that the coverage met Minimum Creditable Coverage (MCC) standards. (Appellant's testimony)
6. The employer's coverage did not meet MCC standards because either the deductible or the out-of-pocket maximum was too high. (Exhibit 2)
7. The Appellants' \$300 bi-weekly premium for coverage was equivalent to \$650 monthly.
8. The Appellants first learned that the new employer's coverage was not MCC compliant when they did their tax return for 2019 and needed to submit a Form 1099 HC. (Appellant's testimony)
9. The Appellants have MCC-compliant coverage now through the Appellant/wife's coverage offered by her employer. (Appellant's testimony)
10. According to Table 3, Affordability, of the Schedule HC 2019, based on their 2019 AGI and Married Filing Joint with no dependents tax filing status, the Appellant could have afforded to pay up to \$485/monthly for health insurance coverage in 2019.
11. According to Table 4, Premiums, based on their age and county of residence, the Appellants could have purchased health insurance coverage in the private market in 2019 for a monthly premium of \$836.

ANALYSIS AND CONCLUSIONS OF LAW

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

The Appellants had health insurance coverage through COBRA during the first four months of 2019 and then had a three-month grace period to obtain new coverage. At issue here then is the Appellants failure to have MCC-compliant coverage for the last five months of 2019.

As the Appellants had COBRA coverage through his former employer during the first four months of 2019 and such coverage is at full cost to the former employee and very expensive, the Appellants clearly wanted health insurance coverage when the Appellant became eligible for his new employer's health insurance coverage in May 2020. Because many of his co-workers were also Massachusetts residents, the employer-sponsored coverage was expensive, and his employer had not indicated that the coverage did not meet Massachusetts standards, it was reasonable for the Appellant to assume that the coverage met MCC standards. The Appellants had no reason to believe otherwise until they did their taxes for 2019.

Under these circumstances, as the Appellant/husband was unaware that his employer-sponsored coverage did not meet MCC standards in 2019; reasonably believed that his employer would not offer health insurance coverage to Massachusetts-resident employees unless the coverage was MCC-compliant; and, was paying a bi-weekly premium for the 2019 coverage that exceeded the amount in the Affordability Table, it would not be fair, and would not serve the purposes of the individual mandate to assess any tax penalty against the Appellants for 2019. 956 CMR 6.08(2)(c) & (d).

Accordingly, the Appellants' two five-month penalties for 2019 shall be waived in full.

PENALTY ASSESSED

Number of Months Appealed: 10 Number of Months Assessed: 0

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

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 2019.

NOTIFICATION OF YOUR RIGHT TO APPEAL TO COURT

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

Hearing Officer

Cc: Connector Appeals Unit

Massachusetts Health Connector Appeals Unit

FINAL APPEAL DECISION: PA19-788

Appeal Decision: Appeal Denied

Hearing Issue: Appeal of the 2019 Tax Year Penalty

Hearing Date: November 3, 2020

Decision Date: November 27, 2020

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 3, 2020. The Appellant offered testimony under oath or affirmation. At the end of the hearing, the record was closed.

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

- Exhibit 1: Appeal Case Information from 2019 Schedule HC (1 page)
- Exhibit 2: 6/19/20 Appeal (3 pages)
- Exhibit 3: 10/7/20 Hearing Notice (2 pages)

FINDINGS OF FACT

The record shows, and I so find:

1. The Appellant's filing status for 2019 was Single with no dependents. The Appellant's federal AGI in 2019 was \$26,296. The Appellant turned twenty-seven years old in 2019. The Appellant resided in Essex County in 2019. (Exhibit 1)
2. On June 19, 2020, the Appellant appealed from the assessment of a twelve-month penalty on his 2019 income tax return, checking off "Other" on the appeal form, as the basis for his appeal. (Exhibit 2)
3. By checking off "Other," the Appellant contends that he experienced financial hardship in 2019 that made health insurance coverage unaffordable for him. (Appellant's testimony)
4. The Appellant did not have access to health insurance through his employer in 2019. (Appellant's testimony)
5. In November 2018, during open enrollment for 2019 health insurance coverage, the Appellant called the Health Connector about coverage. He was told that health insurance coverage would cost him \$85-87 monthly. The Appellant decided that this was more than he could afford to pay. (Appellant's testimony)

6. The Appellant’s 2019 monthly expenses for basic necessities included: rent, \$1,000; utilities, \$300; food, \$400; clothing, \$100; transportation (no car and walks to work), \$0; payment toward \$1,169 flight to Siberia in 2018 to pick up his fiancé, \$70; for a total of \$1,870/monthly and \$22,440 for the year. (Appellant’s testimony)
7. On August 19, 2019, the Appellant had to go a hospital emergency room for treatment. To pay for hospital and physician services received, the Appellant paid \$100/monthly until August 2020. (Appellant’s testimony)
8. According to Table 2 of the 2019 Schedule HC Guidelines, the Appellant qualified for government-subsidized health insurance coverage in 2019, since his income was less than \$36,420 for a family size of one.
9. According to Table 3, Affordability, of the Schedule HC 2019, based on his 2019 AGI and Single with no dependents tax filing status, the Appellant could have afforded to pay up to \$92/monthly for health insurance coverage in 2019.
10. According to Table 4, Premiums, the Appellant could have purchased health insurance coverage in the private market in 2019 for a monthly premium of \$257, based on his age and county of residence in 2019.

ANALYSIS AND CONCLUSIONS OF LAW

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

The Appellant contends that he could not have afforded to obtain health insurance coverage in 2019. The Appellant did not have access to employer-sponsored coverage during 2019. However, the Appellant contacted the Health Connector during open enrollment for 2019 coverage and learned that he was eligible for health insurance coverage in 2019 for a monthly premium of \$85 to \$87, based on his income. Although the Appellant did not consider this cost affordable for him and declined the coverage, this cost was lower than the \$92/monthly that the 2019 Affordability Table indicated he could afford. Moreover, the Appellant’s actual expenses in 2019, even including the Appellant’s \$100/monthly expense he began paying during the year for his ER visit in August 2019, still left him sufficient income to pay for health insurance coverage in 2019.

Therefore, I conclude that the Appellant did not experience financial circumstances in 2019 such that the cost of purchasing health insurance coverage in 2019 would have caused him a serious deprivation of basic necessities.

Accordingly, the Appellant’s twelve-month penalty for 2019 shall not be waived or reduced.

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 2019 for the amount equal to one half of the lowest cost health insurance plan available to you for each month you have been assessed the penalty, as listed above, plus applicable interest back to the due date of the return without regard to extension.

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 2019.

NOTIFICATION OF YOUR RIGHT TO APPEAL TO COURT

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

Hearing Officer

Cc: Connector Appeals Unit

Massachusetts Health Connector Appeals Unit

FINAL APPEAL DECISION: PA19-797

Appeal Decision Appeal Allowed

Hearing Issue: Appeal of the 2019 Tax Year Penalty

Hearing Date: November 2, 2020

Decision Date: November 5, 2020

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 2, 2020.

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

- Exhibit 1: Notice of Hearing dated October 7, 2020
- Exhibit 2: Appeal Case Information from form Schedule HC
- Exhibit 3: Statement of Grounds for Appeal Dated June 14, 2020
- Exhibit 4: Written Statement of Appeal dated June 14, 2020
- Exhibit 5: Open Record Documents

FINDINGS OF FACT

The record shows, and I so find:

1. The appellant is thirty-seven years old and is married. Appellant's husband is 35 years old and was penalized for not having health insurance. They now live in Suffolk County, Massachusetts.
2. Appellant's husband was living in Berlin, Germany during the whole year of 2019, while attending graduate school. He came back to the United States for a few visits but was not a resident of Massachusetts in 2019. (Appellant's husband's testimony. (Exhibit 5)
3. Appellant provided through the open record documents proof of his attending graduate school during the whole of 2019, including his passport information, school information, flight information. (Exhibit 5)
4. Appellant does have health insurance in 2020.
5. The Appellant did submit a Statement of Grounds for Appeal-2019 "Other. During 2019 other circumstance, such as applying the Affordability Tables in Schedule HC is inequitable or that you didn't reside in Massachusetts during your period of un-insurance."
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 2019. 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 2019.

ANALYSIS AND CONCLUSIONS OF LAW

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

The Appellant did submit a Statement of Grounds for Appeal-2019 "Other. During 2019 other circumstance, such as applying the Affordability Tables in Schedule HC is inequitable or that you didn't reside in Massachusetts during your period of un-insurance."

Appellant’s husband was living in Berlin, Germany during the whole year of 2019, while attending graduate school. He came back to the United States for a few visits but was not a resident of Massachusetts in 2019. Appellant provided through the open record documents proof of his attending graduate school during the whole of 2019, including his passport information, school information, flight information.

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 2019, 150 percent of the FPL was \$18,210.00 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 2019 income was more than 150 percent of the FPL, making him potentially subject to an individual mandate penalty, the threshold issue to be addressed is whether creditable health insurance coverage was affordable to him in 2019. 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 2019 Schedule HC Instructions and Worksheets, *supra*.

Appellant was out of the country during his period of un-insurance. On these facts, I find that Appellant has shown that he was precluded from purchasing affordable health insurance during 2019. 956 Mass. Code Regs. 6.08(3) (2008). Accordingly, I conclude that he is exempt from a tax penalty for his non-compliance with the individual mandate.

Accordingly, Appellant’s appeal is **ALLOWED**, and the 2019 penalty assessed is **OVERTURNED**.

PENALTY ASSESSED

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

The Connector has notified the Department of Revenue that, pursuant to its decision, you should be assessed a penalty for Tax Year 2019 for the amount equal to one half of the lowest cost health

insurance plan available to you for each month you have been assessed the penalty, as listed above, plus applicable interest back to the due date of the return without regard to extension.

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 2019.

NOTIFICATION OF YOUR RIGHT TO APPEAL TO COURT

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

Hearing Officer

Cc: Connector Appeals Unit

Massachusetts Health Connector Appeals Unit

FINAL APPEAL DECISION: PA19-800

Appeal Decision Appeal Allowed

Hearing Issue: Appeal of the 2019 Tax Year Penalty

Hearing Date: November 2, 2020

Decision Date: November 20, 2020

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 2, 2020.

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

- Exhibit 1: Notice of Hearing dated October 7, 2020
- Exhibit 2: Appeal Case Information from form Schedule HC
- Exhibit 3: Statement of Grounds for Appeal Dated June 26, 2020
- Exhibit 4: Written Statement of Appeal Date June 26, 2020
- Exhibit 5: Open Record Documents

FINDINGS OF FACT

The record shows, and I so find:

1. The appellant is thirty years old and is married. He lives in Connecticut.
2. Appellant has never lived in Massachusetts. He married his wife in late 2019. Appellant's wife lived in Massachusetts. Appellant filed his tax return with his wife and they filed in Massachusetts.
3. Appellant provided forms showing his Connecticut address. (Exhibit 4)
4. Appellant provided tax documents (Exhibit 5 1095C) showing that Appellant had coverage for the full year in 2019.
5. Appellant does have health insurance in 2020.
6. The Appellant did submit a Statement of Grounds for Appeal-2019 "Other. During 2019 other circumstance, such as applying the Affordability Tables in Schedule HC is inequitable or that you didn't reside in Massachusetts during your period of uninsurance."
7. I take administrative notice of the information set forth in tables 1 through 6 in the Department of Revenue Schedule HC Health Care Instructions and Worksheets (Schedule HC Instructions). Tables 3 & 4 incorporate the affordability schedules adopted by the board of directors of the Commonwealth Health Insurance Connector Authority for 2019. 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 2019.

ANALYSIS AND CONCLUSIONS OF LAW

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

The Appellant did submit a Statement of Grounds for Appeal-2019 "Other. During 2019 other circumstance, such as applying the Affordability Tables in Schedule HC is inequitable or that you didn't reside in Massachusetts during your period of uninsurance."

Appellant provided tax documents (Exhibit 5 1095C) showing that Appellant had coverage for the full year in 2019.

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 2019, 150 percent of the FPL was \$18,210.00 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 2019 income was more than 150 percent of the FPL, making him potentially subject to an individual mandate penalty, the threshold issue to be addressed is whether creditable health insurance coverage was affordable to him in 2019. 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 2019 Schedule HC Instructions and Worksheets, *supra*.

Appellant had health coverage for the full year in 2019. On these facts, I find that Appellant has shown that he was precluded from purchasing affordable health insurance during 2019. 956 Mass. Code Regs. 6.08(3) (2008). Accordingly, I conclude that he is exempt from a tax penalty for his non-compliance with the individual mandate.

Accordingly, Appellant’s appeal is **ALLOWED**, and the 2019 penalty assessed is **OVERTURNED**.

PENALTY ASSESSED

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

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

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 2019.

NOTIFICATION OF YOUR RIGHT TO APPEAL TO COURT

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

Hearing Officer

Cc: Connector Appeals Unit

Massachusetts Health Connector Appeals Unit

FINAL APPEAL DECISION: PA19-823

Appeal Decision: Penalty Overturned in Full
Hearing Issue: Appeal of the 2019 Tax Year Penalty
Hearing Date: November 6, 2020
Decision Date: November 27, 2020

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 November 6, 2020. The procedures to be followed during the hearing were reviewed with Appellant. Appellant was sworn in. Exhibits were marked and admitted in evidence with no objection from Appellant. Appellant testified.

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

- Exhibit 1: Correspondence from the Health Connector, dated October 9, 2020
- Exhibit 2: Appeal Case Information from Schedule HC 2019
- Exhibit 3: Notice of Appeal, dated July 6, 2020
- Exhibit 4: Statement in Support of Appeal

FINDINGS OF FACT

The record shows, and I so find:

1. Appellant was 36 years old in 2019. Appellant filed a Massachusetts 2019 tax return as married filing separately with no dependents claimed (Exhibit 2).
2. Appellant resided in Middlesex County, MA in 2019 (Exhibit 2).
3. Appellant had an Adjusted Gross Income for 2019 of \$37,325.00 (Exhibit 2).
4. Appellant had previously been covered by employer sponsored health insurance (Testimony of Appellant).
5. The job that provided employer sponsored health insurance cut Appellant's hours and Appellant was no longer qualified for the employer sponsored insurance (Testimony of Appellant).
6. During 2019, Appellant applied for health insurance through the Health Connector, but was denied a special enrollment period (Testimony of Appellant).
7. Appellant had the following monthly expenses during 2019: rent \$2,550; phone \$45; food \$500; supplies \$100; public transportation \$90; medical \$167. Appellant's monthly expenses were \$3,452. Additionally, Appellant had many debts and obtained a debt consolidation loan and had a payment due of \$358 per month (Exhibit 4 and Testimony of Appellant).

8. I take administrative notice of the financial information set forth in Tables 1 through 6 in the DOR 2019 Massachusetts Schedule HC Health Care Instructions and Worksheets. Tables 3 and 4 incorporate affordability and premium schedules adopted by the Board of Directors for the Commonwealth Health Insurance Connector Authority for 2019. Table 2 sets forth income at 300% of the Federal poverty level and Tables 5 and 6 set forth tax penalties in effect for 2019.
9. According to Table 3 of Schedule HC for 2019 a person filing as married filing separately with no dependents with an adjusted gross income of \$37,325 could afford to pay \$232 per month for private insurance. According to Table 4, Appellant, aged 36 and living in Middlesex County could have purchased private insurance for \$286 per month.
10. Private insurance was not considered to be affordable for Appellants in 2019 (Schedule HC for 2019).
11. Appellant, earning more than \$36,420, would not have been income eligible for government subsidized health insurance (Schedule HC for 2019).
12. Appellant did not have health insurance for twelve months in 2019 (Exhibit 2).
13. Appellant has been assessed a penalty for twelve months for 2019 (Exhibit 2).
14. Appellant filed an appeal on July 6, 2020, claiming that the expense of purchasing health insurance would have caused a serious deprivation of food, shelter, clothing, or other necessities (Exhibit 3).
15. Appellant began a second job in 2020 and was covered by employer sponsored health insurance at the time of the hearing (Testimony of Appellant).

ANALYSIS AND CONCLUSIONS OF LAW

G.L.c. 111M, § 2, also called the “individual mandate,” requires every adult resident of Massachusetts to obtain health insurance that meets minimum creditable coverage standards “[s]o long as it is deemed affordable” under the schedule set by the board of directors for the Commonwealth Health Insurance Connector Authority. Residents who do not obtain insurance or who do not obtain insurance that meets the minimum creditable coverage standard are subject to a tax penalty for “each of the months” that the individual did not have health insurance as required by the individual mandate. There is a three-month grace period to allow the taxpayer to obtain health insurance coverage or to make the transition between health insurance policies. See G. L. c. 111M, sec. 2(b) and for Tax Year 2019, Administrative Bulletin 03-10: Guidance Regarding M.G.L. c. 111M and M.G.L. c. 176Q, as implemented by 956 CMR 6.00, which interprets the 63-day gap in coverage to be three months. The Connector’s regulations provide for a waiver of the tax penalty in the case of a financial hardship. See 956 CMR 6.08.

Appellant has been assessed a tax penalty for twelve months. To determine if the penalty should be waived in whole or in part, we must consider whether affordable insurance was available to Appellant, before we consider whether Appellant suffered a financial hardship such that the purchase of insurance which met minimum creditable coverage standards would have caused Appellant to experience a serious deprivation of basic necessities. See 956 CMR 6.

Appellant was not eligible for employer sponsored health insurance in 2019. According to Tables 2, 3 and 4 of Massachusetts Schedule HC 2019, Appellant would not have been income eligible for subsidized health insurance. Additionally, private health insurance was not considered affordable for Appellant.

I find that affordable health insurance was not available to Appellant in 2019 and that the penalty assessed against Appellant for 2019 should be waived in its entirety. See 956 CMR 6.00.

PENALTY ASSESSED

Number of Months Appealed: 12

Number of Months Assessed: 0

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

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 2019.

NOTIFICATION OF YOUR RIGHT TO APPEAL TO COURT

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

ADDENDUM

Appellant is reminded that if Appellant meets the income requirements for subsidized health insurance in the future, Appellant would not be eligible for subsidies as long as Appellant files taxes as married filing separately.

Massachusetts Health Connector Appeals Unit

FINAL APPEAL DECISION: PA19-838

Appeal Decision: Penalty Overturned in Full

Hearing Issue: Appeal of the 2019 Tax Year Penalty

Hearing Date: November 10, 2020

Decision Date: November 23, 2020

AUTHORITY

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

JURISDICTION

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

HEARING RECORD

The appellants, husband and wife, appeared at the hearing which was held by telephone on November 10, 2020, and testified under oath. The hearing record consists of their testimony and the following documents which were admitted into evidence without objection:

- Ex. 1—Statement of Grounds for Appeal—2019
- Ex. 2—Appeal Case Information from Schedule HC ¹
- Ex. 3—Notice of Hearing

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

- Ex. 4—2019 Form MA 1099-HC

FINDINGS OF FACT

The record shows, and I so find:

1. The appellants are 39 and 43-years-old and have two children. They had minimum creditable coverage (MCC) health insurance from January through December, 2019. (Testimony, Ex. 4)
2. The appellants mistakenly indicated on their 2019 Schedule HC that they did not have MCC health insurance for the entire year. (Testimony, Ex. 2)
3. One of the appellants' children sustained an accident in 2019 which caused a significant financial burden. (Testimony)

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

ANALYSIS AND CONCLUSIONS OF LAW

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

The appellants submitted a statement of grounds for appeal (Ex. 1) in which they claimed that health insurance was not affordable to them because during 2019 they incurred a fire, flood, natural disaster or other unexpected natural or human-caused event causing substantial household or personal damage to/for them.

According to M.G.L. c. 111M, s. 2, residents are permitted a 63-day gap between periods of coverage without facing a tax penalty; for Tax Year 2019, Administrative Bulletin 03-10: Guidance Regarding M.G.L. c. 111M and M.G.L. c. 176Q, as implemented by 956 CMR 6.00, interprets the 63-day gap in coverage to be three months. As a result, gaps of three months are not subject to penalty. Although the appellants had MCC insurance from January through December, they were each assessed and are appealing a penalty of twelve months based on the information they provided on their Schedule HC.

The appellants testified credibly that 2019 was a difficult year due to an accident one of their children sustained which caused a significant financial burden.

The appellants’ testimony was corroborated by the submission of a Form MA 1099-HC which indicated that they had MCC insurance for the months of January through December. Accordingly, they are not subject to a penalty.

Based on the foregoing, the appellants’ request for a waiver from the penalty is **granted** for the months for which they were assessed. The determination that the appellants are eligible for a waiver is with respect to 2019, only and is based upon the extent of information submitted by them in this appeal.

PENALTY ASSESSED

Number of Months Appealed (husband): 12 Number of Months Assessed: 0
Number of Months Appealed (wife): 12 Number of Months Assessed: 0

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

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

NOTIFICATION OF YOUR RIGHT TO APPEAL TO COURT

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

Hearing Officer

Cc: Connector Appeals Unit

Massachusetts Health Connector Appeals Unit

FINAL APPEAL DECISION: PA19-839

Appeal Decision: Penalty Overturned in Full

Hearing Issue: Appeal of the 2019 Tax Year Penalty

Hearing Date: November 10, 2020

Decision Date: November 23, 2020

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 10, 2020, and testified under oath. The hearing record consists of the appellant's testimony and the following documents which were admitted into evidence without his objection:

Ex. 1—Statement of Grounds for Appeal—2019

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 33-years-old, is married and has one child. In 2019, he had minimum creditable coverage (MCC) health insurance from January through May. (Testimony, Ex. 1)
2. From January through May, 2019, the appellant was employed in Massachusetts and had employer health insurance. His wife was a student and had student health insurance for the entire year. (Testimony, Ex. 2)
3. The appellant accepted a new job with a New York-based employer beginning in June and remained employed on that basis for the rest of the year. He rented an apartment in Manhattan where he lived during the week and commuted back to his place in Massachusetts on the weekends. (Testimony)

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

4. The appellant investigated whether he could enroll in his wife's insurance plan after he left his job and determined that he did not qualify because the open enrollment period had passed. He enrolled in his new employer's health insurance from June through December. The plan provided a broad range of benefits including preventive and specialist care, ambulatory patient services, diagnostic imaging and screening procedures, emergency services, hospitalization, medical/surgical care, mental health and substance abuse services, and prescription drug coverage. (Testimony, Ex. 1)
5. The appellant moved back to Massachusetts in the summer of 2020 and has been enrolled in employer health insurance since then. (Testimony)

ANALYSIS AND CONCLUSIONS OF LAW

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

The appellant submitted a statement of grounds for appeal (Ex. 1), claiming that the individual mandate did not apply to him during 2019 since he purchased health insurance that didn't meet minimum creditable coverage standards because that is what his employer offered, and he felt that his circumstances prevented him from buying other insurance that met the requirements. He also submitted a letter with his statement in which he stated in part that he worked for a New York-based employer for the second part of the year, and there was only one insurance plan offered which he felt met all his minimum requirements and for which there was no premium.

The appellant did not have MCC compliant insurance from June through December. According to M.G.L. c. 111M, s. 2, residents are permitted a 63-day gap between periods of coverage without facing a tax penalty; for Tax Year 2019, Administrative Bulletin 03-10: Guidance Regarding M.G.L. c. 111M and M.G.L. c. 176Q, as implemented by 956 CMR 6.00, interprets the 63-day gap in coverage to be three months. As a result, gaps of three months are not subject to penalty. Since the appellant is considered to have been uninsured for the entire year due to the MCC issue, 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 lived and worked in Massachusetts from January through May during which time he had employer health insurance. He testified that he accepted a new position with a New York employer beginning in June for the rest of the year. He testified that he rented an apartment in Manhattan where he stayed during the week and commuted to Massachusetts on the weekends. He testified that he determined that he could not enroll in his wife's student health insurance when he left his job because the open enrollment period had passed. Finally, he testified that he enrolled in his new employer's insurance which offered a broad range of medical benefits and for which there was no premium.

Although the appellant returned to Massachusetts on the weekends from June through December, he spent the bulk of that time period in New York where he worked and lived in an apartment. While technically he did not move out of the state, he maintained a residence in New York where he arguably spent more time. Accordingly, based on the totality of the evidence, it is concluded that he resided in New York from June through December and was therefore not subject to the Massachusetts individual mandate. Moreover, he was ineligible for coverage through his wife, and would similarly have been blocked from purchasing private health insurance due to the closed enrollment period of January 24, 2019-December 31, 2019, and the absence of a qualifying life event to override that.

Hence, based on the foregoing, the appellant's request for a waiver from the penalty is **granted**. The determination that he is eligible for a waiver is with respect to 2019, only and is based upon the extent of information submitted by him 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 2019 for the amount equal to one half of the lowest cost health insurance plan available to you for each month you have been assessed the penalty, as listed above, plus applicable interest back to the due date of the return without regard to extension.

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

NOTIFICATION OF YOUR RIGHT TO APPEAL TO COURT

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

Hearing Officer

Cc: Connector Appeals Unit

Massachusetts Health Connector Appeals Unit

FINAL APPEAL DECISION: PA19-865

Appeal Decision Appeal Approved

Hearing Issue: Appeal of the 2019 Tax Year Penalty

Hearing Date: November 13, 2020

Decision Date: November 23, 2020

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 13, 2020. 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 October 15, 2020
- Exhibit 2: Appeal Case Information from form Schedule HC
- Exhibit 3: Statement of Grounds for Appeal Dated July 11, 2020
- Exhibit 4: Prior Appeal

FINDINGS OF FACT

The record shows, and I so find:

1. The appellant is fifty-four years old and is single. He lives in Plymouth County, Massachusetts.
2. Appellant works in the carpet installation business. The company he worked for did not offer health insurance. Appellant has five children and gives his wife nine hundred dollars a week in child support. He has not had health insurance for several years.
3. Appellant's wife and children have health insurance through MassHealth and his wife's own plan.
4. Appellant does not have health insurance in 2020.
5. The Appellant's monthly expenses totaled \$4,880.00, consisting of rent \$300.00, heat & light \$150.00, car gas \$100.00, food \$250.00, toiletries \$70.00 clothing \$60.00, entertainment \$200.00, child support \$3,600.00.
6. The Appellant did submit a Statement of Grounds for Appeal-2019 under the grounds for Appeal " During 2019, the expense of purchasing health insurance would have caused a serious deprivation of food, shelter, clothing or other necessities
7. I take administrative notice of the information set forth in tables 1 through 6 in the Department of Revenue Schedule HC Health Care Instructions and Worksheets (Schedule HC Instructions). Tables 3 & 4 incorporate the affordability schedules adopted by the board of directors of the Commonwealth Health Insurance Connector Authority for 2019. 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 2019.
8. Based on the appellant's federal adjusted gross income and the above referenced tables, I find the appellant would not have been eligible for subsidized health insurance, because Appellant's income of \$65,832.00 was more than \$36,420.00. The monthly premium for health insurance available on the private market in Plymouth County for a 53 year old single person was \$406.00. The tables reflect that Appellant could afford \$439.88. This is less than what the appellant is deemed to afford. (Tables 2, 3 & 4 of the Schedule HC Instructions)

ANALYSIS AND CONCLUSIONS OF LAW

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

Appellant works in the carpet installation business. The company he worked for did not offer health insurance. Appellant has five children and gives his wife nine hundred dollars a week in child support.

The Appellant did submit a Statement of Grounds for Appeal-2019 under the grounds for Appeal “ During 2019, 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 2019, 150 percent of the FPL was \$18,210.00 for a single person with zero dependents. *Id.* In addition, a lapse in coverage of 63 days or less is not subject to the section 2(b) penalty. See Administrative Bulletin 03-10 (Dec. 7, 2010), available at <https://www.mahealthconnector.org/portal/binary/com.epicentric.contentmanagement.servlet.ContentDeliveryServlet/Health%2520Care%2520Reform/Regulations/documents/Administrative%20Information%20Bulletin%2003-10.pdf>; see also 830 Mass. Code Regs. 111M.2.1(5)(c) (2008). Thus, no penalty is imposed for lapses in coverage consisting of three or fewer consecutive calendar months. *Id.*

Since Appellant’s 2019 income was more than 150 percent of the FPL, making him potentially subject to an individual mandate penalty, the threshold issue to be addressed is whether creditable health insurance coverage was affordable to him in 2019. 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 2019 Schedule HC Instructions and Worksheets, *supra*.

Appellant reported a federal AGI of \$65,832.00 in 2019, and Appellant’s filing status was single. EX 2. According to the Affordability Schedule established by the Connector’s board and included in the Instructions and Worksheets of the 2019 Massachusetts Schedule HC, Appellant could afford to pay

\$439.88 monthly for health insurance. See 2019 Schedule HC Instructions and Worksheets, *supra* at Table 3. Private insurance would have been available to him from the Premium Tables, at a cost of \$406.00 monthly for coverage with zero dependents *Id.* at Table 4.

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

Appellant works in the carpet installation business. The company he worked for did not offer health insurance. Appellant has five children and gives his wife nine hundred dollars a week in child support.

On these facts, I find that Appellant has shown that he was precluded from purchasing affordable health insurance during 2018. 956 Mass. Code Regs. 6.08(3) (2008). Accordingly, I conclude that he is exempt from a tax penalty for his non-compliance with the individual mandate.

Accordingly, Appellant’s appeal is **ALLOWED**, and the 2019 penalty assessed is **OVERTURNED**.

PENALTY ASSESSED

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

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

OR

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

NOTIFICATION OF YOUR RIGHT TO APPEAL TO COURT

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

Hearing Officer

Cc: Connector Appeals Unit

Massachusetts Health Connector Appeals Unit

FINAL APPEAL DECISION: PA19-866

Appeal Decision Appeal Approved

Hearing Issue: Appeal of the 2019 Tax Year Penalty

Hearing Date: November 13, 2020

Decision Date: November 23, 2020

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 13, 2020. 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 October 15, 2020

Exhibit 2: Appeal Case Information from form Schedule HC

Exhibit 3: Statement of Grounds for Appeal Dated July 15, 2020

FINDINGS OF FACT

The record shows, and I so find:

1. The appellant is thirty-one years old and is single. He lives in Suffolk County, Massachusetts.
2. Appellant works in the security business but worked a lot of temporary jobs in 2019. The companies he worked for did not offer health insurance.
3. Appellant worked several temporary jobs in 2019. He lost his car due to non-payment. He pays child support to the mothers of his two children.
4. Appellant does have health insurance in 2020.
5. The Appellant's monthly expenses totaled \$4,481.00, consisting of rent \$1,400.00, heat & light \$100.00, car \$250.00, car insurance \$156.00 car gas \$116.00, food 4000.00, toiletries \$300.00 clothing \$250.00, entertainment \$350.00, child support \$600.00, transportation \$125.00, T-Mobile bill \$50.00, accident costs \$120.00, bedroom furniture rent \$176.00.
6. The Appellant did submit a Statement of Grounds for Appeal-2019 under the grounds for Appeal , " During 2019, the expense of purchasing health insurance would have caused a serious deprivation of food, shelter, clothing or other necessities."
7. I take administrative notice of the information set forth in tables 1 through 6 in the Department of Revenue Schedule HC Health Care Instructions and Worksheets (Schedule HC Instructions). Tables 3 & 4 incorporate the affordability schedules adopted by the board of directors of the Commonwealth Health Insurance Connector Authority for 2019. 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 2019.
8. Based on the appellant's federal adjusted gross income and the above referenced tables, I find the appellant would not have been eligible for subsidized health insurance, because Appellant's income of \$67,813.00 was more than \$36,420.00. The monthly premium for health insurance available on the private market in Suffolk County for a 30 year old single person was \$257.00. The tables reflect that Appellant could afford \$452.08. This is less than what the appellant is deemed to afford. (Tables 2, 3 & 4 of the Schedule HC Instructions)

ANALYSIS AND CONCLUSIONS OF LAW

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

Appellant works in the security business but worked a lot of temporary jobs in 2019. The companies he worked for did not offer health insurance. Appellant worked several temporary jobs in 2019. He lost his car due to non-payment. He pays child support to the mothers of his two children.

The Appellant did submit a Statement of Grounds for Appeal-2019 under the grounds for Appeal , “ During 2019, 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 2019, 150 percent of the FPL was \$18,210.00 for a single person with zero dependents. *Id.* In addition, a lapse in coverage of 63 days or less is not subject to the section 2(b) penalty. See Administrative Bulletin 03-10 (Dec. 7, 2010), available at <https://www.mahealthconnector.org/portal/binary/com.epicentric.contentmanagement.servlet.ContentDeliveryServlet/Health%2520Care%2520Reform/Regulations/documents/Administrative%20Information%20Bulletin%2003-10.pdf>; see also 830 Mass. Code Regs. 111M.2.1(5)(c) (2008). Thus, no penalty is imposed for lapses in coverage consisting of three or fewer consecutive calendar months. *Id.*

Since Appellant’s 2019 income was more than 150 percent of the FPL, making him potentially subject to an individual mandate penalty, the threshold issue to be addressed is whether creditable health insurance coverage was affordable to him in 2019. 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 2019 Schedule HC Instructions and Worksheets, *supra*.

Appellant reported a federal AGI of \$67,813.00 in 2019, and Appellant’s filing status was single. EX 2. According to the Affordability Schedule established by the Connector’s board and included in the Instructions and Worksheets of the 2019 Massachusetts Schedule HC, Appellant could afford to pay \$452.08 monthly for health insurance. See 2019 Schedule HC Instructions and Worksheets, *supra* at

Table 3. Private insurance would have been available to him from the Premium Tables, at a cost of \$406.00 monthly for coverage with zero dependents *Id.* at Table 4.

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

Appellant works in the security business but worked a lot of temporary jobs in 2019. The companies he worked for did not offer health insurance. Appellant worked several temporary jobs in 2019. He lost his car due to non-payment. He pays child support to the mothers of his two children.

On these facts, I find that Appellant has shown that he was partially precluded from purchasing affordable health insurance during 2019. 956 Mass. Code Regs. 6.08(3) (2008). Accordingly, I conclude that he is exempt from a tax penalty for his non-compliance with the individual mandate.

Accordingly, Appellant’s appeal is **Partially ALLOWED**, and the 2019 penalty assessed is **Partially OVERTURNED**.

PENALTY ASSESSED

Number of Months Appealed: ____12____ Number of Months Assessed: ____6____

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

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 2019.

NOTIFICATION OF YOUR RIGHT TO APPEAL TO COURT

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

Hearing Officer

Cc: Connector Appeals Unit

Massachusetts Health Connector Appeals Unit

FINAL APPEAL DECISION: PA19-868

Appeal Decision Appeal Allowed

Hearing Issue: Appeal of the 2019 Tax Year Penalty

Hearing Date: November 13, 2020

Decision Date: November 24, 2020

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 13, 2020.

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

- Exhibit 1: Notice of Hearing dated October 15, 2020
- Exhibit 2: Appeal Case Information from form Schedule HC
- Exhibit 3: Statement of Grounds for Appeal Dated July 14, 2020
- Exhibit 4: Written Statement of Appeal dated July 15, 2020

FINDINGS OF FACT

The record shows, and I so find:

1. The appellant is forty-two years old and is single. Appellant lives in Suffolk County, Massachusetts.
2. Appellant works in the hair industry.
3. Appellant's employer offered health insurance at a rate of \$700.00 per month, which she could not afford. Appellant signed up for a health plan in 2019 and thought it provided health coverage that met the Massachusetts health standards. Appellant learned when she was filing her taxes in 2020 that the health insurance that she purchased and paid the amount of \$284.95 per month did not meet the health standards of Massachusetts.
4. Appellant does not have health insurance in 2020 because she cancelled her health insurance once she found out it did not meet Massachusetts standards and it was past the open enrollment date.
5. The Appellant did submit a Statement of Grounds for Appeal-2019 During 2019, you purchased health insurance because that is what your employer offered, and you felt that circumstances prevented you from buying other insurance that met the requirements" Appellant should also have appealed under "Other. During 2019 other circumstance, such as applying the Affordability Tables in Schedule HC is inequitable or that you didn't reside in Massachusetts during your period of un-insurance." I will hear Appellant's 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 2019. 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 2019.

ANALYSIS AND CONCLUSIONS OF LAW

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

The Appellant did submit a Statement of Grounds for Appeal-2019 During 2019, you purchased health insurance because that is what your employer offered, and you felt that circumstances prevented you from buying other insurance that met the requirements” Appellant should also have appealed under “Other. During 2019 other circumstance, such as applying the Affordability Tables in Schedule HC is inequitable or that you didn’t reside in Massachusetts during your period of un-insurance.” I will hear Appellant’s appeal under both grounds.

Appellant’s employer offered health insurance at a rate of \$700.00 per month. Appellant signed up for a health plan in 2019 and thought it provided health coverage that met the Massachusetts health standards. Appellant learned when she was filing her taxes in 2020 that the health insurance that she purchased and paid the amount of \$284.95 per month did not meet the health standards of Massachusetts.

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 2019, 150 percent of the FPL was \$18,210.00 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 2019 income was more than 150 percent of the FPL, making him potentially subject to an individual mandate penalty, the threshold issue to be addressed is whether creditable health insurance coverage was affordable to him in 2019. 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 2019 Schedule HC Instructions and Worksheets, *supra*.

Appellant’s employer offered health insurance at a rate of \$700.00 per month, which she could not afford. Appellant signed up for a health plan in 2019 and thought it provided health coverage that met the Massachusetts health standards. Appellant learned when she was filing her taxes in 2020 that the health insurance that she purchased and paid the amount of \$284.95 per month did not meet the health standards of Massachusetts.

On these facts, I find that Appellant has shown that she was precluded from purchasing affordable health insurance during 2019. 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 2019 penalty assessed is **OVERTURNED**.

PENALTY ASSESSED

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

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

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 2019.

NOTIFICATION OF YOUR RIGHT TO APPEAL TO COURT

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

Hearing Officer

Cc: Connector Appeals Unit

Massachusetts Health Connector Appeals Unit

FINAL APPEAL DECISION: PA19-869

Appeal Decision Appeal Approved

Hearing Issue: Appeal of the 2019 Tax Year Penalty

Hearing Date: November 13, 2020

Decision Date: November 24, 2020

AUTHORITY

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

JURISDICTION

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

HEARING RECORD

The Appellants appeared at the hearing, which was held by telephone, on November 13, 2020.

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

- Exhibit 1: Notice of Hearing dated October 15, 2020
- Exhibit 2: Appeal Case Information from form Schedule HC
- Exhibit 3: Statement of Grounds for Appeal dated July 19, 2020
- Exhibit 4: Written Statement of Appeal dated July 16, 2020

FINDINGS OF FACT

The record shows, and I so find:

1. The appellant is twenty-eight years old and her husband is thirty-three years old. They live in Worcester County, Massachusetts.
2. Appellant stated that in 2018 she and her husband moved to Massachusetts. She moved from Alabama and he moved from Canada. Neither one of them knew that there was a state penalty for not having health insurance. Appellant's husband's grandfather died and they both traveled to India for the months of January and February 2019. They borrowed \$6,000.00 to travel to India.
3. Appellants lived with his uncle for a few months until they got their own apartment. They borrowed \$4,000.00 from his uncle for the purchase of furniture. As soon as they qualified for insurance in October, 2019, they purchased health insurance.
4. Appellants do have health insurance in 2020.
5. The Appellants monthly expenses totaled \$4,160.00, consisting of rent \$1,525.00, electric & heat \$120.00, internet & cable \$50.00, cell phone \$95.00, car insurance \$130.00, car gas \$100.00 food \$900.00, credit card \$900.00, entertainment \$100.00, clothing \$100.00, toiletries \$25.00.
6. The appellants did submit a Statement of Grounds for Appeal-2018 under the grounds for Appeal, " During 2019, you were homeless; more than 30 days in arrears in rent or mortgage payments; or received an eviction or foreclosure notice. Appellants should also have appealed under " During 2018, the expense of purchasing health insurance would have caused a serious deprivation of food, shelter, clothing or other necessities." I will hear their appeal under both grounds.
7. I take administrative notice of the information set forth in tables 1 through 6 in the Department of Revenue Schedule HC Health Care Instructions and Worksheets (Schedule HC Instructions). Tables 3 & 4 incorporate the affordability schedules adopted by the board of directors of the Commonwealth Health Insurance Connector Authority for 2018. 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 2018.
8. 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 \$80,035.00 was more than \$49,380.00. The monthly premium for health insurance available on the private market in Worcester County for a 32 year old married person was \$558.00. The tables reflect that Appellants could afford \$533.56. This is more than what the appellants are deemed to afford. (Tables 2, 3 & 4 of the Schedule HC Instructions)

ANALYSIS AND CONCLUSIONS OF LAW

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

The appellants did submit a Statement of Grounds for Appeal-2018 under the grounds for Appeal, “ During 2019, you were homeless; more than 30 days in arrears in rent or mortgage payments; or received an eviction or foreclosure notice. Appellants should also have appealed under “ During 2018, the expense of purchasing health insurance would have caused a serious deprivation of food, shelter, clothing or other necessities.” I will hear their appeal under both grounds.

The Health Care Reform Act of 2006 requires every adult resident of Massachusetts to obtain and maintain creditable insurance coverage “so long as it is deemed affordable” under the schedule established by the board of the Connector. Mass. Gen. Laws ch. 111M, § 2(a). Massachusetts residents who fail to indicate on their state tax returns that they obtained the mandated creditable coverage are subject to a tax penalty for each month in which that the individual did not have creditable health insurance. *Id.* at § 2(b). However, individuals with incomes up to 150 percent of the Federal Poverty Level (“FPL”) are not subject to any penalty for non-compliance with the individual mandate. See Massachusetts Department of Revenue Technical Information Release (“TIR”) 13-1, available at <http://www.mass.gov/dor/businesses/help-and-resources/legal-library/tirs/tirs-by-years/2013-releases/tir-13-1.html>. For 2018, 150 percent of the FPL was \$24,690.00 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.*

Since Appellant’s 2019 income was more than 150 percent of the FPL, making them potentially subject to an individual mandate penalty, the threshold issue to be addressed is whether creditable health insurance coverage was affordable to them in 2019. 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 2019 Schedule HC Instructions and Worksheets, *supra*.

Appellant stated that in 2018 she and her husband moved to Massachusetts. She moved from Alabama and he moved from Canada. Neither one of them knew that there was a state penalty for not having health insurance. Appellant’s husband’s grandfather died and they both traveled to India for the months of January and February 2019. They borrowed \$6,000.00 to travel to India. Appellants lived

with his uncle for a few months until they got their own apartment. They borrowed \$4,000.00 from his uncle for the purchase of furniture. As soon as they qualified for insurance in October, 2019, they purchased health insurance.

Appellants reported a federal AGI of \$80,035.00 in 2019, and Appellant’s filing status was married. EX 2. According to the Affordability Schedule established by the Connector’s board and included in the Instructions and Worksheets of the 2019 Massachusetts Schedule HC, Appellants could afford to pay \$533.56 monthly for health insurance. See 2019 Schedule HC Instructions and Worksheets, *supra* at Table 3. Private insurance would have been available to them from the Premium Tables, at a cost of \$558.00 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).

Appellants are deemed to afford \$533.56 for health insurance coverage because of their income. Private insurance in the market place was \$558.00 per month, which is more than they could afford. Appellants’ were out of the country for the months of January and February 2019 and obtained health insurance in October 2019. On these facts, I find that Appellants have shown that they were precluded from purchasing affordable health insurance during 2019. 956 Mass. Code Regs. 6.08(3) (2008). Accordingly, I conclude that they are exempt from a tax penalty for their non-compliance with the individual mandate.

Accordingly, Appellants’ appeal is **ALLOWED**, and the 2019 penalty assessed is **OVERTURNED**.

PENALTY ASSESSED

Number of Months Appealed: 14 Number of Months Assessed: 0

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

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 2019.

NOTIFICATION OF YOUR RIGHT TO APPEAL TO COURT

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

Hearing Officer

Cc: Connector Appeals Unit

Massachusetts Health Connector Appeals Unit

FINAL APPEAL DECISION: PA19-872

Appeal Decision: Penalty Overturned in Full

Hearing Issue: Appeal of the 2019 Tax Year Penalty

Hearing Date: November 16, 2020

Decision Date: November 29, 2020

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 16, 2020, and testified under oath. The hearing record consists of the appellant's testimony and the following documents which were admitted into evidence without her objection:

- Ex. 1—Statement of Grounds for Appeal—2019
- Ex. 2—Appeal Case Information from Schedule HC ¹
- Ex. 3—Notice of Hearing

FINDINGS OF FACT

The record shows, and I so find:

1. The appellant is 57-years-old, is single, and does not have children. In 2019, she resided in Worcester County, MA. She did not have health insurance in 2019. (Testimony, Ex. 2)
2. In 2018, the appellant was employed and had employer-sponsored health insurance for the year. (Testimony)
3. The appellant did not continue to work in 2019 and was unemployed for the entire year. She investigated health insurance options through the Health Connector, but ran into difficulty with her application. On several occasions, she was locked out of the online process and waited "for hours" to speak with a customer service representative before hanging up. Eventually, she gave up. (Testimony)

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

4. The appellant's sole source of income in 2019 were funds that she withdrew from her 401K plan. (Testimony)
5. The appellant has been employed in 2020. Her employer offers health insurance, but she has not enrolled because the cost is unaffordable. (Testimony)
6. The appellant reported an adjusted gross income of \$54,447.00 on her 2019 federal tax return, and reported that she was single with no dependents. (Ex. 2)
7. In 2019, the appellant had regular monthly expenses of approximately \$2670.00 for her mortgage which included real estate taxes (\$1200.00), heat averaged over twelve months (\$200.00), electricity (\$250.00), water and sewer service (\$150.00), cable and internet services (\$200.00), automobile insurance (\$150.00), food (\$400.00) and gasoline (\$120.00). In addition, the appellant paid approximately \$400.00/month for credit card debt (Testimony)

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

ANALYSIS AND CONCLUSIONS OF LAW

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

The appellant submitted a statement of grounds for appeal (Ex. 1), claiming that the individual mandate did not apply to her during 2019 because the expense of purchasing health insurance would have caused a serious deprivation of food, clothing, shelter or other necessities. She also indicated on her statement that she did not work in 2019 and depleted her 401K account to cover her expenses.

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

The appellant testified credibly that she was not employed in 2019 and lived off her withdrawals from her 401K account. She testified that she investigated health insurance options through the Health Connector, but kept getting locked out of the online process, and hung up after waiting for hours to speak with a customer service representative. She testified that she has been employed in 2020, but has not enrolled in employer health insurance because it is unaffordable.

The evidence provided by the appellant established that her income for 2019, \$54,447.00, was greater than 300% of the federal poverty level (FPL), which for 2019 was \$36,420.00 for an individual. Table 3 of the Affordability Schedule indicates that an individual filing separately with no dependents with a federal adjusted gross income above \$48,560.00 is deemed to be able to afford a monthly premium of \$362.98 (8.00% of \$54,447.00/12). Table

4 of the Premium Schedule indicates that a 56-year-old individual (the age of the appellant in 2019) in Worcester County (where the appellant resided in 2019) could have purchased private health insurance for \$418.00 per month, more than the monthly amount deemed affordable from Table 3. Thus, according to the foregoing analysis, the appellant could not have purchased affordable private health insurance in 2019.

Based on the totality of the evidence, it is concluded that 1) the appellant would not have been eligible for subsidized insurance because her income exceeded 300% of the federal poverty level; 2) she was not employed and did not have access to employer health insurance; and 3) she could not have purchased affordable insurance on the private market. Accordingly, her request for a waiver from the penalty is **granted** for the months for which she was assessed. The determination that the appellant is eligible for a waiver is with respect to 2019 only and is based upon the extent of information submitted in this appeal.

PENALTY ASSESSED

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

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

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

NOTIFICATION OF YOUR RIGHT TO APPEAL TO COURT

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

Hearing Officer

Cc: Connector Appeals Unit

ADDENDUM

The appellant is advised that the open enrollment period for health insurance for 2021 runs from November 1, 2020 until January 23, 2021. In the event that she is still employed and unable to afford employer health insurance, she is encouraged to investigate her options for health insurance through the Health Connector at **mahealthconnector.org** or by contacting customer service at 1-877-623-6765.

Massachusetts Health Connector Appeals Unit

FINAL APPEAL DECISION: PA19-873

Appeal Decision: Penalty Overturned in Full

Hearing Issue: Appeal of the 2019 Tax Year Penalty

Hearing Date: November 16, 2020

Decision Date: November 30, 2020

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 16, 2020, and testified under oath. The hearing record consists of the appellant's testimony and the following documents which were admitted into evidence without her objection:

- Ex. 1—Statement of Grounds for Appeal—2019
- Ex. 2—Appeal Case Information from Schedule HC ¹
- Ex. 3—Notice of Hearing

FINDINGS OF FACT

The record shows, and I so find:

1. The appellant is 29-years-old, is single, and does not have children. In 2019, she resided in Essex County, MA. She had minimum creditable coverage health insurance from January through April, 2019. (Testimony, Ex. 2)
2. The appellant was employed by a restaurant from January through April, 2019, during which time she had employer health insurance. She left that job and was offered health insurance through COBRA at a monthly cost of \$651.00 which she could not afford. (Testimony, Exs. 1,2)
3. The appellant subsequently worked on a farm from May through August on a part-time basis, at a restaurant from May through December on a full-time basis, and at a zoo from September through December on a temporary basis. None of the employers offered health insurance. (Testimony, Ex. 1)

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

4. The appellant investigated health insurance options through the Health Connector after she left her job in April and determined that she was not eligible because she was outside of the open enrollment period which ended on January 23, 2019. (Testimony)
5. The appellant was hired by the zoo on a permanent basis in March, 2020 and has been enrolled in employer health insurance since that time. (Testimony)
6. The appellant reported an adjusted gross income of \$41,562.00 on her 2019 federal tax return, and reported that she was single with no dependents. (Ex. 2)
7. The appellant co-owns a duplex with her sister and shares the mortgage payment with her. (Testimony)
8. In 2019, the appellant had regular monthly expenses of approximately \$2041.00 for her share of the mortgage which included real estate taxes and homeowner's insurance (\$954.00), heat (\$250.00), electricity (\$90.00), water and sewer service (\$17.00), automobile insurance (\$206.00), automobile loan (\$274.00), cell phone (\$50.00), and gasoline (\$200.00). In addition, the appellant paid \$293.00/month for repayment of several student loans. Her sister covered the cost of food. (Testimony, Ex. 1)

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

ANALYSIS AND CONCLUSIONS OF LAW

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

The appellant submitted a statement of grounds for appeal (Ex. 1), claiming that the individual mandate did not apply to her during 2019 because the expense of purchasing health insurance would have caused a serious deprivation of food, clothing, shelter or other necessities. She also submitted a letter with her statement in which she indicated in part that she could not afford a COBRA premium of \$651.00/month or any other premium in order to keep up with her regular monthly expenses.

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

The appellant testified credibly that she was employed from January through April, 2019, during which time she had employer health insurance. She testified that she left that job and was offered insurance through COBRA at a monthly premium of \$651.00 which was unaffordable. She testified that she subsequently held three jobs for the remainder of the year and health insurance was not offered by any of the employers. She testified that she

investigated insurance options through the Health Connector but was not eligible because she was outside of the open enrollment period which ended on January 23, 2019. Finally, she testified that she has been employed since March, 2020, and has been enrolled in employer health insurance.

The evidence provided by the appellant established that her income for 2019, \$41,562.00, was greater than 300% of the federal poverty level (FPL), which for 2019 was \$36,420.00 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 \$36,421.00 and \$42,490.00 is deemed to be able to afford a monthly premium of \$258.00 (7.45% of \$41,562.00/12). Table 4 of the Premium Schedule indicates that a 28-year-old individual (the age of the appellant in 2019) in Essex County (where the appellant resided in 2019) could have purchased private health insurance for \$257.00 per month, less than the monthly amount deemed affordable from Table 3. Thus, according to the foregoing analysis, although she could not have afforded the COBRA premium of \$651.00, the appellant could have purchased affordable private health insurance in 2019.

Notwithstanding the fact that the appellant could have purchased affordable private health insurance, she was unable to do so because she was not eligible for a special enrollment period at any point after she left her job in April. Pursuant to 956 CMR 12.10 (5), an individual may enroll in a health plan outside of the open enrollment period during a special enrollment period (SEP) established by the Connector only for one of the following reasons: (a) the enrollee experiences a triggering event, as set forth in 45 CFR 155.420 and applicable state law; (b) a qualified individual is determined newly eligible for a ConnectorCare plan in accordance with 956 CMR 12.08; (c) the enrollee changes plan types in accordance with 956 CMR 12.04(3); or (d) the enrollee has been approved for a hardship waiver in accordance with 956 CMR 12:11; or (e) the enrollee's hardship waiver period has ended. Enrollees have sixty (60) days to enroll in a health plan from the date of one of the aforesaid events. Outside of open enrollment an individual may be granted a SEP, during which the individual can enroll in coverage, if s/he experiences a qualifying life event, such as a change in household composition or loss of coverage.²

Based on the totality of the evidence, it is concluded that 1) the appellant was not eligible for a SEP after she left her job in April; 2) she did not have access to employer health insurance in any of the jobs she worked from May through December; and 3) she could not have afforded a premium through COBRA. Accordingly, her request for a waiver from the penalty is **granted** for the months for which she was assessed. The determination that the appellant is eligible for a waiver is with respect to 2019 only and is based upon the extent of information submitted in this appeal.³

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 2019 for the amount equal to one half of the lowest cost health insurance plan available to you for each month you have been assessed the penalty, as listed above, plus applicable interest back to the due date of the return without regard to extension.

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

² As a result of this conclusion, it is not necessary to analyze whether the appellant qualified for a hardship based on a serious deprivation of food, shelter, clothing or other necessities.

³ It should be noted that the appellant has been enrolled in employer health insurance since March, 2020, thereby demonstrating that the mandate to obtain health insurance was not lost on her.

NOTIFICATION OF YOUR RIGHT TO APPEAL TO COURT

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

Hearing Officer

Cc: Connector Appeals Unit

Massachusetts Health Connector Appeals Unit

FINAL APPEAL DECISION: PA19-883

Appeal Decision Appeal Allowed

Hearing Issue: Appeal of the 2019 Tax Year Penalty

Hearing Date: November 18, 2020

Decision Date: November 25, 2020

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 18, 2020.

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

- Exhibit 1: Notice of Hearing dated October 19, 2020
- Exhibit 2: Appeal Case Information from form Schedule HC
- Exhibit 3: Statement of Grounds for Appeal Dated July 24, 2020
- Exhibit 4: Written Statement of Appeal

FINDINGS OF FACT

The record shows, and I so find:

1. The appellant is sixty-one years old and is single. Appellant lives in Middlesex County, Massachusetts.
2. Appellant works in the software industry.
3. Appellant's employer offered health insurance in 2019. Appellant signed up for a health plan in 2019 and thought it provided health coverage that met the Massachusetts health standards. Appellant learned when he was filing his taxes in 2020 that the health insurance that he purchased did not meet the health standards of Massachusetts. His company is not based in Massachusetts.
4. Appellant does have health insurance in 2020 but it has the same issue.
5. The Appellant did submit a Statement of Grounds for Appeal-2019 "Other. During 2019 other circumstance, such as applying the Affordability Tables in Schedule HC is inequitable or that you didn't reside in Massachusetts during your period of un-insurance."
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 2019. 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 2019.

ANALYSIS AND CONCLUSIONS OF LAW

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

The Appellant did submit a Statement of Grounds for Appeal-2019 "Other. During 2019 other circumstance, such as applying the Affordability Tables in Schedule HC is inequitable or that you didn't reside in Massachusetts during your period of un-insurance."

Appellant's employer offered health insurance in 2019. Appellant signed up for a health plan in 2019 and thought it provided health coverage that met the Massachusetts health standards. Appellant

learned when he was filing his taxes in 2020 that the health insurance that he purchased did not meet the health standards of Massachusetts. His company is not based in Massachusetts.

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 2019, 150 percent of the FPL was \$18,210.00 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 2019 income was more than 150 percent of the FPL, making him potentially subject to an individual mandate penalty, the threshold issue to be addressed is whether creditable health insurance coverage was affordable to him in 2019. 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 2019 Schedule HC Instructions and Worksheets, *supra*.

Appellant’s employer offered health insurance in 2019. Appellant signed up for a health plan in 2019 and thought it provided health coverage that met the Massachusetts health standards. Appellant learned when he was filing his taxes in 2020 that the health insurance that he purchased did not meet the health standards of Massachusetts. His company is not based in Massachusetts.

On these facts, I find that Appellant has shown that he was precluded from purchasing affordable health insurance during 2019. 956 Mass. Code Regs. 6.08(3) (2008). Accordingly, I conclude that he is exempt from a tax penalty for his non-compliance with the individual mandate.

Accordingly, Appellant’s appeal is **ALLOWED**, and the 2019 penalty assessed is **OVERTURNED**.

PENALTY ASSESSED

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

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

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 2019.

NOTIFICATION OF YOUR RIGHT TO APPEAL TO COURT

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

Hearing Officer

Cc: Connector Appeals Unit

Massachusetts Health Connector Appeals Unit

FINAL APPEAL DECISION: PA19-884

Appeal Decision Appeal Approved

Hearing Issue: Appeal of the 2019 Tax Year Penalty

Hearing Date: November 18, 2020

Decision Date: November 30, 2020

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 18, 2020. 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 October 19, 2020
- Exhibit 2: Appeal Case Information from form Schedule HC
- Exhibit 3: Statement of Grounds for Appeal Dated July 25, 2020
- Exhibit 4: Written Statement of Appeal

FINDINGS OF FACT

The record shows, and I so find:

1. The appellant is thirty-three years old and is single. He lives in Essex County, Massachusetts.
2. Appellant works in the theater business. His company offered health insurance at an amount that was not made clear to him.
3. Appellant does not have health insurance in 2020. He was laid off from his job in March of 2020. He made more money in 2019 than in 2020 because of the pandemic and because his temporary promotion was rescinded.
4. The Appellant did submit a Statement of Grounds for Appeal-2019 under the grounds for Appeal, "During 2019, the expense of purchasing health insurance would have caused a serious deprivation of food, shelter, clothing or other necessities."
5. The Appellant's monthly expenses totaled \$2,735.00, consisting of rent \$1,300.00, heat & light \$70.00, cable & internet \$220.00, cell phone \$130.00, car insurance \$110.00, car gas \$50.00, food \$600.00, clothes \$100.00, tax bill \$45.00, dental bill \$110.00.
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 2019. 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 2019.
7. Based on the appellant's federal adjusted gross income and the above referenced tables, I find the appellant would not have been eligible for subsidized health insurance, because Appellant's income of \$51,600.00 was more than \$36,420.00. The monthly premium for health insurance available on the private market in Essex County for a 32 year old single person was \$279.00. The tables reflect that Appellant could afford \$344.00. This is less than what the appellant is deemed to afford. (Tables 2, 3 & 4 of the Schedule HC Instructions)

ANALYSIS AND CONCLUSIONS OF LAW

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

The Appellant did submit a Statement of Grounds for Appeal-2019 under the grounds for Appeal , “ During 2019, the expense of purchasing health insurance would have caused a serious deprivation of food, shelter, clothing or other necessities.”

Appellant works in the theater business and felt that the cost of health insurance was too expensive. His company offers some form of health insurance but it was never made clear to him what it was and the cost of the health insurance.

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 2019, 150 percent of the FPL was \$18,210.00 for a single person with zero dependents. *Id.* In addition, a lapse in coverage of 63 days or less is not subject to the section 2(b) penalty. See Administrative Bulletin 03-10 (Dec. 7, 2010), available at <https://www.mahealthconnector.org/portal/binary/com.epicentric.contentmanagement.servlet.ContentDeliveryServlet/Health%2520Care%2520Reform/Regulations/documents/Administrative%20Information%20Bulletin%2003-10.pdf>; see also 830 Mass. Code Regs. 111M.2.1(5)(c) (2008). Thus, no penalty is imposed for lapses in coverage consisting of three or fewer consecutive calendar months. *Id.*

Since Appellant’s 2019 income was more than 150 percent of the FPL, making him potentially subject to an individual mandate penalty, the threshold issue to be addressed is whether creditable health insurance coverage was affordable to him in 2019. 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 2019 Schedule HC Instructions and Worksheets, *supra*.

Appellant reported a federal AGI of \$51,600.00 in 2019, and Appellant’s filing status was single. EX 2. According to the Affordability Schedule established by the Connector’s board and included in the Instructions and Worksheets of the 2019 Massachusetts Schedule HC, Appellant could afford to pay \$344.00 monthly for health insurance. See 2019 Schedule HC Instructions and Worksheets, *supra* at

Table 3. Private insurance would have been available to him from the Premium Tables, at a cost of \$279.00 monthly for coverage with zero dependents *Id.* at Table 4.

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

On these facts, I find that Appellant has shown that he was partially precluded from purchasing affordable health insurance during 2018. 956 Mass. Code Regs. 6.08(3) (2008). Accordingly, I conclude that he is exempt from a tax penalty for his non-compliance with the individual mandate.

Accordingly, Appellant’s appeal is **Partially ALLOWED**, and the 2019 penalty assessed is **Partially OVERTURNED**.

PENALTY ASSESSED

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

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

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 2019.

NOTIFICATION OF YOUR RIGHT TO APPEAL TO COURT

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

Hearing Officer

Cc: Connector Appeals Unit

Massachusetts Health Connector Appeals Unit

FINAL APPEAL DECISION: PA19-887

Appeal Decision Appeal Approved

Hearing Issue: Appeal of the 2019 Tax Year Penalty

Hearing Date: November 18, 2020

Decision Date: November 30, 2020

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 18, 2020. 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 October 19, 2020
- Exhibit 2: Appeal Case Information from form Schedule HC
- Exhibit 3: Statement of Grounds for Appeal Dated July 19, 2020
- Exhibit 4: Written Statement of Appeal Dated July 20 2020

FINDINGS OF FACT

The record shows, and I so find:

1. The appellant is twenty-five years old and is single. He lives in Hamden County, Massachusetts.
2. Appellant works in the furniture business. His company offered health insurance at an amount of \$240.00 per month.
3. Appellant does not have health insurance in 2020. He was laid off from his job in March of 2020.
4. The Appellant's monthly expenses totaled \$2,620.00, consisting of rent \$500.00, heat & light \$50.00, cell phone \$40.00, car \$500.00, car insurance \$40.00 car gas \$25.00, food \$320.00, credit card \$500.00, toiletries \$20.00, entertainment \$400.00, college loan \$500.00, other loan \$100.00.
5. The Appellant did submit a Statement of Grounds for Appeal-2019 under the grounds for Appeal , "Other. During 2019 other circumstance, such as applying the Affordability Tables in Schedule HC is inequitable or that you didn't reside in Massachusetts during your period of un-insurance." and " During 2019, the expense of purchasing health insurance would have caused a serious deprivation of food, shelter, clothing or other necessities." I will hear Appellant's appeal under these 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 2019. 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 2019.
7. Based on the appellant's federal adjusted gross income and the above referenced tables, I find the appellant would not have been eligible for subsidized health insurance, because Appellant's income of \$48,034.00 was more than \$36,420.00. The monthly premium for health insurance available on the private market in Hamden County for a 24 year old single person was \$257.00. The tables reflect that Appellant could afford \$304.21. This is less

than what the appellant is deemed to afford. (Tables 2, 3 & 4 of the Schedule HC Instructions)

ANALYSIS AND CONCLUSIONS OF LAW

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

The Appellant did submit a Statement of Grounds for Appeal-2019 under the grounds for Appeal , under “Other. During 2019 other circumstance, such as applying the Affordability Tables in Schedule HC is inequitable or that you didn’t reside in Massachusetts during your period of un-insurance.” and “ During 2019, the expense of purchasing health insurance would have caused a serious deprivation of food, shelter, clothing or other necessities.” I will hear Appellant’s appeal under these grounds.

Appellant works in the furniture business and felt that the cost of health insurance was too expensive.

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 2019, 150 percent of the FPL was \$18,210.00 for a single person with zero dependents. *Id.* In addition, a lapse in coverage of 63 days or less is not subject to the section 2(b) penalty. See Administrative Bulletin 03-10 (Dec. 7, 2010), available at <https://www.mahealthconnector.org/portal/binary/com.epicentric.contentmanagement.servlet.ContentDeliveryServlet/Health%2520Care%2520Reform/Regulations/documents/Administrative%20Information%20Bulletin%2003-10.pdf>; see also 830 Mass. Code Regs. 111M.2.1(5)(c) (2008). Thus, no penalty is imposed for lapses in coverage consisting of three or fewer consecutive calendar months. *Id.*

Since Appellant’s 2019 income was more than 150 percent of the FPL, making him potentially subject to an individual mandate penalty, the threshold issue to be addressed is whether creditable health insurance coverage was affordable to him in 2019. 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 2019 Schedule HC Instructions and Worksheets, *supra*.

Appellant reported a federal AGI of \$48,034.00 in 2019, and Appellant's filing status was single. EX 2. According to the Affordability Schedule established by the Connector's board and included in the Instructions and Worksheets of the 2019 Massachusetts Schedule HC, Appellant could afford to pay \$304.00 monthly for health insurance. See 2019 Schedule HC Instructions and Worksheets, *supra* at Table 3. Private insurance would have been available to him from the Premium Tables, at a cost of \$257.00 monthly for coverage with zero dependents *Id.* at Table 4.

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

On these facts, I find that Appellant has shown that he was partially precluded from purchasing affordable health insurance during 2018. 956 Mass. Code Regs. 6.08(3) (2008). Accordingly, I conclude that he is exempt from a tax penalty for his non-compliance with the individual mandate.

Accordingly, Appellant's appeal is **Partially ALLOWED**, and the 2019 penalty assessed is **Partially OVERTURNED**.

PENALTY ASSESSED

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

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

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 2019.

NOTIFICATION OF YOUR RIGHT TO APPEAL TO COURT

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

Hearing Officer

Cc: Connector Appeals Unit

Massachusetts Health Connector Appeals Unit

FINAL APPEAL DECISION: PA19-888

Appeal Decision Appeal Allowed

Hearing Issue: Appeal of the 2019 Tax Year Penalty

Hearing Date: November 18, 2020

Decision Date: November 25, 2020

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 18, 2020.

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

- Exhibit 1: Notice of Hearing dated October 19, 2020
- Exhibit 2: Appeal Case Information from form Schedule HC
- Exhibit 3: Statement of Grounds for Appeal Dated July 24, 2020
- Exhibit 4: Written Statement of Appeal Dated July 24, 2020

FINDINGS OF FACT

The record shows, and I so find:

1. The appellant is fifty-one years old and is married with two children, who are young men. His wife is forty-nine years old. Appellant lives in Plymouth County, Massachusetts.
2. Appellant's employer offered health insurance in 2019. Appellant signed up for a health plan in 2019 and thought it provided health coverage that met the Massachusetts health standards. Appellant learned in August 2019 that the health insurance that he purchased did not meet the health standards of Massachusetts. His company is not based in Massachusetts. Appellant obtained other employment in September 2020 and obtained health insurance that met the Massachusetts requirements.
3. Appellant does have health insurance in 2020.
4. The Appellant did submit a Statement of Grounds for Appeal-2019 "Other. During 2019 other circumstance, such as applying the Affordability Tables in Schedule HC is inequitable or that you didn't reside in Massachusetts during your period of un-insurance."
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 2019. 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 2019.

ANALYSIS AND CONCLUSIONS OF LAW

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

The Appellant did submit a Statement of Grounds for Appeal-2019 "Other. During 2019 other circumstance, such as applying the Affordability Tables in Schedule HC is inequitable or that you didn't reside in Massachusetts during your period of un-insurance."

Appellant's employer offered health insurance in 2019. Appellant signed up for a health plan in 2019 and thought it provided health coverage that met the Massachusetts health standards. Appellant learned in August 2019 that the health insurance that he purchased did not meet the health standards

of Massachusetts. His company is not based in Massachusetts. Appellant obtained other employment in September 2020 and obtained health insurance that met the Massachusetts requirements.

The Health Care Reform Act of 2006 requires every adult resident of Massachusetts to obtain and maintain creditable insurance coverage “so long as it is deemed affordable” under the schedule established by the board of the Connector. Mass. Gen. Laws ch. 111M, § 2(a). Massachusetts residents who fail to indicate on their state tax returns that they obtained the mandated creditable coverage are subject to a tax penalty for each month in which that the individual did not have creditable health insurance. *Id.* at § 2(b). However, individuals with incomes up to 150 percent of the Federal Poverty Level (“FPL”) are not subject to any penalty for non-compliance with the individual mandate. See Massachusetts Department of Revenue Technical Information Release (“TIR”) 13-1, available at <http://www.mass.gov/dor/businesses/help-and-resources/legal-library/tirs/tirs-by-years/2013-releases/tir-13-1.html>. For 2019, 150 percent of the FPL was \$18,210.00 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 2019 income was more than 150 percent of the FPL, making him potentially subject to an individual mandate penalty, the threshold issue to be addressed is whether creditable health insurance coverage was affordable to him in 2019. 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 2019 Schedule HC Instructions and Worksheets, *supra*.

Appellant’s employer offered health insurance in 2019. Appellant signed up for a health plan in 2019 and thought it provided health coverage that met the Massachusetts health standards. Appellant learned in August 2019 that the health insurance that he purchased did not meet the health standards of Massachusetts. His company is not based in Massachusetts. Appellant obtained other employment in September 2020 and obtained health insurance that met the Massachusetts requirements.

On these facts, I find that Appellant has shown that he was precluded from purchasing affordable health insurance during 2019. 956 Mass. Code Regs. 6.08(3) (2008). Accordingly, I conclude that he is exempt from a tax penalty for his non-compliance with the individual mandate.

Accordingly, Appellant’s appeal is **ALLOWED**, and the 2019 penalty assessed is **OVERTURNED**.

PENALTY ASSESSED

Number of Months Appealed: 10 Number of Months Assessed: 0

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

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 2019.

NOTIFICATION OF YOUR RIGHT TO APPEAL TO COURT

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

Hearing Officer

Cc: Connector Appeals Unit

Massachusetts Health Connector Appeals Unit

FINAL APPEAL DECISION: PA19-901

Appeal Decision Appeal Approved

Hearing Issue: Appeal of the 2019 Tax Year Penalty

Hearing Date: November 17, 2020

Decision Date: November 24, 2020

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 17, 2020. 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 October 21, 2020

Exhibit 2: Appeal Case Information from form Schedule HC

Exhibit 3: Statement of Grounds for Appeal Dated August 3, 2020

FINDINGS OF FACT

The record shows, and I so find:

1. The appellant is fifty-five-one years old and is single. He lives in Norfolk County, Massachusetts.
2. Appellant works in the construction business but worked in the restaurant business until he was laid off due to Covid-19. The companies he worked for did not offer health insurance.
3. Appellant had to help his son who was suffering from drug addiction. He spent money for rehabilitation for his son in 2019. Appellant filed for chapter 7 bankruptcy in 2020 with over \$51,000.00 in debt. \$38,000.00 of this debt was for his son and his drug rehabilitation.
4. Appellant does not have health insurance in 2020.
5. The Appellant's monthly expenses totaled \$5,064.00, consisting of rent \$2,000.00, heat & light \$123.00, internet & cable \$238.00, cell phone \$140.00 car \$350.00, car insurance \$138.00 car gas \$50.00, food 400.00, toiletries \$30.00 clothing \$25.00, credit card \$1,600.00
6. The Appellant did submit a Statement of Grounds for Appeal-2019 under the grounds for Appeal , " During 2019, the expense of purchasing health insurance would have caused a serious deprivation of food, shelter, clothing or other necessities."
7. I take administrative notice of the information set forth in tables 1 through 6 in the Department of Revenue Schedule HC Health Care Instructions and Worksheets (Schedule HC Instructions). Tables 3 & 4 incorporate the affordability schedules adopted by the board of directors of the Commonwealth Health Insurance Connector Authority for 2019. 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 2019.
8. Based on the appellant's federal adjusted gross income and the above referenced tables, I find the appellant may have been eligible for subsidized health insurance, because Appellant's income of \$31,695.00 was less than \$36,420.00. The monthly premium for health insurance available on the private market in Norfolk County for a 54 year old single person was \$406.00. The tables reflect that Appellant could afford \$132.06. 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 works in the construction business but worked in the restaurant business until he was laid off due to Covid-19. The companies he worked for did not offer health insurance. Appellant had to help his son who was suffering from drug addiction. He spent money for rehabilitation for his son in 2019. Appellant filed for bankruptcy in 2020 with over \$51,000.00 in debt. \$38,000.00 of this debt was for his son and his drug rehabilitation.

The Appellant did submit a Statement of Grounds for Appeal-2019 under the grounds for Appeal, “During 2019, 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 2019, 150 percent of the FPL was \$18,210.00 for a single person with zero dependents. *Id.* In addition, a lapse in coverage of 63 days or less is not subject to the section 2(b) penalty. See Administrative Bulletin 03-10 (Dec. 7, 2010), available at <https://www.mahealthconnector.org/portal/binary/com.epicentric.contentmanagement.servlet.ContentDeliveryServlet/Health%2520Care%2520Reform/Regulations/documents/Administrative%20Information%20Bulletin%2003-10.pdf>; see also 830 Mass. Code Regs. 111M.2.1(5)(c) (2008). Thus, no penalty is imposed for lapses in coverage consisting of three or fewer consecutive calendar months. *Id.*

Since Appellant’s 2019 income was more than 150 percent of the FPL, making him potentially subject to an individual mandate penalty, the threshold issue to be addressed is whether creditable health insurance coverage was affordable to him in 2019. 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 2019 Schedule HC Instructions and Worksheets, *supra*.

Appellant reported a federal AGI of \$31,695.00 in 2019, and Appellant’s filing status was single. EX 2. According to the Affordability Schedule established by the Connector’s board and included in the

Instructions and Worksheets of the 2019 Massachusetts Schedule HC, Appellant could afford to pay \$132.06 monthly for health insurance. See 2019 Schedule HC Instructions and Worksheets, *supra* at Table 3. Private insurance would have been available to him from the Premium Tables, at a cost of \$406.00 monthly for coverage with zero dependents *Id.* at Table 4.

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

Appellant had to help his son in his rehabilitation to a drug addiction. Appellant was forced into bankruptcy this year due to his ongoing debt.

On these facts, I find that Appellant has shown that he was precluded from purchasing affordable health insurance during 2019. 956 Mass. Code Regs. 6.08(3) (2008). Accordingly, I conclude that he is exempt from a tax penalty for his non-compliance with the individual mandate.

Accordingly, Appellant’s appeal is **ALLOWED**, and the 2019 penalty assessed is **OVERTURNED**.

PENALTY ASSESSED

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

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

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 2019.

NOTIFICATION OF YOUR RIGHT TO APPEAL TO COURT

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

Hearing Officer

Cc: Connector Appeals Unit

Massachusetts Health Connector Appeals Unit

FINAL APPEAL DECISION: PA19-902

Appeal Decision Appeal Approved

Hearing Issue: Appeal of the 2019 Tax Year Penalty

Hearing Date: November 17, 2020

Decision Date: November 24, 2020

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 17, 2020. 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 October 21, 2020
- Exhibit 2: Appeal Case Information from form Schedule HC
- Exhibit 3: Statement of Grounds for Appeal Dated June 25, 2020
- Exhibit 4: Written Statement of Appeal Dated July 17, 2020

FINDINGS OF FACT

The record shows, and I so find:

1. The appellant is thirty-four years old and is single. He lives in Suffolk County, Massachusetts.
2. Appellant works in the food and beverage business but was out of work for three months in 2019. Only two of the companies Appellant worked for offered health insurance.
3. Appellant worked several jobs in 2019.
4. Appellant does not have health insurance in 2020. He was laid off from his job in April of 2020.
5. The Appellant did submit a Statement of Grounds for Appeal-2019 under the grounds for Appeal , “ During 2019, the expense of purchasing health insurance would have caused a serious deprivation of food, shelter, clothing or other necessities.” And under “Other. During 2019 other circumstance, such as applying the Affordability Tables in Schedule HC is inequitable or that you didn’t reside in Massachusetts during your period of un-insurance.” I will hear Appellant’s appeal under these grounds.
6. The Appellant’s monthly expenses totaled \$3,988.00, consisting of rent \$2,080.00, heat & light \$157.00, internet & cable \$106.00, cell phone \$40.00, car \$325.00, car insurance \$150.00 car gas \$250.00, food \$700.00, toiletries \$125.00 clothing \$65.00, entertainment \$46.00, home insurance \$20.00, transportation \$100.00.
7. I take administrative notice of the information set forth in tables 1 through 6 in the Department of Revenue Schedule HC Health Care Instructions and Worksheets (Schedule HC Instructions). Tables 3 & 4 incorporate the affordability schedules adopted by the board of directors of the Commonwealth Health Insurance Connector Authority for 2019. 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 2019.
8. Based on the appellant’s federal adjusted gross income and the above referenced tables, I find the appellant would not have been eligible for subsidized health insurance, because Appellant’s income of \$44,915.00 was more than \$36,420.00. The monthly premium for health insurance available on the private market in Suffolk County for a 33 year old single

person was \$279.00. The tables reflect that Appellant could afford \$284.46. This is less than what the appellant is deemed to afford. (Tables 2, 3 & 4 of the Schedule HC Instructions)

ANALYSIS AND CONCLUSIONS OF LAW

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

The Appellant did submit a Statement of Grounds for Appeal-2019 under the grounds for Appeal , “ During 2019, the expense of purchasing health insurance would have caused a serious deprivation of food, shelter, clothing or other necessities.” and under “Other. During 2019 other circumstance, such as applying the Affordability Tables in Schedule HC is inequitable or that you didn’t reside in Massachusetts during your period of un-insurance.” I will hear Appellant’s appeal under these grounds.

Appellant works in the food and beverage business but was out of work for three months in 2019. Only two of the companies Appellant worked for offered health insurance.

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 2019, 150 percent of the FPL was \$18,210.00 for a single person with zero dependents. *Id.* In addition, a lapse in coverage of 63 days or less is not subject to the section 2(b) penalty. See Administrative Bulletin 03-10 (Dec. 7, 2010), available at <https://www.mahealthconnector.org/portal/binary/com.epicentric.contentmanagement.servlet.ContentDeliveryServlet/Health%2520Care%2520Reform/Regulations/documents/Administrative%20Information%20Bulletin%2003-10.pdf>; see also 830 Mass. Code Regs. 111M.2.1(5)(c) (2008). Thus, no penalty is imposed for lapses in coverage consisting of three or fewer consecutive calendar months. *Id.*

Since Appellant’s 2019 income was more than 150 percent of the FPL, making him potentially subject to an individual mandate penalty, the threshold issue to be addressed is whether creditable health insurance coverage was affordable to him in 2019. 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 2019 Schedule HC Instructions and Worksheets, *supra*.

Appellant reported a federal AGI of \$44,915.00 in 2019, and Appellant’s filing status was single. EX 2. According to the Affordability Schedule established by the Connector’s board and included in the Instructions and Worksheets of the 2019 Massachusetts Schedule HC, Appellant could afford to pay \$284.46 monthly for health insurance. See 2019 Schedule HC Instructions and Worksheets, *supra* at Table 3. Private insurance would have been available to him from the Premium Tables, at a cost of \$279.00 monthly for coverage with zero dependents *Id.* at Table 4.

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

Appellant works in the food and beverage business but worked a lot of jobs in 2019. He was only offered health insurance by two companies and one he had to wait for three months for health insurance until the end of 2019.

On these facts, I find that Appellant has shown that he was partially precluded from purchasing affordable health insurance during 2018. 956 Mass. Code Regs. 6.08(3) (2008). Accordingly, I conclude that he is exempt from a tax penalty for his non-compliance with the individual mandate.

Accordingly, Appellant’s appeal is **Partially ALLOWED**, and the 2019 penalty assessed is **Partially OVERTURNED**.

PENALTY ASSESSED

Number of Months Appealed: 5 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 2019 for the amount equal to one half of the lowest cost health insurance plan available to you for each month you have been assessed the penalty, as listed above, plus applicable interest back to the due date of the return without regard to extension.

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 2019.

NOTIFICATION OF YOUR RIGHT TO APPEAL TO COURT

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

Hearing Officer

Cc: Connector Appeals Unit

Massachusetts Health Connector Appeals Unit

FINAL APPEAL DECISION: PA19-903

Appeal Decision Appeal Allowed

Hearing Issue: Appeal of the 2019 Tax Year Penalty

Hearing Date: November 17, 2020

Decision Date: November 24, 2020

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 17, 2020.

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

Exhibit 1: Notice of Hearing dated October 21, 2020

Exhibit 2: Appeal Case Information from form Schedule HC

Exhibit 3: Statement of Grounds for Appeal Dated July 27, 2020

FINDINGS OF FACT

The record shows, and I so find:

1. The appellant is twenty-five years old and is single. Appellant lived in Norfolk County, Massachusetts in 2019.
2. Appellant works in the medical industry.
3. Appellant's father covered her health insurance in 2019. Appellant was at a speech pathology fellowship in Boston and was under her father's health plan in Florida. Appellant provided proof of her coverage with her written appeal (Exhibit 4).
4. Appellant does not live in Massachusetts in 2020.
5. The Appellant did not submit a Statement of Grounds for Appeal-2019. Appellant should have appealed under "Other. During 2019 other circumstance, such as applying the Affordability Tables in Schedule HC is inequitable or that you didn't reside in Massachusetts during your period of un-insurance." I will hear Appellant's appeal under this ground.
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 2019. 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 2019.

ANALYSIS AND CONCLUSIONS OF LAW

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

The Appellant did not submit a Statement of Grounds for Appeal-2019. Appellant should have appealed under "Other. During 2019 other circumstance, such as applying the Affordability Tables in Schedule HC is inequitable or that you didn't reside in Massachusetts during your period of un-insurance." I will hear Appellant's appeal under this ground.

Appellant's father covered her health insurance in 2019. Appellant was at a speech pathology fellowship in Boston and was under her father's health plan in Florida. Appellant provided proof of her coverage with her written appeal.

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 2019, 150 percent of the FPL was \$18,210.00 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 2019 income was more than 150 percent of the FPL, making him potentially subject to an individual mandate penalty, the threshold issue to be addressed is whether creditable health insurance coverage was affordable to him in 2019. 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 2019 Schedule HC Instructions and Worksheets, *supra*.

Appellant’s father covered her health insurance in 2019. Appellant was at a speech pathology fellowship in Boston and was under her father’s health plan in Florida. Appellant provided proof of her coverage with her written appeal.

On these facts, I find that Appellant has shown that she was precluded from purchasing affordable health insurance during 2019. 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 2019 penalty assessed is **OVERTURNED**.

PENALTY ASSESSED

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

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

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 2019.

NOTIFICATION OF YOUR RIGHT TO APPEAL TO COURT

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

Hearing Officer

Cc: Connector Appeals Unit

Massachusetts Health Connector Appeals Unit

FINAL APPEAL DECISION: PA19-905

Appeal Decision Appeal Approved

Hearing Issue: Appeal of the 2019 Tax Year Penalty

Hearing Date: November 17, 2020

Decision Date: November 24, 2020

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 17, 2020. 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 October 21, 2020
- Exhibit 2: Appeal Case Information from form Schedule HC
- Exhibit 3: Statement of Grounds for Appeal Dated July 27, 2020
- Exhibit 4: Written Statement of Appeal

FINDINGS OF FACT

The record shows, and I so find:

1. The appellant is forty-six years old and is single. He lives in Worcester County, Massachusetts.
2. Appellant is a handyman.
3. Appellant left his job in 2018 due to new owners. He started working on his own and it took some time for him to develop a clientele. As soon as he was able he signed up for health insurance in September 2019 and has had health insurance ever since.
4. Appellant does have health insurance in 2020.
5. The Appellant's monthly expenses totaled \$3,595.00, consisting of mortgage \$1,100.00, second mortgage \$250.00, heat & light \$300.00, internet & cable \$80.00, cell phone \$80.00 car \$225.00, car insurance \$145.00 car gas \$240.00, food \$600.00, credit card \$275.00
6. The Appellant did submit a Statement of Grounds for Appeal-2019 under the grounds for Appeal , " During 2019, the expense of purchasing health insurance would have caused a serious deprivation of food, shelter, clothing or other necessities."
7. I take administrative notice of the information set forth in tables 1 through 6 in the Department of Revenue Schedule HC Health Care Instructions and Worksheets (Schedule HC Instructions). Tables 3 & 4 incorporate the affordability schedules adopted by the board of directors of the Commonwealth Health Insurance Connector Authority for 2019. 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 2019.
8. Based on the appellant's federal adjusted gross income and the above referenced tables, I find the appellant may have been eligible for subsidized health insurance, because Appellant's income of \$23,454.00 was less than \$36,420.00. The monthly premium for health insurance available on the private market in Worcester County for a 45 year old single person was \$350.00. The tables reflect that Appellant could afford \$56.68. 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 left his job in 2018 due to new owners. He started working on his own and it took some time for him to develop a clientele. As soon as he was able he signed up for health insurance in September 2019 and has had health insurance ever since.

The Appellant did submit a Statement of Grounds for Appeal-2019 under the grounds for Appeal, “During 2019, 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 2019, 150 percent of the FPL was \$18,210.00 for a single person with zero dependents. *Id.* In addition, a lapse in coverage of 63 days or less is not subject to the section 2(b) penalty. See Administrative Bulletin 03-10 (Dec. 7, 2010), available at <https://www.mahealthconnector.org/portal/binary/com.epicentric.contentmanagement.servlet.ContentDeliveryServlet/Health%2520Care%2520Reform/Regulations/documents/Administrative%20Information%20Bulletin%2003-10.pdf>; see also 830 Mass. Code Regs. 111M.2.1(5)(c) (2008). Thus, no penalty is imposed for lapses in coverage consisting of three or fewer consecutive calendar months. *Id.*

Since Appellant’s 2019 income was more than 150 percent of the FPL, making him potentially subject to an individual mandate penalty, the threshold issue to be addressed is whether creditable health insurance coverage was affordable to him in 2019. 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 2019 Schedule HC Instructions and Worksheets, *supra*.

Appellant reported a federal AGI of \$23,454.00 in 2019, and Appellant’s filing status was single. EX 2. According to the Affordability Schedule established by the Connector’s board and included in the Instructions and Worksheets of the 2019 Massachusetts Schedule HC, Appellant could afford to pay

\$56.68 monthly for health insurance. See 2019 Schedule HC Instructions and Worksheets, *supra* at Table 3. Private insurance would have been available to him from the Premium Tables, at a cost of \$350.00 monthly for coverage with zero dependents *Id.* at Table 4.

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

Appellant left his job in 2018 due to new owners. He started working on his own and it took some time for him to develop a clientele. As soon as he was able he signed up for health insurance in September 2019 and has had health insurance ever since.

On these facts, I find that Appellant has shown that he was precluded from purchasing affordable health insurance during 2019. 956 Mass. Code Regs. 6.08(3) (2008). Accordingly, I conclude that he is exempt from a tax penalty for his non-compliance with the individual mandate.

Accordingly, Appellant’s appeal is **ALLOWED**, and the 2019 penalty assessed is **OVERTURNED**.

PENALTY ASSESSED

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

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

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 2019.

NOTIFICATION OF YOUR RIGHT TO APPEAL TO COURT

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

Hearing Officer

Cc: Connector Appeals Unit

Massachusetts Health Connector Appeals Unit

FINAL APPEAL DECISION: PA19745

Appeal Decision: The penalty is overturned in full.

Hearing Issue: Appeal of the 2019 Tax Year Penalty

Hearing Date: October 22, 2020

Decision Date: November 22, 2020

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 October 22, 2020. 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 2019 signed and dated by Appellant on June 3, 2020 with notation on statement form
- Exhibit 2: Appeal Case Information from Schedule HC 2019
- Exhibit 3: Notice of Hearing sent to Appellant dated September 24, 2020 for October 22, 2020 hearing

FINDINGS OF FACT

The record shows, and I so find:

1. Appellant, who filed a 2019 Massachusetts tax return as a single person with no dependents claimed, was 30 years old in 2019 (Exhibit 2, Testimony of Appellant).
2. Appellant resided in Norfolk County in 2019 (Testimony of Appellant, Exhibit 2).
3. Appellant had a Federal Adjusted Income of \$56,187 in 2019 (Testimony of Appellant, Exhibit 2).
4. Appellant was employed from January through the end of March. He earned about \$20,000 during this period. He was then laid off from his job. He started receiving unemployment compensation (\$695 a week after taxes) sometime in April or early May. Appellant did some driving for Lyft after he lost his job. He also worked part-time for his father in the late summer. As of the date of this hearing, Appellant was unemployed (Testimony of Appellant).
5. Appellant had health insurance through the job he had at the beginning of the year. The coverage met the Commonwealth's minimum creditable standards. After he was laid off, he lost coverage, though he did not realize

this. He thought the coverage he had would continue for six months. He later realized that he may have confused the option to have COBRA coverage with an automatic extension of the coverage he had had. Before 2019, Appellant always had health insurance, either through Appellant's parents' coverage or through employment. Appellant was not offered health insurance by Lyfte or by his father's company (Testimony of Appellant, Exhibit 2).

6. Appellant has been assessed a penalty for six months, July through December. Appellant has appealed this assessment (Testimony of Appellant, Exhibits 1 and 2).

7. I take administrative notice of the financial information set forth in Tables 1 through 6 in the DOR 2019 Massachusetts Schedule HC Health Care Instructions and Worksheets. Tables 3 and 4 incorporate affordability and premium schedules adopted by the Board of Directors for the Commonwealth Health Insurance Connector Authority for 2019. Table 2 sets forth income at 300% of the Federal poverty level and Tables 5 and 6 set forth tax penalties in effect for 2019.

8. According to Table 3 of Schedule HC for 2019, the appellant with no dependents claimed with an adjusted gross income of \$56,187 could afford to pay \$374 per month for health insurance. According to Table 4, Appellant, 30 years old and living in Norfolk County, could have purchased insurance for \$257 per month for a plan for an individual. Insurance on the individual market was affordable for the appellant (Schedule HC for 2019 Tables 3 and 4, Exhibit 2).

9. According to Table 2 of Schedule HC for 2019, Appellant earning more than \$36,420 per year, would have been ineligible for the ConnectorCare program based upon income (Table 2 of Schedule HC-2019, 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 fire, flood, or other natural or man-made disaster in 2019 (Testimony of Appellant).

11. Appellant did not fall more than thirty days behind in rent payments in 2019 (Testimony of Appellant).

12. Appellant did not receive any shut-off notices for basic utilities in 2019 (Testimony of Appellant).

13. Appellant had the following monthly expenses for basic necessities in 2019: rent-\$1,000; heat and electricity-\$200; telephone and internet-\$110; food-\$650; car payment-\$200; car insurance-\$160; gas-\$300; clothing-\$125; student loan payments-\$160. Appellant also paid \$250 a month for old credit card debt and \$600 during the year for car repairs (Testimony of Appellant).

ANALYSIS AND CONCLUSIONS OF LAW

The issue on appeal is whether the tax penalty assessed by the Massachusetts Department of Revenue for 2019 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 has been assessed for a penalty for July through December, 2019. The appellant has appealed the assessment. Exhibits 1, 2. Appellant had coverage which met the Commonwealth's standards from January through March. Since Appellant is entitled to a three-month grace period after losing coverage, his penalty for April through June, 2019 was waived. See the testimony of the appellant which I find to be credible and Exhibit 2.

To determine if the rest of 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 2019, the appellant with no dependents claimed with an adjusted gross income of \$56,187 could afford to pay \$374 per month for health insurance. According to Table 4, Appellant, 30 years old and living in Norfolk County, could have purchased insurance for \$257 per month for a plan for an individual. Insurance on the individual market was affordable for the appellant See Schedule HC for 2019, Tables 3 and 4, Exhibit 2.

Appellant had no access to health insurance through employment from July through December, 2019. He was unemployed during this period except for some part-time work which did not offer health insurance benefits. See the testimony of the appellant which I find to be credible, and Exhibit 2.

Appellant was not eligible for the ConnectorCare program. His annual Federal Adjusted Income was \$56,187, more than the income limit for one person (\$36,420). See 956 CMR 12.00 et. seq.

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 had the following expenses for basic necessities in 2019: rent-\$1,000; heat and electricity-\$200; telephone and internet-\$110; food-\$650; car payment-\$200; car insurance-\$160; gas-\$300; clothing-\$125; student loan payments-\$160. Appellant also paid \$250 a month for old credit card debt and \$600 during the year for car repairs. See the testimony of Appellant, which I find to be credible.

Appellant was unemployed for all of the months for which he has been assessed a penalty. He did have some part-time work and collected unemployment compensation. His income, however, decreased significantly during this period while his expenses remained the same. Appellant had no idea when he would obtain full-time work; he was unemployed still as of the date of this hearing. Appellant also had a history of having health insurance. He had previously been covered either by his parents' plan or by a plan offered at work. He mistakenly thought that the insurance he had had at work would continue for a period after he was laid off. See the testimony of the appellant which I find to be credible.

Based upon these facts summarized above, I determine that the appellant had a financial hardship such that health insurance was unaffordable for him. The cost of purchasing coverage would have caused him to experience a serious deprivation of basic necessities. I also take into account other financial issues raised by the appellant during the hearing. See 956 CMR 6.08(1)(e) and 956 CMR 6.08(3).

Appellant's penalty is waived.

Appellant should note that any waiver granted here is for 2019 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 2019.

NOTIFICATION OF YOUR RIGHT TO APPEAL TO COURT

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

Hearing Officer

Cc: Connector Appeals Unit

Addendum: If Appellant is still uninsured, he may wish to contact the Connector on line at mahealthconnector.org or by calling 1-877-623-6765 during the current open enrollment period which ends on January 23, 2021.