

FINAL APPEAL DECISION: PA 22-1283

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

Hearing Issue: Appeal of the 2022 Tax Year Penalty

Hearing Date: November 15, 2024

Decision Date: November 29, 2024

AUTHORITY

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

JURISDICTION

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

HEARING RECORD

The Appellant appeared at the hearing, which was held by telephone on November 15, 2024. The procedures to be followed during the hearing were reviewed with the Appellant who was then sworn in. Exhibits were marked and admitted in evidence with no objection from the Appellant. The Appellant testified.

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

Exhibit 1:	Appeal Case Information from Schedule HC.	(1 P).
Exhibit 2:	Statement of Grounds for Appeal 2022 Signed by Appellant on 5/1/2023.	(2 PP).
Exhibit 2(a):	Appellant’s GMAIL Termination and In Support of Appeal dated 7/11/2022.	(1 P).
Exhibit 2(b):	Appellant’s Employment Offer dated 4/13/2023.	(1 P).
Exhibit 2(c):	Appellant’s Email to Vacate Dismissal dated 5/23/24	(1 P).
Exhibit 3:	Health Connector’s Notice of Hearing dated 10/18/2024.	(2 PP).

The record shows, and I so find:

1. Appellant, single filing filed a 2022 Massachusetts tax return filed with a family size of 1, was age 27 in 2022, lived in Middlesex County, and had zero (0) dependents. (Exhibit 1).
2. Appellant’s Federal Adjusted Gross Income for 2022 was \$125,557. (Exhibit 1).
3. Appellant testified he moved to Massachusetts in June 2022 but was laid off in July 2022 and was unemployed for the remainder of 2022. (Appellant Testimony, Exhibits 1, 2, 2(a)).

4. The Appellant testified that when he was laid off, he had access to COBRA. (Appellant Testimony, Exhibit 2).
5. The Appellant testified that he did not collect unemployment during the time he was unemployed. (Appellant Testimony, Exhibit 2).
6. The Appellant testified he did not realize Massachusetts had a health insurance mandate. (Appellant Testimony).
7. The Appellant testified that he looked into obtaining the Connector but was not familiar with it and it was difficult to contact. (Appellant Testimony).
8. The Appellant incurred substantial necessary living expenses including a rent share of \$1,900 month during the time he was uninsured and not employed. (Appellant Testimony).
9. According to Table 3 Appellant could have afforded \$837.05 per month for health insurance in 2022. According to Table 4 Appellant could have purchased an individual plan insurance for \$277.00 per month. (See Tables 3 and 4 of Schedule HC 2022).
10. The Appellant would not have been eligible for ConnectorCare coverage in 2022 because the Appellant's income was more than 300% of the poverty level, which was \$.00 for a family of (2). (See Table 2 of Schedule HC 2022).
11. In addition to the foregoing, I take administrative notice of the 2022 Schedule HC Instructions and Worksheets, available at <http://www.mass.gov.dor/docs/dor/health-care/2022>, and in particular, Tables 1-6 which, as discussed below, include the Affordability Schedule and other financial information used in making 2022 individual mandate tax penalty determinations.

ANALYSIS AND CONCLUSIONS OF LAW

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

The Appellant submitted a statement of grounds for appeal (Ex. 2) with the appeal that during 2022 that the individual mandate did not apply to his because Other: that he was a part time resident and moved to Massachusetts during his period of uninsurance and he adduced evidence regarding other circumstances including hardship. (Exhibits 2(a)-(c), and Appellant Testimony).

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

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

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

The evidence provided by the Appellant established that his income for 2022, \$125,557 was more than 300% of the federal poverty level, which for 2022 was \$38,460 for a family of one (1). According to Table 3 of Schedule HC for 2022, the Appellant could have afforded \$837.05 per month. According to Table 4, Appellant, age 27 in Middlesex County during the time he was being penalized for not having insurance, could have purchased an individual insurance plan for \$277 per month. Individual coverage was affordable through the individual market for the Appellant in 2022 (Schedule HC for 2022).

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

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

FINAL APPEAL DECISION: PA 22-1412

Appeal Decision: The penalty is overturned in full

Hearing Issue: Appeal of the 2022 Tax Year Penalty

Hearing Date: November 15, 2024

Decision Date: November 27, 2024

AUTHORITY

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

JURISDICTION

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

HEARING RECORD

The Appellant appeared at the hearing, which was held by telephone on November 15, 2024. The Appellant was joined by his brother and Conservatorship. The Appellant authorized his brother/Conservator to participate in testimony. The procedures to be followed during the hearing were reviewed with the Appellant who was then sworn in. Exhibits were marked and admitted in evidence with no objection from the Appellant. The Appellant testified.

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

Exhibit 1:	Appeal Case Information from Schedule HC.	(1 P).
Exhibit 2:	Statement of Grounds for Appeal 2022 Signed by Appellant on 6/9/2023.	(2 PP).
Exhibit 2(a):	Appellant's Representative Statement in Support of Appeal	(1 P).
Exhibit 2(b):	Conservatorship Order submitted in Support of Appeal.	(1 P).
Exhibit 2(c):	Notice Vacate Dismissal.	(1 P).
Exhibit 3:	Health Connector's Notice of Hearing dated 10/18/2024.	(2 PP).

The record shows, and I so find:

1. The Appellant, who filed a 2022 Massachusetts tax return filed single with a family size of 1, was age 59 in 2022, lived in Norfolk County. (Exhibit 1).
2. The Appellant's Federal Adjusted Gross Income for 2022 was \$45,344. (Exhibit 1).

3. The Appellant's representative testified he did not know if he had access to Employer Sponsored Insurance ("ESI"), did not know the cost but it was too expensive. (Appellant Representative's Testimony).
4. The Appellant's representative testified he did not look into obtaining Connectorcare and notwithstanding same could not afford it given he had other financial obligations and bills that he had to pay that would preclude him from purchasing health insurance. (Appellant Representative's Testimony).
5. The Appellant's representative testified that the Appellant had health and other issues and was not able to coordinate his financial affairs that precluded him from investigating obtaining health insurance. (Appellant Representative's Testimony).
6. The Appellant's representative testified that the Appellant had to exhaust his savings to pay his mortgage and other basic necessities, and that he was three (3) months behind in payments. (Appellant Representative's Testimony).
7. According to Table 3 Appellant could have afforded \$287.18 per month for health insurance in 2022. According to Table 4 Appellant could have purchased insurance for \$435.00 per month.
8. The Appellant would not have been eligible for ConnectorCare coverage in 2022 because the Appellant's income was more than 300% of the poverty level, which was \$38,640.00 for a family size of one (1). (See Table 2 of Schedule HC 2022, Appellant's Testimony).
9. The Appellant's representative testified that the Appellant's monthly living expenses in 2022 included: Mortgage: \$1,550, Taxes and Insurance: \$600, and Food \$600, totaling \$2,750. (Appellant's Testimony).
10. The Appellant representative testified that the Appellant's approximate monthly net take home pay was approximately two-thirds (2/3r'ds) of his annual gross income, or \$30,229/12, or \$2,519 per month. (Appellant's Testimony).
11. The Appellant representative testified the Appellant had a major health matter in 2023 that necessitated his appointment as conservatorship and that the Appellant is now on SSDI and has health insurance. (Appellant Representative's Testimony).
12. The Appellant's representative testified that because the Appellant was unable to coordinate his financial affairs that he did not receive notice of penalties and that when they did receive the notice the penalties were paid, and a hearing was requested to appeal the period.
13. In addition to the foregoing, I take administrative notice of the 2022 Schedule HC Instructions and Worksheets, available at <http://www.mass.gov.dor/docs/dor/health-care/2022>, and in particular, Tables 1-6 which, as discussed below, include the Affordability Schedule and other financial information used in making 2022 individual mandate tax penalty determinations.

ANALYSIS AND CONCLUSIONS OF LAW

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

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

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

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

The evidence provided by the Appellant established that his income for 2022, \$45,344 was more than 300% of the federal poverty level, which for 2022 was \$38,640 for a single person with a family size of one (1). According to Table 3 of Schedule HC for 2022, the Appellant could have afforded \$287.18 per month. According to Table 4, Appellant, age 59 and living in Norfolk County during the time he was being penalized for not having insurance, could have purchased insurance for \$435 per month. Individual coverage was not affordable through the individual market for the Appellant in 2022 (Schedule HC for 2022).

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

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

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

I find the Appellant Representative's testimony credible that the Appellant was not able to purchase insurance at \$287.17 per month given his net monthly income of approximately \$2,519 and the cost of his monthly basic necessities of approximately \$2,750, (Appellant Testimony). Moreover, because of the Appellant's subsequent health issues and inability to coordinate his financial affairs, he was behind on his payments and could not afford health insurance. Accordingly, I find that the Appellant met the hardship criteria, and that purchasing health insurance would have caused the Appellant to experience financial hardship. 956 CMR 6.08 (1) (e) & (3). Accordingly, the Appellant's assessed tax penalty of twelve (12) months is waived in full for these reasons.

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

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

PENALTY ASSESSED

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

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

NOTIFICATION OF YOUR RIGHT TO APPEAL TO COURT

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

Cc: Connector Appeals Unit

Hearing Officer

ADDENDUM

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

FINAL APPEAL DECISION: PA23-340

Appeal Decision: Appeal Granted in part; the tax penalty is partially waived

Hearing Issue: Appeal of the 2023 Tax Year Penalty

Hearing Date: September 10, 2024

Decision Date: September 25, 2024

AUTHORITY

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

JURISDICTION

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

HEARING RECORD

Appellant filed his 2023 tax return as Single with no dependents. Appellant appeared at the Hearing. The Hearing was held by telephone, on September 10, 2024. The procedures to be followed during the Hearing were reviewed with Appellant who was then sworn in. Exhibits were marked and admitted into evidence with no objections. 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 August 2, 2024.
- Exhibit 2: Appeal Case Information from Schedule HC 2023.
- Exhibit 3: Statement of Grounds for Appeal dated April 14, 2024, with attachments.

FINDINGS OF FACT

The record shows, and I so find:

1. Appellant was age 27 in January 2023, and filed his Federal Income Tax return as Single (Exhibit 2).
2. The Appellant lived in Hampden County in 2023 (Exhibit 2 and Appellant Testimony).
3. The Appellant's Federal Adjusted Gross Income for 2023 was \$56,088 (Exhibit 2).
4. Appellant did not have health insurance for 12 months of 2023 (Appellant's Spouse Testimony).
5. Appellant has been assessed a 12-month tax penalty for 2023 (Exhibit 2).

6. I take administrative notice of the financial information set forth in Tables 1 through 6 in the DOR 2023 Massachusetts Schedule HC Health Care Instructions and Worksheets. Tables 3 and 4 incorporate affordability and premium schedules adopted by the Board of Directors for the Commonwealth Health Insurance Connector Authority for 2023. Table 2 sets forth income at 300% of the Federal poverty level and Tables 5 and 6 set forth tax penalties in effect for 2023.
7. In accordance with Table 3 of Schedule HC for 2023, the Appellant filing his Federal Tax return as Single, with an annual adjusted gross income of \$56,088 could afford to pay \$374 per month for health insurance. In accordance with Table 4, Appellant, age 27 living in Hampden County, could have purchased private insurance for \$327 per month. Private insurance was affordable for Appellant.
8. Appellant testified that he was employed full time at the start of 2023, and left this employer where he had health insurance. He credibly testified that he could not afford the COBRA option when leaving his full-time employer. He said he obtained a temporary job for a month and did not have access to this employer's health insurance benefit plan in this time. He added that he obtained a new job shortly after and this employer does have a health insurance benefit for employees. He testified that this plan benefit was too expensive, and he remained without health insurance for 2023. (Appellant Testimony and Exhibit 2).
9. He added that he did search on the Health Connector website, but missed the open enrollment date and could not obtain a policy (Appellant Testimony).
10. The Appellant's income was more than 300% of the federal poverty level, which was \$40,770 for a household of one in 2023 (See Table 2 of Schedule HC-2023 and 956 CMR 12.04)(Exhibit 2).
11. Appellant testified that he had approximately \$1,900 a month in living expenses. In addition, he testified that he now has health insurance via the Health Connector (Appellant Testimony and Exhibit 3).

ANALYSIS AND CONCLUSIONS OF LAW

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

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

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

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

In accordance with Table 3 of Schedule HC for 2023, the Appellant filed his Federal tax return as Single and had an adjusted gross income of \$56,088. He could afford to pay for health insurance via the Health Connector or on the private market. In accordance with Table 3 he could afford to pay \$374 per month for health insurance. According to Table 4, Appellant age 27, living in Hampden County, could have purchased private insurance for \$327 a month. See Schedule HC for 2023. Private insurance was affordable for the Appellant in tax year 2023.

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

Although Appellant could have afforded health insurance according to Table 4, he credibly testified to economic and personal hardships in 2023 and high monthly living expenses. He left his full-time employer and worked in a temporary position before landing at a new full-time employer. He was credible in his testimony and forthcoming with information.

Appellant purchasing a health care plan on his own could have created an economic hardship and deprived him of essentials. He testified to high estimated monthly living expenses and to changing jobs several times; and attempting to get insurance via the Health Connector. Given all of the factors faced by Appellant, I am exercising my discretion as the Hearing Officer and his penalty of twelve months for 2023 is partially waived and reduced to six months.

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

PENALTY ASSESSED

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

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

NOTIFICATION OF YOUR RIGHT TO APPEAL TO COURT

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

Cc: Connector Appeals Unit

FINAL APPEAL DECISION: PA23-397

Appeal Decision: Appeal Granted; the tax penalty is waived in its entirety

Hearing Issue: Appeal of the 2023 Tax Year Penalty

Hearing Date: November 14, 2024

Decision Date: November 26, 2024

AUTHORITY

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

JURISDICTION

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

HEARING RECORD

Appellant filed his 2023 tax return as Head of Household with no Dependents. The Appellant appeared at the Hearing. The Hearing was held by telephone, on November 14, 2024. The procedures to be followed during the Hearing were reviewed with Appellant who was then sworn in. Exhibits were marked and admitted into evidence with no objections. 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 October 18, 2024.
- Exhibit 2: Appeal Case Information from Schedule HC 2023.
- Exhibit 3: Statement of Grounds for Appeal dated April 23, 2024, with attachments.
- Exhibit 4: Document in response to Open Record Form to Demonstrate Garnishment of Pay.

FINDINGS OF FACT

The record shows, and I so find:

1. Appellant was age 45 in January 2023, and filed his Federal Income Tax return as Single with no Dependents (Exhibit 2).
2. The Appellant lived in Bristol County in 2023 (Exhibit 2 and Appellant Testimony).
3. The Appellant's Federal Adjusted Gross Income for 2023 was \$52,620. Appellant testified that some of this income was due to a one-time Covid Era bonus for workers in certain industries. (Exhibit 2).
4. Appellant has been assessed a twelve-month tax penalty for 2023 (Exhibit 2).

5. I take administrative notice of the financial information set forth in Tables 1 through 6 in the DOR 2023 Massachusetts Schedule HC Health Care Instructions and Worksheets. Tables 3 and 4 incorporate affordability and premium schedules adopted by the Board of Directors for the Commonwealth Health Insurance Connector Authority for 2023. Table 2 sets forth income at 300% of the Federal poverty level and Tables 5 and 6 set forth tax penalties in effect for 2023.
6. In accordance with Table 3 of Schedule HC for 2023, the Appellant filing his Federal Tax return as Single with no Dependents, with an annual adjusted gross income of \$52,260 could afford to pay \$331 per month for health insurance. In accordance with Table 4, Appellant, age 45 living in Bristol County, could have purchased private insurance for \$409 per month. Private insurance was not affordable for Appellant.
7. Appellant testified that he had full-time employment in 2023, and his employer offered a health care insurance benefit which he estimated cost over \$100 per week. He further credibly testified that he could not afford this policy due to his financial situation at that time. He said he was overwhelmed by events in this life, including an adult daughter staying with him, and a search of the Health Connector Site or a search on the private market for Health Insurance was not in his capacity (Appellant Testimony).
8. Appellant testified that in 2023 his pay was garnished every pay period for child support in the amount \$87 per pay period. Appellant was requested to provide proof of this garnishment via an Open Records Form¹ (Exhibit 4). He estimated his monthly living expenses including rent exceeded \$1,600 per month (Appellant Testimony and Exhibit 3).
9. The Appellant's income was more than 300% of the federal poverty level, which was \$40,770 for a household of one in 2023 (See Table 2 of Schedule HC-2023 and 956 CMR 12.04)(Exhibit 2).
10. Appellant testified that he was in arrears on his rent and had to pay extra rent payments in 2023 to pay back the amount owed. In addition, he fell behind on his utility payments and was sent default notices. He added that he sought and received assistance from a local charity to pay his utility bills. He testified that he does not currently have health insurance (Appellant Testimony and Exhibit 3).

ANALYSIS AND CONCLUSIONS OF LAW

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

¹ Despite the request for proof being limited to 2023 - Appellant provided a paystub demonstrating garnishment in 2024. Although this does not demonstrate garnishment in 2023 Appellant's testimony was credible about his wages being attached in 2023.

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

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

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

In accordance with Table 3 of Schedule HC for 2023, the Appellant filed his Federal Tax Return as Single with no Dependents and had an adjusted gross income of \$52,260. In accordance with Table 3 he could afford to pay \$331 per month for health insurance. According to Table 4, Appellant age 45, living in Bristol County, could have purchased private insurance for \$409 a month. See Schedule HC for 2023. Private insurance was not affordable for the Appellant in tax year 2023.

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

Appellant credibly testified that he experienced financial hardship in 2023 - including his adult daughter moving in with him for some part of 2023. He had monthly living expenses exceeding \$1,600 in addition to his wages being garnished for child support. Appellant could not afford a plan on the open market nor via the HealthConnector. In addition, his economic condition created a financial hardship based on his income and monthly living expenses if he were to purchase a plan on his own.

In light of the above facts, I am exercising my discretion as the Hearing Officer and Appellant's penalty for 2023 is waived in its entirety.

Since he testified that he does not currently have health insurance and he cannot afford his employer's option, Appellant is well served to apply via the HealthConnector website and find a suitable and affordable health insurance plan.

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

PENALTY ASSESSED

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

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

NOTIFICATION OF YOUR RIGHT TO APPEAL TO COURT

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

Cc: Connector Appeals Unit

FINAL APPEAL DECISION: PA23-400

Appeal Decision: Appeal Granted; the tax penalty is waived in its entirety

Hearing Issue: Appeal of the 2023 Tax Year Penalty

Hearing Date: November 14, 2024

Decision Date: November 26, 2024

AUTHORITY

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

JURISDICTION

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

HEARING RECORD

Appellant filed his 2023 tax return as Head of Household with one Dependent. The Appellant appeared at the Hearing. The Hearing was held by telephone, on November 14, 2024. The procedures to be followed during the Hearing were reviewed with Appellant who was then sworn in. Exhibits were marked and admitted into evidence with no objections. 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 October 18, 2024.
- Exhibit 2: Appeal Case Information from Schedule HC 2023.
- Exhibit 3: Statement of Grounds for Appeal dated April 26, 2024, with attachments.

FINDINGS OF FACT

The record shows, and I so find:

1. Appellant was age 40 in January 2023, and filed his Federal Income Tax return as Head of Household with one Dependent (Exhibit 2).
2. The Appellant lived in Worcester County in 2023 (Exhibit 2 and Appellant Testimony).
3. The Appellant's Federal Adjusted Gross Income for 2023 was \$48,402 (Exhibit 2).
4. Appellant has been assessed a three-month tax penalty for 2023 (Exhibit 2).
5. I take administrative notice of the financial information set forth in Tables 1 through 6 in the DOR 2023 Massachusetts Schedule HC Health Care Instructions and Worksheets. Tables 3

and 4 incorporate affordability and premium schedules adopted by the Board of Directors for the Commonwealth Health Insurance Connector Authority for 2023. Table 2 sets forth income at 300% of the Federal poverty level and Tables 5 and 6 set forth tax penalties in effect for 2023.

6. In accordance with Table 3 of Schedule HC for 2023, the Appellant filing his Federal Tax return as Head of Household with one dependent, with an annual adjusted gross income of \$48,402 could afford to pay \$298 per month for health insurance. In accordance with Table 4, Appellant, age 40 living in Worcester County, could have purchased private insurance for \$348 per month. Private insurance was not affordable for Appellant.
7. Appellant testified that as part of a divorce settlement with his ex-wife she agreed to keep him on his insurance policy. He further stated that if for any reason he was to be removed, he would be afforded the opportunity to choose another similar plan from her employer to have as his insurer (Appellant Testimony and Exhibit 3).
8. Appellant testified that in 2022 his ex-wife removed him from the health insurance plan and he was not informed for several months. He added that when he was informed by the ex-wife's employer, he immediately filed a criminal complaint in court for contempt against his ex-wife. He added that this complaint was dismissed by the judge (Appellant Testimony and Exhibit 3).
9. Appellant stated that he was employed full-time in 2023, and his employer did offer a health insurance plan for employees, but he was not allowed to get on this plan due to it not being open enrollment season. In addition, Appellant testified that his attorney attempted to enroll him in other health insurance plans, but was not successful due to the pending court case with his ex-wife. He stated that he was able to enroll in his employer's plan in mid-2023 and continues coverage on this plan (Appellant Testimony).
10. The Appellant's income was more than 300% of the federal poverty level, which was \$40,770 for a household of one in 2023 (See Table 2 of Schedule HC-2023 and 956 CMR 12.04)(Exhibit 2).
11. Appellant testified that he had over \$2,500 a month in living expenses including rent (Appellant Testimony).

ANALYSIS AND CONCLUSIONS OF LAW

The tax penalty was enacted by the Massachusetts Legislature to encourage compliance with M.G.L. Chapter 111M, Section 2, also called the "individual mandate". The mandate requires every adult resident of Massachusetts to obtain insurance coverage "[s]o long as it is deemed affordable" under the schedule set by the board of directors for the Commonwealth Health Insurance Connector Authority. Residents who do not obtain insurance are subject to a tax penalty for each of the months that the individual did not have health insurance as required by the individual mandate. There is a three-month grace period to allow the taxpayer to obtain health insurance coverage or to make the transition

between health insurance policies See G.L. C. 111M, sec. 2(b) and for Tax Year 2010, Administrative Bulletin 03-10: Guidance Regarding M.G.L. c. 111M and M.G.L. c.176Q as implemented by 956 CMR 6.00, which interprets the 63-day gap in coverage to be three months. The Connector’s regulations provide for a waiver of the tax penalty in the case of financial hardship. See 956 CMR 6.08.

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

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

In accordance with Table 3 of Schedule HC for 2023, the Appellant filed her Federal Tax Return as Head of Household with one dependent and had an adjusted gross income of \$48,402. In accordance with Table 3 he could afford to pay \$298 per month for health insurance. According to Table 4, Appellant age 40, living in Worcester County, could have purchased private insurance for \$358 a month. See Schedule HC for 2023. Private insurance was not affordable for the Appellant in tax year 2023.

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

Appellant credibly testified that he lost his current plan through the actions of his ex-wife and pursued court actions to reinstate his plan. In addition, he testified that he was finally able to get a plan through his employers benefit in 2023. Appellant testified to expenses exceeding \$2,500 – this fact could create a financial hardship based on his income, if he were forced to purchase a plan on his own. However, his believable testimony stated that he was no allowed to purchase a plan in the open market due to the ongoing court battle.

In light of the above facts, I am exercising my discretion as the Hearing Officer and Appellant’s penalty for 2023 is waived in its entirety.

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

PENALTY ASSESSED

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

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

NOTIFICATION OF YOUR RIGHT TO APPEAL TO COURT

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

Cc: Connector Appeals Unit

FINAL APPEAL DECISION: PA 23-426

Appeal Decision: The penalty is overturned in full.

Hearing Issue: Appeal of the 2023 Tax Year Penalty

Hearing Date: November 21, 2024

Decision Date: November 29, 2024

AUTHORITY

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

JURISDICTION

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

HEARING RECORD

The Appellant (“Appellant”) appeared at the hearing, which was held by telephone on November 21, 2024. The Appellant had a Spanish Interpreter who was sworn in. Procedures to be followed during the hearing were reviewed with the Appellant who was then sworn in. Exhibits were marked and admitted in evidence with no objection from the Appellant. The Appellant testified.

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

- | | | |
|------------|--|---------|
| Exhibit 1: | Appeal Case Information from Schedule HC. | (1 P). |
| Exhibit 2: | Statement of Grounds for Appeal 2023 Signed by Appellant on 4/30/2024. | (3 PP). |
| Exhibit 3: | Health Connector’s Notice of Hearing dated 10/23/2024. | (2 PP). |

The record was left open until December 6, 2024, for the Appellant to provide any documentation and evidence in Support of the Appeal, including documents regarding divorce, storage, homelessness or foreclosure, and financial contributions made. On November 21, 2024, the Appellant submitted the following documents:

- | | |
|------------|--|
| Exhibit 4: | Email Statement regarding out-of-pocket expenditure for CDL License and Insurance. |
| Exhibit 5: | 2023 Account Statements reflecting out of pocket costs. |

The record shows, and I so find:

1. The Appellant filed a 2023 Massachusetts tax return filed with a family size of 1, was age 47 in 2023, lived in Suffolk County, and had zero (0) dependents. (Exhibit 1).
2. The Appellant’s Federal Adjusted Gross Income for 2023 was \$54,406 (Exhibit 1).

3. The Appellant, who is being penalized for twelve (12) months, testified that he was not offered and not eligible for Employer Sponsored Insurance (“ESI”). (Testimony).
4. The Appellant testified he was divorced in 2022 or 2023 and periodically visited his ex-spouse in 2023. (Testimony).
5. The Appellant testified he was previously covered through his ex-spouse’s ESI but lost coverage with the divorce. (Exhibit 1, Testimony).
6. The Appellant testified he did not investigate obtaining insurance through the Connector. (Testimony).
7. The Appellant testified after his divorce he moved out of his Spouse’s residence in 2022 and did not have a residence and stayed periodically with friends. (Testimony).
8. The Appellant testified the Suffolk County address listed on the schedule HC was not his residence but that a friend allowed him to receive mail at that location because he could not afford a Post Office Box. (Testimony).
9. The Appellant testified that he was making cash financial contributions to his ex-spouse for housing, food, and insurance in 2023 but was not able to provide an estimate. (Testimony).
10. According to Table 3 Appellant could have afforded \$362.71 per month for health insurance in 2023. According to Table 4 Appellant could have purchased an individual plan insurance for \$409.00 per month. (See Tables 3 and 4 of Schedule HC 2023).
11. The Appellant would not have been eligible for ConnectorCare coverage in 2023 because the Appellant’s income was more than 300% of the poverty level, which was \$40,770.00 for a family of one (1). (See Table 2 of Schedule HC 2023).
12. The Appellant was not able to provide testimony regarding his net monthly income but testified his position went from part time to full time during 2023. (Testimony).
13. The Appellant was not able to provide testimony and corroborating documents regarding his monthly living expenses or contributions for Rent, Mortgage, Utilities, Car Insurance, Transportation, Food, or other expenses, or a total monthly estimate. (Testimony).
14. The Appellant submitted a statement that he had a \$6,280 expense for obtaining his CDL License as well as expenses for car insurance. (Exhibits 4 and 5).
15. In addition to the foregoing, I take administrative notice of the 2023 Schedule HC Instructions and Worksheets, available at <http://www.mass.gov/dor/docs/dor/health-care/2023>, and in particular, Tables 1-6 which, as discussed below, include the Affordability Schedule and other financial information used in making 2023 individual mandate tax penalty determinations.

ANALYSIS AND CONCLUSIONS OF LAW

The issue on appeal is whether the tax penalty assessed by the Massachusetts Department of Revenue for 2023 should be waived, either in whole or in part. Appellant has been assessed a tax penalty for twelve (12) months in 2023. Appellant has appealed the penalty. (See Exhibits 1 and 2).

The Appellant submitted a statement of grounds for appeal (Ex. 2) with the appeal that during 2023 that the individual mandate did not apply to him because he was homeless, was more than 30 days in arrears in rent or mortgage, and or received an eviction or foreclosure notice. The Appellant adduced testimony at the hearing that he did not have a residence and that insurance was not affordable to the Appellant because Appellant experienced a financial hardship due to his divorce. (Exhibits 2(a) and Appellant Testimony).

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

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

The evidence provided by the Appellant established that his income for 2023, \$54,406 was more than 300% of the federal poverty level, which for 2023 was \$40,770 for a family of one (1). According to Table 3 of Schedule HC for 2023, the Appellant could have afforded \$362.71 per month. According to Table 4, Appellant, age 47 and living in Suffolk County during the time he was being penalized for not having insurance, could have purchased an individual insurance plan for \$409 per month. Individual coverage was not affordable through the individual market for the Appellant in 2023 (Schedule HC for 2023).

The next issue to consider is whether the Appellant had access to affordable employer health insurance (“ESI”) in 2023. The Appellant testified that he was not offered and eligible for ESI but went from part time to full time (Testimony). Pursuant to 26 IRC section 36B and 45 CFR section 155.305(f), applicants are eligible for an Advanced Premium Tax Credit (APTC) if they meet qualifying income levels and other eligibility requirements. Massachusetts residents may also be eligible for additional state premium assistance through the Health Connector’s ConnectorCare program if: a) their household income does not exceed 300 percent of the Federal Poverty Level (FPL) and b) they are eligible for an

APTC. 956 CMR 12.09(1) An applicant who has access to other qualifying health insurance, including insurance through an employer, will be blocked from eligibility for an APTC if the coverage is affordable and meets minimum value standards, as those terms are defined by the law. See 26 CFR section 1.36B-2(c)(3). Coverage for plan year 2023 is considered to be affordable if the employee's contribution for an individual plan is 9.12 percent or less of the employee's projected household modified adjusted income (MAGI). The coverage is considered to meet minimum value standards if it has an actuarial value of at least 60 percent. In this case, as referenced above, the Appellant was not offered ESI while a part time employee and I am not able to find whether he was eligible for affordable ESI when he became full time (Appellant Testimony).

Given that the Appellant did not have access to affordable private insurance, or public sponsored insurance, he had no access to affordable coverage and is not subject to a penalty. Notwithstanding same, I find the Appellant adduced testimony regarding his not having a residence/shelter and find that he could not have afforded private insurance at \$362.71 per month during the time he was being penalized (Testimony, Exhibit 2). Accordingly, I find that the Appellant has met the criteria and the hardship criteria, and that purchasing health insurance would not have caused the Appellant to experience financial hardship. 956 CMR 6.08 (1) (e) & (3). I find the Appellant adduced substantial evidence as to why he did not obtain affordable insurance, including that he was having a difficult time because of the divorce. Accordingly, based upon the facts summarized and on the totality of the evidence, it is concluded that the Appellant's request for a waiver from the penalty is **approved**.

PENALTY ASSESSED

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

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

NOTIFICATION OF YOUR RIGHT TO APPEAL TO COURT

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

Cc: Connector Appeals Unit

Hearing Officer

ADDENDUM

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

FINAL APPEAL DECISION

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

Hearing Issue: Appeal of the 2023 Tax Year Penalty

Hearing Date: November 20, 2024

Decision Date: November 20, 2024

AUTHORITY

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

JURISDICTION

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

HEARING RECORD

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

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

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

CONNECTOR APPEALS UNIT



Exhibit 3 Correspondence from the Appellant

2 Pages

FINDINGS OF FACT

The record shows, and I so find:

1. Appellant was 25 years old in the beginning of 2023. Appellant filed her 2023 Massachusetts tax return as Single. The Appellant has no dependents (Exhibit 1).
2. Appellant lived in Suffolk County, MA in 2023 (Exhibit 1).
3. Appellant's Federal Adjusted Gross Income for 2023 was \$34,830.00 (Exhibit 1, Appellant's Testimony). Appellant's Income was 256% of the Federal Poverty level and based on her income, if all other conditions were met, would be ELIGIBLE for Plan Type 3B (250.1-300% FPL) for ConnectorCare.
4. In 2023, the appellant was employed as a law clerk at a law firm in a part-time capacity from January through May while she was still a student. Later in 2023, from September through December, the appellant worked as an attorney at a law firm. (Appellant's Testimony).
5. Appellant was not offered health insurance by her employer until the end of 2023. (Appellant's Testimony).
6. The Appellant does currently have Health Insurance. (Appellant's Testimony).
7. I take administrative notice of the financial information set forth in Tables 1 through 6 in the DOR 2023 Massachusetts Schedule HC Health Care Instructions and Worksheets. Tables 3 and 4 incorporate affordability and premium schedules adopted by the Board of Directors for the Commonwealth Health Insurance Connector Authority for 2023. Table 2 sets forth income at 300% of the Federal poverty level and Tables 5 and 6 set forth tax penalties in effect for 2023.
8. According to Table 3 of Schedule HC for 2023, The Appellant has no dependents, with an adjusted gross income of \$34,830.00 was deemed able to pay \$140.77 per month for health insurance, or 4.85% of her income. According to Table 4, Appellant, age 25 and living in Suffolk County, could have purchased private insurance for \$312.00 per month.
9. Private insurance was UNAFFORDABLE for the appellant in 2023 (Schedule HC for 2023).

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

<u>Rent or Mortgage</u>	\$1,850.00	<u>Car Insurance</u>	\$0.00	<u>Household & Toiletries</u>	\$15.00
<u>Public Transportation</u>	\$60.00	<u>Gas (Car)</u>	\$50.00	<u>Clothing</u>	\$50.00
<u>Cable/Internet</u>	\$60.00	<u>Food</u>	\$400.00	<u>Car Repairs</u>	\$21.00
<u>Electricity</u>	\$300.00	<u>Cell Phone</u>	\$0.00	<u>Other:</u>	\$13.00
				<u>Total:</u>	\$2,819.00

11. Upon examining the appellant's testimony, it was ascertained that her gross monthly income was \$2,902.50. Her necessary expenses were determined to be \$2,819.00 per month. After accounting for an approximation of federal and state taxes, this leaves a difference of -\$393.34 in her monthly financial situation when considering filing status, Adjusted Gross income and the number of Dependents in the 2023 tax year.
12. Appellant's statement of grounds for appeal was on the basis of:
- a. During 2023, the expense of purchasing health insurance would have caused a serious deprivation of food, shelter, clothing or other necessities. Provide proof to show additional expenses above and beyond that which your income would cover. If you were eligible to receive government subsidized insurance, explain why obtaining that would cause serious deprivation; (Testimony of Appellant, Exhibit 2).
13. Appellant did not incur significant and unexpected increases in essential expenses as a result of domestic violence; the death of a spouse, family member, or partner who shared household expenses; the sudden responsibility for providing full care for an aging parent or other family member; or fire, flood, or other natural or man-made disaster in 2023 (Testimony of Appellant).
14. Appellant did not fall more than thirty days behind in rent payments in 2023. Appellant did not receive any shut-off notices for basic utilities. There was no evidence or indication of this during the Appellant's testimony. (Testimony of Appellant)

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

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15. The appellant testified that she was a law student during 2023 and graduated from law school in May 2023. (Appellant's Testimony).
16. She turned 26 in January 2023, at which point she became ineligible to remain on her parents' health insurance. (Appellant's Testimony).
17. After aging out of her parents' plan, she researched options for obtaining her own health insurance, contacting several private health insurance companies. She received quotes for approximately \$400 per month, which she testified was unaffordable based on her income at the time.
18. The appellant asserts that the cost of private health insurance would have created a financial hardship for her, forming the basis of her appeal. (Appellant's Testimony).
19. However, she acknowledged that she did not contact the Massachusetts Health Connector to explore subsidized insurance options. (Appellant's Testimony).
20. She testified that she applied for MassHealth but was denied coverage.
21. Given the unified application process, it is notable that she did not receive any indication to contact the Health Connector, as her described income suggests she may have qualified for subsidized insurance. Despite this, the appellant stated she was unaware of her eligibility for such programs and did not pursue this avenue.
22. The Appellant has been assessed a penalty for not having health insurance in 2023 for 12 months.

ANALYSIS AND CONCLUSIONS OF LAW

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

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

Residents who do not obtain insurance are subject to a tax penalty for "each of the months" that the individual did not have health insurance as required by the individual mandate. There is a three-month grace period to allow the taxpayer to obtain health insurance coverage or to make the transition between health insurance

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policies. See G. L. c. 111M, sec. 2(b) and for Tax Year 2010, Administrative Bulletin 03-10: Guidance Regarding M.G.L. c. 111M and M.G.L. c. 176Q, as implemented by 956 CMR 6.00, which interprets the 63-day gap in coverage to be for three months. The Connector's regulations provide for a waiver of the tax penalty in the case of a financial hardship. See 956 CMR 6.08.

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

Appellant's Employment & Employer Based Insurance

Appellant was not offered health insurance by her employer. (Appellant's Testimony). The Appellant was assessed a penalty of 12 months based on their lack of coverage over 12 months.

In Massachusetts, the determination of affordability for employer-sponsored health plans, or Employer-Sponsored Insurance ("ESI"), is guided by state-specific guidelines. According to the 2023 Schedule HC instructions for the relevant tax year, the affordable premium is calculated based on a percentage of income that aligns with the individual's income range and filing status, as outlined in Table 3: Affordability, found on page HC-10. In this case, the maximum affordable amount for the Appellant, based on their income range and filing status, is 4.85%.

The Appellant has testified that they were not offered health insurance by their employer. Neither their testimony nor any documentary evidence provided supports that their employer offered health insurance. For the purposes of this Appeal, I will find Employer-Sponsored Insurance was unavailable. Because the appellant was not offered health insurance by their employer, they would not be blocked from applying for coverage via the Health Connector to obtain subsidized insurance.

ConnectorCare Eligibility

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

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for ConnectorCare, specifically Plan Type Plan Type 3B in tax year 2023.

In Massachusetts, you could get state help with ConnectorCare plans if your income is 300% of the FPL or less. In tax year 2023, the Appellant would qualify for Plan Type 3B through the ConnectorCare program. The coverage year 2023's lowest monthly premium for Plan Type 3B is \$137.

To qualify for a ConnectorCare plan, the Appellant must also meet other state requirements. The Appellant testified to not applying through the Health Connector in tax year 2023. Despite the requirement set by the individual mandate, due diligence in seeking health coverage through the Health Connector was not conducted. Notably, with an income level of 256.29% of the Federal Poverty Level, the appellant was eligible for subsidized coverage under ConnectorCare. This oversight in not applying for available subsidized coverage suggests a missed opportunity to obtain affordable health insurance.

Availability of Private Insurance

Private insurance was UNAFFORDABLE for the appellant on the open market during 2023. According to Tables 3 and 4 of the HC schedule for 2023, Appellant, with an adjusted gross income of \$34,830.00, was deemed to be unable to afford health insurance on the private market. According to Table 3, Appellant could have afforded to pay \$140.77 per month; according to Table 4, Appellant, who was 25 years old in 2023, lived in Suffolk County and filed her 2023 Massachusetts taxes as a Single with 0 dependents, would have had to pay \$312.00 for insurance on the private market. See 956 CMR 6.05 (1)(2), Schedule HC Tables 3 and 4, and Exhibit 1.

Considering the Appellant's gross income (\$2,902.50 per month), tax filing status, place of residence, and the expected affordable amount the Appellant could pay per the 2023 Schedule HC Tables (\$140.77 per month), private health insurance with a premium of \$312.00 per month was unaffordable for the Appellant. (2023 Schedule HC Tables).

Other Government-Sponsored Healthcare Programs

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

Financial Hardship Analysis

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

The appellant has demonstrated a financial hardship. The appellant testified that in

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2023 they incurred basic monthly expenses of approximately \$2,819.00. It's clearly challenging to manage a deficit when the monthly difference between income and expenses is \$393.34. In such circumstances, it would be unfair to expect the appellant to make an additional expenditure for health insurance.

Conclusion

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

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

PENALTY ASSESSED

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

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

NOTIFICATION OF YOUR RIGHT TO APPEAL TO COURT

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

cc. Connector Appeals Unit

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

FINAL APPEAL DECISION

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

Hearing Issue: Appeal of the 2023 Tax Year Penalty

Hearing Date: November 20, 2024

Decision Date: Wednesday, November 27,
2024

AUTHORITY

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

JURISDICTION

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

HEARING RECORD

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

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

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

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Exhibit 3	Correspondence from the Appellant.	1 page
Exhibit 4	One Check from the Appellant to his Landlord	1 page

FINDINGS OF FACT

The record shows, and I so find:

1. Appellant was 60 years old in the beginning of 2023. Appellant filed his 2023 Massachusetts tax return as Single. The Appellant has no dependents (Exhibit 1).
2. Appellant lived in Worcester County, MA in 2023 (Exhibit 1).
3. Appellant's Federal Adjusted Gross Income for 2023 was \$28,854.00 (Exhibit 1, Appellant's Testimony). Appellant's Income was 212% of the Federal Poverty level and based on his income, if all other conditions were met, he would be ELIGIBLE for Plan Type 3A (200.1-250% FPL) for ConnectorCare.
4. In 2023, the Appellant was employed full-time as a truck driver for a freight company from January until May, at which time he was laid off. (Appellant's Testimony)
5. The Appellant was offered health insurance in 2023, by his employer, at an approximate monthly cost of an unspecified amount. (Appellant's Testimony)
6. The Appellant does currently have Health Insurance. (Appellant's Testimony).
7. I take administrative notice of the financial information set forth in Tables 1 through 6 in the DOR 2023 Massachusetts Schedule HC Health Care Instructions and Worksheets. Tables 3 and 4 incorporate affordability and premium schedules adopted by the Board of Directors for the Commonwealth Health Insurance Connector Authority for 2023. Table 2 sets forth income at 300% of the Federal poverty level and Tables 5 and 6 set forth tax penalties in effect for 2023.
8. According to Table 3 of Schedule HC for 2023, The Appellant has no dependents, with an adjusted gross income of \$28,854.00 was deemed able to pay \$98.58 per month for health insurance, or 4.10% of his income. According to Table 4, Appellant, age 60 and living in Worcester County, could have purchased private insurance for \$490.00 per month.
9. Private insurance was UNAFFORDABLE for the appellant in 2023 (Schedule HC for 2023).

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

<u>Rent or Mortgage</u>	\$1,250.00	<u>Car Insurance</u>	\$70.00	<u>Medical/Dental</u>	\$0.00
<u>Car</u>	\$640.00	<u>Gas (Car)</u>	\$176.00	<u>Electricity</u>	\$50.00
<u>Cable/Internet</u>	\$80.00	<u>Food</u>	\$500.00	<u>Heat</u>	\$75.00
<u>Clothing</u>	\$50.00				
				<u>Total:</u>	\$2,891.00

11. Upon examining the appellant's testimony, it was ascertained that his gross monthly income was \$2,404.50. His necessary expenses were determined to be \$2,891.00 per month. After accounting for an approximation of federal and state taxes, this leaves a difference of -\$878.68 in his monthly financial situation when considering filing status, Adjusted Gross income and the number of Dependents in the 2023 tax year.

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

a. During 2023, the expense of purchasing health insurance would have caused a serious deprivation of food, shelter, clothing or other necessities. Provide proof to show additional expenses above and beyond that which your income would cover. If you were eligible to receive government subsidized insurance, explain why obtaining that would cause serious deprivation; (Testimony of Appellant, Exhibit 2).

13. Appellant did not incur significant and unexpected increases in essential expenses as a result of domestic violence; the death of a spouse, family member, or partner who shared household expenses; the sudden responsibility for providing full care for an aging parent or other family member; or fire, flood, or other natural or man-made disaster in 2023 (Testimony of Appellant).

14. Appellant did not fall more than thirty days behind in rent payments in 2023. Appellant did not receive any shut-off notices for basic utilities. There was no evidence or indication of this during the Appellant's testimony. (Testimony of Appellant)

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

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15. At the Administrative Appeals hearing, the appellant testified that he was appealing the imposition of a tax penalty for failing to maintain health insurance coverage. He explained that he was laid off from his job as a truck driver in May 2023 and did not have the financial means to pay for health insurance following his job loss.
16. During the course of the hearing, the appellant further testified that he could not recall whether he had attempted to apply for health insurance coverage through the Massachusetts Health Connector.
17. The Appellant has been assessed a penalty for not having health insurance in 2023 for 4 months.

ANALYSIS AND CONCLUSIONS OF LAW

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

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

Residents who do not obtain insurance are subject to a tax penalty for “each of the months” that the individual did not have health insurance as required by the individual mandate. There is a three-month grace period to allow the taxpayer to obtain health insurance coverage or to make the transition between health insurance policies. See G. L. c. 111M, sec. 2(b) and for Tax Year 2010, Administrative Bulletin 03-10: Guidance Regarding M.G.L. c. 111M and M.G.L. c. 176Q, as implemented by 956 CMR 6.00, which interprets the 63-day gap in coverage to be for three months. 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 had health insurance for 5 month(s) in 2023. He has been assessed a tax penalty for 4 months. He appealed the assessment. See Exhibits listed above. To determine if the penalty should be waived in whole or in part, we must consider whether affordable insurance which met minimum creditable coverage standards was available to the appellant through either (1) his employment, through (2) the private market, or through (3) a government-sponsored program. If affordable insurance was available, we must determine if such insurance was, in fact, not affordable to the appellant because he experienced a financial hardship as defined in 956 CMR 6.08.

Appellant’s Employment & Employer Based Insurance

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The Appellant testified that in 2023, his employer offered health insurance at an unspecified monthly cost. He further stated that he experienced periods of unemployment during 2023 and was employed from January through May of that year. (Appellant's Testimony)

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

Based on the Appellant's testimony, the penalty was assessed for a period during which he was unemployed. While the Appellant indicated that he was offered health insurance by his employer during his period of employment, he testified that he lacked the financial means to maintain coverage after being laid off in May 2023. Additionally, the Appellant could not recall whether he attempted to secure health insurance through alternative means, such as the Massachusetts Health Connector, during his unemployment. (Appellant's Testimony).

ConnectorCare Eligibility

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

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

The Appellant testified to not applying through the Health Connector in tax year 2023. Despite the requirement set by the individual mandate, due diligence in seeking health coverage through the Health Connector was not conducted. Notably, with an income level of 212.32% of the Federal Poverty Level, the appellant was eligible for subsidized coverage under ConnectorCare. This oversight in not applying for available subsidized coverage suggests a missed opportunity to obtain affordable health insurance.

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

Availability of Private Insurance

Private insurance was UNAFFORDABLE for the appellant on the open market during 2023. According to Tables 3 and 4 of the HC schedule for 2023, Appellant, with an adjusted gross income of \$28,854.00, was deemed to be unable to afford health insurance on the private market. According to Table 3, Appellant could have afforded to pay \$98.58 per month; according to Table 4, Appellant, who was 60 years old in 2023, lived in Worcester County and filed his 2023 Massachusetts taxes as a Single with 0 dependents, would have had to pay \$490.00 for insurance on the private market. See 956 CMR 6.05 (1)(2), Schedule HC Tables 3 and 4, and Exhibit 1.

Considering the Appellant's gross income (\$2,404.50 per month), tax filing status, place of residence, and the expected affordable amount the Appellant could pay per the 2023 Schedule HC Tables (\$98.58 per month), private health insurance with a premium of \$490.00 per month was unaffordable for the Appellant. (2023 Schedule HC Tables).

Other Government-Sponsored Healthcare Programs

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

Financial Hardship Analysis

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

The appellant has demonstrated a financial hardship. The appellant testified that in 2023 they incurred basic monthly expenses of approximately \$2,891.00. It's clearly challenging to manage a deficit when the monthly difference between income and expenses is \$878.68. In such circumstances, it would be unfair to expect the appellant to make an additional expenditure for health insurance.

Conclusion

The Appellant has demonstrated that the cost of purchasing health insurance would have caused them to experience a serious financial hardship. See 956 CMR 6.08(1)(e).

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The Appellant's 4 month penalty is therefore waived.

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

PENALTY ASSESSED

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

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

NOTIFICATION OF YOUR RIGHT TO APPEAL TO COURT

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

cc. Connector Appeals Unit

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

FINAL APPEAL DECISION

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

Hearing Issue: Appeal of the 2023 Tax Year Penalty

Hearing Date: November 20, 2024

Decision Date: November 27, 2024

AUTHORITY

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

JURISDICTION

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

HEARING RECORD

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

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

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

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FINDINGS OF FACT

The record shows, and I so find:

1. Appellant was 25 years old in the beginning of 2023. Appellant filed her 2023 Massachusetts tax return as Single. The Appellant has no dependents (Exhibit 1).
2. Appellant lived in Bristol County, MA in 2023 (Exhibit 1).
3. Appellant's Federal Adjusted Gross Income for 2023 was \$20,748.00 (Exhibit 1, Appellant's Testimony). Appellant's Income was 153% of the Federal Poverty level and based on her income, if all other conditions were met, she would be ELIGIBLE for Plan Type 2B (150.1-200% FPL) for ConnectorCare.
4. In 2023, the Appellant was employed full-time as a tour guide and barista in Alaska from May through September. (Appellant's Testimony). The Appellant testified that she experienced periods of unemployment during 2023 and confirmed that her employer did not offer health insurance.
5. The Appellant does currently have Health Insurance. (Appellant's Testimony).
6. I take administrative notice of the financial information set forth in Tables 1 through 6 in the DOR 2023 Massachusetts Schedule HC Health Care Instructions and Worksheets. Tables 3 and 4 incorporate affordability and premium schedules adopted by the Board of Directors for the Commonwealth Health Insurance Connector Authority for 2023. Table 2 sets forth income at 300% of the Federal poverty level and Tables 5 and 6 set forth tax penalties in effect for 2023.
7. According to Table 3 of Schedule HC for 2023, The Appellant has no dependents, with an adjusted gross income of \$20,748.00 was deemed able to pay \$48.41 per month for health insurance, or 2.80% of her income. According to Table 4, Appellant, age 25 and living in Bristol County, could have purchased private insurance for \$312.00 per month.
8. Private insurance was UNAFFORDABLE for the appellant in 2023 (Schedule HC for 2023).
9. In 2023, Appellant had the following monthly expenses for basic necessities¹:

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

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<u>Car</u>	\$250.00	<u>Car Insurance</u>	\$150.00	<u>Food</u>	\$440.00
<u>Clothing</u>	\$50.00	<u>Gas (Car)</u>	\$440.00	<u>Cell Phone</u>	\$125.00
				<u>Total:</u>	\$1,455.00

10. Upon examining the appellant's testimony, it was ascertained that her gross monthly income was \$1,729.00. Her necessary expenses were determined to be \$1,455.00 per month. After accounting for an approximation of federal and state taxes, this leaves a difference of -\$3.35 in her monthly financial situation when considering filing status, Adjusted Gross income and the number of Dependents in the 2023 tax year.
11. Appellant's statement of grounds for appeal was on the basis of:
 - a. Other. During 2023 other circumstances, such as: applying the affordability tables and schedule HC to you, is an equitable (for example because of family size); that you were unable to obtain government subsidize insurance, even though your income, qualified you; or you didn't reside in Massachusetts during your period of uninsurance.(Testimony of Appellant, Exhibit 2).
12. Appellant did not incur significant and unexpected increases in essential expenses as a result of domestic violence; the death of a spouse, family member, or partner who shared household expenses; the sudden responsibility for providing full care for an aging parent or other family member; or fire, flood, or other natural or man-made disaster in 2023 (Testimony of Appellant).
13. Appellant did not fall more than thirty days behind in rent payments in 2023. Appellant did not receive any shut-off notices for basic utilities. There was no evidence or indication of this during the Appellant's testimony. (Testimony of Appellant)
14. During the appeal hearing, the Appellant testified that in 2023 she primarily resided in Massachusetts. Although she spent time in Colorado and Alaska, she described those stays as part of road trips or time visiting friends.
15. The Appellant stated that she worked in Alaska as a barista and tour guide from May through September but maintained her full-time residence with her parents in Massachusetts. She emphasized that she did not take any steps to change her residency and expressly wanted to retain her Massachusetts residency because her belongings and family were there.
16. The Appellant further testified that she was unaware of how to obtain health insurance, which she identified as the primary reason for seeking a waiver of the tax penalty.

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17. She also inquired during the hearing about the cost of the tax penalty. Testimony and discussion during the hearing indicated that the Appellant's expenses may have exceeded her income during 2023. (Appellant's Testimony).
18. As a result, while her initial appeal focused on the inequity of applying the affordability tables to her circumstances, the hearing also explored whether she experienced a financial hardship during the year.
19. The Appellant has been assessed a penalty for not having health insurance in 2023 for 6 months.

ANALYSIS AND CONCLUSIONS OF LAW

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

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

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

Appellant had health insurance for 3 month(s) in 2023. She has been assessed a tax penalty for 6 months. She appealed the assessment. See Exhibits listed above. To determine if the penalty should be waived in whole or in part, we must consider whether affordable insurance which met minimum creditable coverage standards was available to the appellant through either (1) her employment, through (2) the private market, or through (3) a government-sponsored program. If affordable insurance was available, we must determine if such insurance was, in fact, not affordable to the appellant because he experienced a financial hardship as defined in 956 CMR 6.08.

Appellant's Employment & Employer Based Insurance

The Appellant was assessed a penalty for six months due to a lack of health insurance

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coverage for the period of January through September 2023. The Appellant initially believed she was covered under her parents' health insurance plan, as she had been at age 25. However, upon being informed by the Health Connector that she did not receive credit for minimum credible coverage during this time, the Appellant expressed confusion and disbelief.

The Appellant testified that she was employed as a tour guide and barista in Alaska from May through September, but her employers did not offer her health insurance coverage. Consequently, the Appellant had no employer-sponsored insurance during her period of employment. She also stated she was unaware of how to obtain coverage independently during her periods of unemployment or employment.

In Massachusetts, the determination of affordability for employer-sponsored health plans, or Employer-Sponsored Insurance (ESI), is guided by state-specific guidelines. According to the 2023 Schedule HC instructions for the relevant tax year, affordability is calculated as a percentage of income, with the maximum affordable premium for the Appellant being 2.80% of her income, as outlined in Table 3: Affordability on page HC-10. The Appellant's circumstances, including her lack of employer-sponsored insurance and confusion regarding her coverage status, raise questions about the affordability determination and whether a financial hardship may have affected her ability to secure coverage.

Because the appellant was either not employed during the tax penalty period or was not offered health insurance by their employer, they would not be blocked from applying for coverage via the Health Connector to obtain subsidized insurance.

ConnectorCare Eligibility

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

In Massachusetts, you could get state help with ConnectorCare plans if your income is 300% of the FPL or less. In tax year 2023, the Appellant would qualify for Plan Type 2B through the ConnectorCare program. The coverage year 2023's lowest monthly premium for Plan Type 2B is \$49.

To qualify for a ConnectorCare plan, the Appellant must also meet other state requirements. The Appellant testified to not applying through the Health Connector in tax year 2023. Despite the requirement set by the individual mandate, due diligence in

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seeking health coverage through the Health Connector was not conducted. Notably, with an income level of 152.67% of the Federal Poverty Level, the appellant was eligible for subsidized coverage under ConnectorCare. This oversight in not applying for available subsidized coverage suggests a missed opportunity to obtain affordable health insurance.

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

Availability of Private Insurance

Private insurance was UNAFFORDABLE for the appellant on the open market during 2023. According to Tables 3 and 4 of the HC schedule for 2023, Appellant, with an adjusted gross income of \$20,748.00, was deemed to be unable to afford health insurance on the private market. According to Table 3, Appellant could have afforded to pay \$48.41 per month; according to Table 4, Appellant, who was 25 years old in 2023, lived in Bristol County and filed her 2023 Massachusetts taxes as a Single with 0 dependents, would have had to pay \$312.00 for insurance on the private market. See 956 CMR 6.05 (1)(2), Schedule HC Tables 3 and 4, and Exhibit 1.

Considering the Appellant's gross income (\$1,729.00 per month), tax filing status, place of residence, and the expected affordable amount the Appellant could pay per the 2023 Schedule HC Tables (\$48.41 per month), private health insurance with a premium of \$312.00 per month was unaffordable for the Appellant. (2023 Schedule HC Tables).

Other Government-Sponsored Healthcare Programs

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

Financial Hardship Analysis

Since the Appellant is eligible for ELIGIBLE for Plan Type 2B in 2023, a financial hardship analysis pursuant to 956 CMR 6.08 (1) is warranted.

The appellant has demonstrated a financial hardship. The appellant testified that in 2023 they incurred basic monthly expenses of approximately \$1,455.00. It's clearly challenging to manage a deficit when the monthly difference between income and expenses is \$3.35. In such circumstances, it would be unfair to expect the appellant to make an additional expenditure for health insurance.

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Conclusion

The Appellant has demonstrated that the cost of purchasing health insurance would have caused them to experience a serious financial hardship. See 956 CMR 6.08(1)(e). The Appellant's 6 month penalty is therefore waived.

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

PENALTY ASSESSED

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

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

NOTIFICATION OF YOUR RIGHT TO APPEAL TO COURT

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

cc. Connector Appeals Unit

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

Massachusetts Health Connector Appeals Unit

FINAL APPEAL DECISION: PA 21-2746

Appeal Decision: The penalty is overturned in full

Hearing Issue: Appeal of the 2021 Tax Year Penalty

Hearing Date: November 15, 2024

Decision Date: November 27, 2024

AUTHORITY

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

JURISDICTION

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

HEARING RECORD

The Appellant appeared at the hearing, which was held by telephone on November 15, 2024. The Appellant was joined by his brother and Conservatorship. The Appellant authorized his brother/Conservator to participate in testimony. The procedures to be followed during the hearing were reviewed with the Appellant who was then sworn in. Exhibits were marked and admitted in evidence with no objection from the Appellant. The Appellant testified.

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

Exhibit 1:	Appeal Case Information from Schedule HC.	(1 P).
Exhibit 2:	Appellant's Representative Statement in Support of Appeal on 5/1/2024	(1 P).
Exhibit 2(a):	2021 Payment Voucher to MA Dept. of Revenue 5/9/2024	(1 P).
Exhibit 2(b):	Notice Vacate Dismissal.	(1 P).
Exhibit 2(c):	Email from the Connector to DOR to hold Assessment 6/13/24	(1 P).
Exhibit 3:	Health Connector's Notice of Hearing dated 10/18/2024.	(2 PP).

The record shows, and I so find:

1. The Appellant, who filed a 2021 Massachusetts tax return filed single with a family size of 1, was age 58 in 2021, lived in Norfolk County. (Exhibit 1).
2. The Appellant's Federal Adjusted Gross Income for 2021 was \$29,739. (Exhibit 1).

3. The Appellant's representative testified the Appellant worked part time and did not know if he had access to Employer Sponsored Insurance ("ESI"), did not know the cost but it was too expensive. (Appellant Representative's Testimony, Exhibit 2).
4. The Appellant's representative testified he did not look into obtaining Connectorcare and notwithstanding same, could not have afforded it given that the Appellant had other financial obligations and bills that he had to pay that would preclude him from purchasing health insurance. (Appellant Representative's Testimony).
5. The Appellant's representative testified that the Appellant had health and other issues and was not able to coordinate his financial affairs that precluded him from investigating obtaining health insurance. (Appellant Representative's Testimony, Exhibit 2).
6. The Appellant's representative testified that the Appellant was three (3) months behind in payments. (Appellant Representative's Testimony).
7. According to Table 3 Appellant could have afforded \$104.09 per month for health insurance in 2021. According to Table 4 Appellant could have purchased insurance for \$401.00 per month.
8. The Appellant would have been eligible for ConnectorCare coverage in 2021 because the Appellant's income was less than 300% of the poverty level, which was \$38,280.00 for a family size of one (1). (See Table 2 of Schedule HC 2021, Appellant's Testimony).
9. The Appellant's representative testified that the Appellant's monthly living expenses in 2021 included: Mortgage: \$1,550, Taxes and Insurance: \$600, and Food \$600, totaling \$2,750. (Appellant's Testimony).
10. The Appellant's representative testified that the Appellant's approximate monthly net take home pay was approximately two-thirds (2/3r'ds) of his annual gross income, or \$19,826/12, or \$1,652 per month. (Appellant's Testimony).
11. The Appellant's representative testified the Appellant had a major health matter in 2023 that necessitated his appointment as conservatorship and that the Appellant is now on SSDI and has health insurance. (Appellant Representative's Testimony).
12. The Appellant's representative testified that because the Appellant was unable to coordinate his financial affairs that he did not receive notice of penalties and that when they did receive the notice the penalties were paid, and a hearing was requested to appeal the period. (Appellant Representative's Testimony, Exhibit 2(a)).
13. In addition to the foregoing, I take administrative notice of the 2021 Schedule HC Instructions and Worksheets, available at <http://www.mass.gov.dor/docs/dor/health-care/2021>, and in particular, Tables 1-6 which, as discussed below, include the Affordability Schedule and other financial information used in making 2021 individual mandate tax penalty determinations.

ANALYSIS AND CONCLUSIONS OF LAW

The issue on appeal is whether the tax penalty assessed by the Massachusetts Department of Revenue for 2021 should be waived, either in whole or in part. Appellant has been assessed a tax penalty for twelve (12) months in 2021. Appellant has appealed the penalty. (See Exhibits 1 and 2).

The Appellant adduced evidence at the hearing submitted a statement of grounds for appeal (Ex. 2) with the appeal that during 2021 that the individual mandate did not apply to him because the expense of purchasing health insurance during 2021 would have caused him a deprivation of food and other necessities and a financial hardship as defined in 956 CMR 6.08. (Exhibit 2 and Appellants' Testimony).

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

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

The evidence provided by the Appellant established that his income for 2021, \$29,739 was less than 300% of the federal poverty level, which for 2021 was \$38,280 for a single person with a family size of one (1). According to Table 3 of Schedule HC for 2021, the Appellant could have afforded \$104.09 per month. According to Table 4, Appellant, age 58 and living in Norfolk County during the time he was being penalized for not having insurance, could have purchased insurance for \$401 per month. Individual coverage was not affordable through the individual market for the Appellant in 2021 (Schedule HC for 2021).

The next issue to consider is whether the Appellant had access to affordable employer health insurance ("ESI") in 2021. The Appellant's representative and the Appellant testified that he worked part time, did not know if he was eligible and could not have afforded ESI. Pursuant to 26 IRC section 36B and 45 CFR section 155.305(f), applicants are eligible for an Advanced Premium Tax Credit (APTC) if they meet qualifying income levels and other eligibility requirements. Massachusetts residents may also be eligible for additional state premium assistance through the Health Connector's ConnectorCare program if: a) their household income does not exceed 300 percent of the Federal Poverty Level (FPL) and b) they

are eligible for an APTC. 956 CMR 12.09(1) An applicant who has access to other qualifying health insurance, including insurance through an employer, will be blocked from eligibility for an APTC if the coverage is affordable and meets minimum value standards, as those terms are defined by the law. See 26 CFR section 1.36B-2(c)(3). Coverage for plan year 2021 is considered to be affordable if the employee's contribution for an individual plan is 9.83 percent or less of the employee's projected household modified adjusted income (MAGI). The coverage is considered to meet minimum value standards if it has an actuarial value of at least 60 percent. In this case, as referenced above, the Appellant did not have access to affordable ESI. (Appellant's Testimony).

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

I find the Appellant's representative's testimony credible that the Appellant was not able to purchase insurance at \$104.09 per month given his net monthly income of approximately \$1,652 and the cost of his monthly basic necessities of approximately \$2,750, (Appellant's Representative Testimony). Moreover, because of the Appellant's subsequent health issues and inability to coordinate his financial affairs, he was behind on his payments and could not afford health insurance. Accordingly, I find that the Appellant met the hardship criteria, and that purchasing health insurance would have caused the Appellant to experience financial hardship. 956 CMR 6.08 (1) (e) & (3). Accordingly, the Appellant's assessed tax penalty of twelve (12) months is waived in full for these reasons.

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

Appellant should note that any waiver granted here is for 2021 only and is based upon the specific facts I have found to be true and should not assume that the same determination will be made should Appellant be assessed a penalty in the future.

PENALTY ASSESSED

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

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

NOTIFICATION OF YOUR RIGHT TO APPEAL TO COURT

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

Cc: Connector Appeals Unit

Hearing Officer

ADDENDUM

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

Massachusetts Health Connector Appeals Unit

FINAL APPEAL DECISION: PA 22-887

Appeal Decision: The penalty is overturned in full

Hearing Issue: Appeal of the 2022 Tax Year Penalty

Hearing Date: November 15, 2024

Decision Date: November 29, 2024

AUTHORITY

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

JURISDICTION

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

HEARING RECORD

The Appellant appeared at the hearing, which was held by telephone on November 15, 2024. The procedures to be followed during the hearing were reviewed with the Appellant who was then sworn in. Exhibits were marked and admitted in evidence with no objection from the Appellant. The Appellant testified.

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

Exhibit 1:	Appeal Case Information from Schedule HC.		(1 P).
Exhibit 2:	Statement of Grounds for Appeal 2022 Signed by Appellant on 3/24/2022.		(2 PP).
Exhibit 2(a):	MassHealth Denial Notice.	12/6/22	(1 P).
Exhibit 2(b):	Request to Vacate Dismissal	11/20/23	(1 P).
Exhibit 2(c):	Appeal Case from HC reflecting Hearing Schedules	11/20/23	(1 P).
Exhibit 2(d):	Health Connector’s Notice of Hearing dated	10/13/2023	(2 PP).
Exhibit 3:	Health Connector’s Notice of Hearing dated	10/18/2024.	(2 PP).

The record shows, and I so find:

1. Appellant, who filed a 2022 Massachusetts tax return filed single with a family size of 1, was age 27 in 2022, lived in Worcester County. (Exhibit 1).
2. Appellant’s Federal Adjusted Gross Income for 2022 was \$39,558. (Exhibit 1).

3. The Appellant testified he had access to Employer Sponsored Insurance (“ESI”), did not know the cost, but it was too expensive. (Appellant’s Testimony).
4. The Appellant testified he looked into obtaining Connectorcare and public insurance, but it was too expensive (approximately \$200 a month) and given that he had other financial obligations and bills that he had to pay that would not allow him to purchase health insurance. (Appellant’s Testimony).
5. The Appellant’s testified that he has attempted to obtain MassHealth but was denied because of income. (Appellant’s Testimony, Exhibit 2(a)).
6. According to Table 3 Appellant could have afforded \$245.59 per month for health insurance in 2022. According to Table 4 Appellant could have purchased insurance for \$277.00 per month.
7. The Appellant would not have been eligible for ConnectorCare coverage in 2022 because the Appellant’s income was more than 300% of the poverty level, which was \$38,640.00 for a family size of one (1). (See Table 2 of Schedule HC 2022, Appellant’s Testimony).
8. The Appellant’s testified that his monthly living expenses in 2022 included: Rent: \$1,250, Utilities and Food \$400, Cell Phone: \$250 a month, total \$1,900. (Appellant’s Testimony).
9. The Appellant testified that his approximate monthly net take home pay was \$2,000. (Appellant’s Testimony).
10. In addition to the foregoing, I take administrative notice of the 2022 Schedule HC Instructions and Worksheets, available at <http://www.mass.gov.dor/docs/dor/health-care/2022>, and in particular, Tables 1-6 which, as discussed below, include the Affordability Schedule and other financial information used in making 2022 individual mandate tax penalty determinations.

ANALYSIS AND CONCLUSIONS OF LAW

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

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

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

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

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

The evidence provided by the Appellant established that his income for 2022, \$39,558 was more than 300% of the federal poverty level, which for 2022 was \$38,640 for a single person with a family size of one (1). According to Table 3 of Schedule HC for 2022, the Appellant could have afforded \$245.59 per month. According to Table 4, Appellant, age 27 and living in Worcester County during the time he was being penalized for not having insurance, could have purchased insurance for \$277 per month. Individual coverage was not affordable through the individual market for the Appellant in 2022 (Schedule HC for 2022).

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

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

I find the Appellant's testimony credible that he was not able to purchase insurance at \$245.59 per month given his net monthly income of approximately \$2,000 and the cost of his monthly basic necessities were approximately \$1,900. (Appellant's Testimony). Accordingly, I find that the Appellant met the hardship criteria, and that purchasing health insurance would have caused the Appellant to

experience financial hardship. 956 CMR 6.08 (1) (e) & (3). Accordingly, the Appellant's assessed tax penalty of twelve (12) months is waived in full for these reasons.

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

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

PENALTY ASSESSED

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

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

NOTIFICATION OF YOUR RIGHT TO APPEAL TO COURT

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

Cc: Connector Appeals Unit

Hearing Officer

ADDENDUM

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

CONNECTOR APPEALS UNIT



Exhibit 3	Correspondence from the Appellant.	2 pages
Exhibit 4	Correspondence from the Health Connector, dated 7/7/2023	2 pages
Exhibit 5	Emails relating to a Business Deal	4 pages

FINDINGS OF FACT

The record shows, and I so find:

1. Appellant was 53 years old in the beginning of 2023. Appellant filed her 2023 Massachusetts tax return as Head of the Household. The Appellant has no dependents (Exhibit 1).
2. Appellant lived in Essex County, MA in 2023 (Exhibit 1).
3. Appellant's Federal Adjusted Gross Income for 2023 was \$102,258.00 (Exhibit 1, Appellant's Testimony). Appellant's Income was 752% of the Federal Poverty level and based on her income, if all other conditions were met, she would be INELIGIBLE based on income for ConnectorCare.
4. The Appellant was employed in a part-time capacity from October through December 2023. This employment did not offer health insurance benefits.
5. The Appellant does currently have Health Insurance. (Appellant's Testimony).
6. I take administrative notice of the financial information set forth in Tables 1 through 6 in the DOR 2023 Massachusetts Schedule HC Health Care Instructions and Worksheets. Tables 3 and 4 incorporate affordability and premium schedules adopted by the Board of Directors for the Commonwealth Health Insurance Connector Authority for 2023. Table 2 sets forth income at 300% of the Federal poverty level and Tables 5 and 6 set forth tax penalties in effect for 2023.
7. According to Table 3 of Schedule HC for 2023, The Appellant has no dependents, with an adjusted gross income of \$102,258.00 was deemed able to pay \$681.72 per month for health insurance, or 8.00% of her income. According to Table 4, Appellant, age 53 and living in Essex County, could have purchased private insurance for \$475.00 per month.
8. Private insurance was AFFORDABLE for the appellant in 2023 (Schedule HC for 2023).
9. Appellant's statement of grounds for appeal was on the basis of:

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- a. Other. During 2023 other circumstances, such as: applying the affordability tables and schedule HC to you, is an equitable (for example because of family size); that you were unable to obtain government subsidize insurance, even though your income, qualified you; or you didn't reside in Massachusetts during your period of uninsurance.(Testimony of Appellant, Exhibit 2).
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 2023 (Testimony of Appellant).
11. Appellant did not fall more than thirty days behind in rent payments in 2023. Appellant did not receive any shut-off notices for basic utilities. There was no evidence or indication of this during the Appellant's testimony. (Testimony of Appellant)
12. The Appellant lost her position in December 2022. According to her testimony, her former company's CEO sent numerous emails suggesting employees might be rehired within weeks or months in 2023, leading the Appellant to believe she had a near-certain chance of regaining employment with health insurance. (Appellant's Testimony). However, the company eventually went out of business without rehiring anyone. (Appellant's Testimony).
13. In April 2023, the Appellant contacted the Health Connector by phone but couldn't reach anyone. (Appellant's Testimony). She attempted to apply for health insurance in July but was informed she needed a qualifying event for a special enrollment period, which she did not qualify for according to the correspondence from the Health Connector. (Appellant's Testimony; Exhibit 4).
14. The denial letter included information about contacting the Office of Patient Protection and filing for a waiver, which the Appellant admitted she didn't read or understand. (Appellant's Testimony).
15. Believing she couldn't obtain a special enrollment, the Appellant took no further action to secure health insurance. (Appellant's Testimony).
16. During her testimony, she argued that her history of paying for health insurance for many years, often without using equivalent services, should warrant a one-time waiver for this situation. (Appellant's Testimony).
17. The Appellant has been assessed a penalty for not having health insurance in 2023 for 6 months.

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ANALYSIS AND CONCLUSIONS OF LAW

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

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

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

Appellant had health insurance for 3 month(s) in 2023. She has been assessed a tax penalty for 6 months. She appealed the assessment. See Exhibits listed above. To determine if the penalty should be waived in whole or in part, we must consider whether affordable insurance which met minimum creditable coverage standards was available to the appellant through either (1) her employment, through (2) the private market, or through (3) a government-sponsored program. If affordable insurance was available, we must determine if such insurance was, in fact, not affordable to the appellant because he experienced a financial hardship as defined in 956 CMR 6.08.

Appellant’s Employment & Employer Based Insurance

Appellant was not offered health insurance by her employer. For the purposes of this Appeal, I will find Employer-Sponsored Insurance was unavailable. Because the appellant was either not employed during the tax penalty period or was not offered health insurance by their employer, they would not be blocked from applying for coverage via the Health Connector to obtain subsidized insurance.

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ConnectorCare Eligibility

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

In Massachusetts, you could get state help with ConnectorCare plans if your income is 300% of the FPL or less. For tax year 2023, the Appellant is ineligible for insurance through the ConnectorCare program due to her high income levels.

Appellant's Engagement with the Health Connector

The Appellant lost her position in December 2022. She claims to have called the Health Connector in April 2023 but was unable to get through. However, this claim lacks substantiating details such as the reason for her call, the specific date, or why she didn't pursue alternative methods of contact like visiting a Health Connector center in person or using the online marketplace. The lack of specific details regarding the April call raises questions about the thoroughness of the Appellant's efforts to engage with the Health Connector during this period.

In July 2023, she attempted to apply for health insurance but was informed she needed a qualifying event for a special enrollment period. The Appellant was later denied her request for a special enrollment period. (Exhibit 4). The denial letter included information about contacting the Office of Patient Protection and filing for a waiver, which could have allowed her to apply for health insurance outside the standard enrollment period. However, the Appellant admitted during her testimony that she didn't actually read that part of the letter and was unfamiliar with this option. (Appellant's Testimony). This admission, coupled with the vague account of her April contact attempt, demonstrates a critical lack of due diligence on the Appellant's part.

By failing to fully read and understand the denial letter, particularly the section about the Office of Patient Protection waiver, the Appellant neglected a potential avenue to obtain health insurance. Her testimony revealed that this oversight was the primary reason she stopped trying to obtain health insurance altogether. This lack of basic diligence in exploring all available options, especially those explicitly mentioned in official communications, significantly undermined her efforts to secure health coverage.

The Appellant's failure to engage with this crucial information, despite it being provided to her, indicates a lack of thorough engagement with the health insurance

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application process. This oversight not only resulted in her remaining uninsured but also demonstrates a failure to exercise reasonable care in addressing her health insurance needs.

The Appellant's testimony further revealed a lack of awareness regarding the timeframes mandated by the individual mandate law. She was unfamiliar with the legal requirement to obtain health insurance within a specific period, as well as the potential penalties for non-compliance. This ignorance of the law, while not an excuse, demonstrates a broader pattern of insufficient engagement with the health insurance process as required by the individual mandate. The Appellant's failure to inform herself about these crucial timeframes, despite them being fundamental to the state's health insurance requirements, further underscores her lack of due diligence in addressing her health insurance obligations. This oversight left her vulnerable to penalties and without coverage for an extended period, a situation that could have been mitigated had she been more proactive in understanding and adhering to the mandated timeframes.

The Appellant's contention that her history of paying for health insurance for many years, often without using equivalent services, should warrant a one-time waiver is not a valid basis for appeal. The individual mandate and associated penalties are designed to ensure continuous coverage and spread risk across the population, regardless of individual usage patterns. Past compliance with the law does not create an exemption for future periods of non-compliance.

The health insurance system relies on consistent participation, even during periods when an individual may not require extensive medical services. Moreover, the law provides specific criteria for waivers and exemptions, none of which include consideration of an individual's historical payment record or low utilization of services. The Appellant's argument, while understandable from a personal perspective, does not align with the legal and policy framework governing health insurance requirements in Massachusetts.

Availability of Private Insurance

Private insurance was AFFORDABLE for the appellant on the open market during 2023. According to Tables 3 and 4 of the HC schedule for 2023, Appellant, with an adjusted gross income of \$102,258.00, was deemed to be able to afford health insurance on the private market. According to Table 3, Appellant could have afforded to pay \$681.72 per month; according to Table 4, Appellant, who was 53 years old in 2023, lived in Essex County and filed her 2023 Massachusetts taxes as a Head of the Household with 0 dependents, would have had to pay \$475.00 for insurance on the private market. See 956 CMR 6.05 (1)(2), Schedule HC Tables 3 and 4, and Exhibit 1.

In light of the Appellant's gross income (\$8,521.50 per month), tax filing status, place

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of residence, and the expected affordable amount the Appellant could pay per the 2023 Schedule HC Tables (\$681.72 per month), the Appellant could have afforded private health insurance with a premium of \$475.00 per month. (2023 Schedule HC Tables).

Other Government-Sponsored Healthcare Programs

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

Financial Hardship Analysis

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

The Appellant did not argue that she experienced a financial hardship. Instead, she contended that she should be granted a waiver because she had paid for health insurance for many years prior and that this was a one-time mistake.

Conclusion

The Appellant has not demonstrated that the cost of purchasing health insurance would have caused her to experience a serious financial hardship. See 956 CMR 6.08(1)(e).

The Appellant's argument for a waiver based on her history of past insurance payments and the characterization of her situation as a one-time mistake does not provide a basis for waiving the penalty under the applicable regulations.

Furthermore, the Appellant's lack of diligence in exploring available options, such as the Office of Patient Protection waiver, and her unfamiliarity with the mandated timeframes for obtaining insurance, do not constitute grounds for appeal. Therefore, the Appellant's 6-month penalty is upheld

PENALTY ASSESSED

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

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

CONNECTOR APPEALS UNIT



NOTIFICATION OF YOUR RIGHT TO APPEAL TO COURT

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

Hearing Officer

cc. Connector Appeals Unit

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

FINAL APPEAL DECISION

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

Hearing Issue: Appeal of the 2023 Tax Year Penalty

Hearing Date: September 13, 2024

Decision Date: September 30, 2024

AUTHORITY

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

JURISDICTION

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

HEARING RECORD

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

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

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

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Exhibit 3	Correspondence from the Appellant's Mother.	2 pages
Exhibit 4	Correspondence from the Health Connector, dated 7/7/2023	2 pages
Exhibit 5	Emails relating to Business Deal	4 pages

FINDINGS OF FACT

The record shows, and I so find:

1. Appellant was 20 years old in the beginning of 2023. Appellant filed his 2023 Massachusetts tax return as Single. The Appellant has no dependents (Exhibit 1).
2. Appellant lived in Essex County, MA in 2023 (Exhibit 1).
3. Appellant's Federal Adjusted Gross Income for 2023 was \$64,315.00 (Exhibit 1, Appellant's Testimony). Appellant's Income was 473% of the Federal Poverty level and based on his income, if all other conditions were met, he would be INELIGIBLE based on income for ConnectorCare.
4. In 2023, the Appellant was employed as a Overnight Order Selector at a Food Distribution Company in a full-time capacity. (Appellant's Testimony).
5. The Appellant was employed for the full year and did not have any job disruptions during the year 2023.
6. The Appellant was offered health insurance in 2023, by his employer, at an approximate monthly cost of an unspecified amount. (Appellant's Testimony)
7. The Appellant does currently have Health Insurance. (Appellant's Testimony).
8. I take administrative notice of the financial information set forth in Tables 1 through 6 in the DOR 2023 Massachusetts Schedule HC Health Care Instructions and Worksheets. Tables 3 and 4 incorporate affordability and premium schedules adopted by the Board of Directors for the Commonwealth Health Insurance Connector Authority for 2023. Table 2 sets forth income at 300% of the Federal poverty level and Tables 5 and 6 set forth tax penalties in effect for 2023.
9. According to Table 3 of Schedule HC for 2023, The Appellant has no dependents, with an adjusted gross income of \$64,315.00 was deemed able to pay \$428.77 per month for health insurance, or 8.00% of his income. According to Table 4, Appellant, age 20 and living in Essex County, could have purchased private insurance for \$312.00 per month.

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10. Private insurance was AFFORDABLE for the appellant in 2023 (Schedule HC for 2023).
11. Appellant's statement of grounds for appeal was on the basis of:
 - a. Other. During 2023 other circumstances, such as: applying the affordability tables and schedule HC to you, is an equitable (for example because of family size); that you were unable to obtain government subsidize insurance, even though your income, qualified you; or you didn't reside in Massachusetts during your period of uninsurance.(Testimony of Appellant, Exhibit 2).
12. Appellant did not incur significant and unexpected increases in essential expenses as a result of domestic violence; the death of a spouse, family member, or partner who shared household expenses; the sudden responsibility for providing full care for an aging parent or other family member; or fire, flood, or other natural or man-made disaster in 2023 (Testimony of Appellant).
13. Appellant did not fall more than thirty days behind in rent payments in 2023. Appellant did not receive any shut-off notices for basic utilities. There was no evidence or indication of this during the Appellant's testimony. (Testimony of Appellant)
14. The appellant testified that, although he knew he was covered under his mother's Employer-Sponsored Insurance policy in 2022 and was aware of her job loss in December, he did not realize he needed to obtain his own health insurance. He also stated that he was unaware of the individual mandate law requiring health insurance coverage. (Appellant's Testimony).
15. The appellant claimed that his lack of knowledge regarding the law was not the primary issue however and instead, he emphasized that his main motivation for appealing was his belief that the mandated penalties were excessive and his reluctance to pay them. (Appellant's Testimony).
16. The Appellant has been assessed a penalty for not having health insurance in 2023 for 5 months.

ANALYSIS AND CONCLUSIONS OF LAW

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

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

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

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

Appellant had health insurance for 4 month(s) in 2023. He has been assessed a tax penalty for 5 months. He appealed the assessment. See Exhibits listed above. To determine if the penalty should be waived in whole or in part, we must consider whether affordable insurance which met minimum creditable coverage standards was available to the appellant through either (1) his employment, through (2) the private market, or through (3) a government-sponsored program. If affordable insurance was available, we must determine if such insurance was, in fact, not affordable to the appellant because he experienced a financial hardship as defined in 956 CMR 6.08.

Appellant’s Employment & Employer Based Insurance

The Appellant was offered health insurance in 2023, by his employer, at an approximate cost of an unspecified monthly amount. (Appellant's Testimony). The Appellant was employed for the full year and did not have any job disruptions during the year 2023. (Appellant’s Testimony).

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

Based on the testimony of the Appellant, it appears that although he was employed and offered health insurance by his employer, he did not take the necessary steps required by law to sign up for it or engage with their employer to ensure he was

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enrolled. Because the appellant was employed and offered health insurance by their employer during the time of the tax penalty, they are likely blocked from obtaining subsidized insurance through Connector Care.

ConnectorCare Eligibility

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

Appellant's Engagement with the Health Connector

The Appellant testified to not applying through the Health Connector in tax year 2023. Despite the requirement set by the individual mandate, due diligence in seeking health coverage through the Health Connector was not conducted even after losing it by way of his Mother's job loss.

Availability of Private Insurance

Private insurance was AFFORDABLE for the appellant on the open market during 2023. According to Tables 3 and 4 of the HC schedule for 2023, Appellant, with an adjusted gross income of \$64,315.00, was deemed to be able to afford health insurance on the private market. According to Table 3, Appellant could have afforded to pay \$428.77 per month; according to Table 4, Appellant, who was 20 years old in 2023, lived in Essex County and filed his 2023 Massachusetts taxes as a Single with 0 dependents, would have had to pay \$312.00 for insurance on the private market. See 956 CMR 6.05 (1)(2), Schedule HC Tables 3 and 4, and Exhibit 1.

In light of the Appellant's gross income (\$5,359.58 per month), tax filing status, place of residence, and the expected affordable amount the Appellant could pay per the 2023 Schedule HC Tables (\$428.77 per month), the Appellant could have afforded private health insurance with a premium of \$312.00 per month. (2023 Schedule HC Tables).

Other Government-Sponsored Healthcare Programs

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

Financial Hardship Analysis

Affordable insurance was available to the Appellant through the private market and presumably through their employer in 2023. However, the Appellant did not demonstrate a financial hardship as defined in 956 CMR 6.08 (1).

The Appellant did not provide evidence of financial constraints that would have prevented them from obtaining health insurance. Instead, the Appellant's testimony focused on their disagreement with the penalty system and their failure to consider obtaining insurance after losing coverage under their mother's policy.

Conclusion

The Appellant has not demonstrated that the cost of purchasing health insurance would have caused them to experience a serious financial hardship as per 956 CMR 6.08(1)(e). Instead, the evidence and testimony point to a series of oversights and personal choices that led to the lack of coverage. The Appellant failed to anticipate and plan for their insurance needs despite knowing about the loss of coverage under their mother's policy. This was compounded by a clear lack of due diligence in researching or inquiring about available health insurance options.

While the Appellant's unawareness of the individual mandate law explains their inaction, it does not exempt them from the responsibility to comply with it. Notably, the primary focus of the appeal was on disagreement with the penalty system rather than on any financial inability to obtain coverage. Throughout the testimony, no concrete evidence of financial barriers to obtaining health insurance was presented.

It is significant that affordable insurance options were presumed to be available through both the private market and potentially the Appellant's employer, yet these were not explored. These factors collectively indicate that the Appellant's lack of coverage stemmed primarily from a failure to consider and act upon their Health Insurance needs, rather than from genuine financial hardship. The Appellant's situation appears to be a result of oversight, lack of awareness, and disagreement with the penalty system, not an inability to afford coverage.

Given these circumstances, and in the absence of evidence supporting a claim of financial hardship, the five-month penalty is upheld. This decision reflects the importance of proactive engagement with health insurance requirements and the expectation that individuals will take reasonable steps to secure coverage when it is available and affordable. The Appellant's case underscores the need for individuals to remain informed about their health insurance obligations and to actively seek out

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coverage options, even when faced with changes in their personal circumstances.

PENALTY ASSESSED

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

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

NOTIFICATION OF YOUR RIGHT TO APPEAL TO COURT

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

Hearing Officer

cc. Connector Appeals Unit

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

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FINDINGS OF FACT

The record shows, and I so find:

1. Appellant was 45 years old in the beginning of 2023. Appellant filed his 2023 Massachusetts tax return as Single. The Appellant has no dependents (Exhibit 1).
2. Appellant lived in Essex County, MA in 2023 (Exhibit 1).
3. Appellant's Federal Adjusted Gross Income for 2023 was \$63,099.00 (Exhibit 1, Appellant's Testimony). Appellant's Income was 464% of the Federal Poverty level and based on his income, if all other conditions were met, he would be INELIGIBLE based on income for ConnectorCare.
4. In 2023, the Appellant was employed full-time as a Sales Associate at Marketing Software Company from January to May, according to the Appellant's testimony. Subsequently, in September 2023, the Appellant secured a second position as an Account Manager at Electronic Hardware Company, continuing in this role until the end of the year.
5. The Appellant was offered health insurance in 2023, by his first employer, at an unspecified monthly cost. (Appellant's Testimony)
6. The Appellant does currently have Employer-Sponsored Insurance. (Appellant's Testimony).
7. I take administrative notice of the financial information set forth in Tables 1 through 6 in the DOR 2023 Massachusetts Schedule HC Health Care Instructions and Worksheets. Tables 3 and 4 incorporate affordability and premium schedules adopted by the Board of Directors for the Commonwealth Health Insurance Connector Authority for 2023. Table 2 sets forth income at 300% of the Federal poverty level and Tables 5 and 6 set forth tax penalties in effect for 2023.
8. According to Table 3 of Schedule HC for 2023, The Appellant has no dependents, with an adjusted gross income of \$63,099.00 was deemed able to pay \$420.66 per month for health insurance, or 8.00% of his income. According to Table 4, Appellant, age 45 and living in Essex County, could have purchased private insurance for \$409.00 per month.
9. Private insurance was AFFORDABLE for the appellant in 2023 (Schedule HC for 2023).
10. In 2023, Appellant had the following monthly expenses for basic necessities¹:

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

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<u>Rent or Mortgage</u>	\$1,776.00	<u>Car Insurance</u>	\$130.00	<u>Medical/Dental</u>	\$0.00
<u>Car</u>	\$321.00	<u>Gas (Car)</u>	\$110.00	<u>Clothing</u>	\$100.00
<u>Cable/Internet</u>	\$150.00	<u>Food</u>	\$600.00	<u>Gas/Transportation Costs</u>	\$110.00
<u>Heat</u>	\$88.00	<u>Cell Phone</u>	\$150.00	<u>Other:</u>	
<u>Electricity</u>	\$163.00	<u>Household & Toiletries</u>	\$50.00		
				<u>Total:</u>	\$3,676.00

11. Upon examining the appellant's testimony, it was ascertained that his gross monthly income was \$5,258.25. His necessary expenses were determined to be \$3,676.00 per month. After accounting for an approximation of federal and state taxes, this leaves a difference of \$516.81 in his monthly financial situation when considering Filing status, Adjusted Gross income and the number of Dependents in the 2023 tax year.
12. Appellant's statement of grounds for appeal was on the basis of:
 - a. During 2023, the expense of purchasing health insurance would have caused a serious deprivation of food, shelter, clothing or other necessities. Provide proof to show additional expenses above and beyond that which your income would cover. If you were eligible to receive government subsidized insurance, explain why obtaining that would cause serious deprivation; (Testimony of Appellant, Exhibit 2).
13. Appellant did not incur significant and unexpected increases in essential expenses as a result of domestic violence; the death of a spouse, family member, or partner who shared household expenses; the sudden responsibility for providing full care for an aging parent or other family member; or fire, flood, or other natural or man-made disaster in 2023 (Testimony of Appellant).
14. Appellant did not fall more than thirty days behind in rent payments in 2023. Appellant did not receive any shut-off notices for basic utilities. There was no evidence or indication of this during the Appellant's testimony. (Testimony of

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

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Appellant)

15. The appellant testified that he was unable to afford health insurance. He further stated that, upon being laid off from his previous job, he believed he would not qualify for health insurance because he was offered COBRA benefits during his period of unemployment. (Appellant's Testimony).
16. He also acknowledged that he did not explore options such as Health Connector or MassHealth at any point from the time of his layoff until the end of the year. (Appellant's Testimony).
17. The Appellant has been assessed a penalty for not having health insurance in 2023 for 4 months.

ANALYSIS AND CONCLUSIONS OF LAW

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

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

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

Appellant had health insurance for 4 month(s) in 2023. He has been assessed a tax penalty for 4 months. He appealed the assessment. See Exhibits listed above. To determine if the penalty should be waived in whole or in part, we must consider whether affordable insurance which met minimum creditable coverage standards was available to the appellant through either (1) his employment, through (2) the private market, or through (3) a government-sponsored program. If affordable insurance was available, we must determine if such insurance was, in fact, not affordable to the appellant because he experienced a financial hardship as defined in 956 CMR 6.08.

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Appellant's Employment & Employer Based Insurance

The Appellant testified that they were employed full-time as a Sales Associate at Marketing Software Company from January to May 2023, and then secured a position as an Account Manager at Electronic Hardware Company in September 2023, continuing in that role until the end of the year.

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

Because the appellant was not employed during the tax penalty period, or not offered Employer-Sponsored Insurance during that time, he would not be blocked from applying for coverage via the Health Connector to obtain subsidized insurance.

ConnectorCare Eligibility

To be considered for ConnectorCare, with its state subsidies and tax credits, you can't be covered by affordable job-based insurance, as per the Affordable Care Act standards. See 956 CMR 12.05 and 45 CFR § 155.305(f)(1)(ii)(B). Only employer insurance that's affordable and meets minimum creditable coverage can disqualify you from getting assistance through the Health Connector to reduce your health plan cost. See 26 CFR § 1.36B-2(c)(3). Because the appellant was not employed during the tax penalty period, or not offered Employer-Sponsored Insurance during that time, he would not be blocked from applying for coverage via the Health Connector to obtain subsidized insurance.

In Massachusetts, you could get state help with ConnectorCare plans if your income is 300% of the FPL or less. For tax year 2023, the Appellant is ineligible for insurance through the ConnectorCare program.. The Appellant testified to not applying through the Health Connector in tax year 2023. Despite the requirement set by the individual mandate, due diligence in seeking health coverage through the Health Connector was not conducted. As their income level was 464.30% of the Federal Poverty Level, the appellant would not have been eligible for subsidies or Advanced Premium Tax Credits (APTCs), due to exceeding the income threshold.

Appellant's Engagement with the Health Connector

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In their testimony, the appellant stated that they were unable to afford health insurance. Upon being laid off from their previous job, the appellant believed they would not qualify for health insurance because they were offered COBRA benefits during their period of unemployment. The appellant acknowledged that they did not explore options such as Health Connector or MassHealth at any point from the time of their layoff until the end of the year.

The appellant's testimony reveals a lack of proactive effort in fulfilling the individual mandate requirement. While financial constraints and misconceptions about eligibility played a role in their decision-making, these factors do not exempt an individual from the responsibility to explore available options and attempt to comply with the mandate. The fact that the appellant did not investigate potential coverage options through the Health Connector or MassHealth demonstrates a lack of due diligence. This inaction persisted from the time of their job loss through the end of the tax year, indicating a prolonged period without exploring potential solutions.

It's important to note that a lack of diligence or misunderstanding of one's options does not constitute a valid excuse for failing to fulfill the individual mandate. The mandate places the onus on individuals to actively seek out and obtain health insurance coverage, even in challenging circumstances. While the appellant faced financial difficulties and held misconceptions about their eligibility, their failure to explore available options or attempt to comply with the individual mandate suggests a lack of due diligence in fulfilling their legal obligation to obtain health insurance coverage.

Availability of Private Insurance

Private insurance was AFFORDABLE for the appellant on the open market during 2023. According to Tables 3 and 4 of the HC schedule for 2023, Appellant, with an adjusted gross income of \$63,099.00, was deemed to be able to afford health insurance on the private market. According to Table 3, Appellant could have afforded to pay \$420.66 per month; according to Table 4, Appellant, who was 45 years old in 2023, lived in Essex County and filed his 2023 Massachusetts taxes as a Single with 0 dependents, would have had to pay \$409.00 for insurance on the private market. See 956 CMR 6.05 (1)(2), Schedule HC Tables 3 and 4, and Exhibit 1.

In light of the Appellant's gross income (\$5,258.25 per month), tax filing status, place of residence, and the expected affordable amount the Appellant could pay per the 2023 Schedule HC Tables (\$420.66 per month), the Appellant could have afforded private health insurance with a premium of \$409.00 per month. (2023 Schedule HC Tables).

Other Government-Sponsored Healthcare Programs

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

Financial Hardship Analysis

Given the availability of affordable insurance to the Appellant through the private market in 2023, it is necessary to assess whether the Appellant experienced a financial hardship in accordance with 956 CMR 6.08 (1).

The evidence submitted by the Appellant in this case is insufficient to demonstrate a financial hardship as defined by statute. The Appellant's testimony indicates that their basic monthly expenses in 2023 amounted to approximately \$3,676.00. Based on the Appellant's reported income, there appears to be a monthly surplus of \$516.81 after accounting for expenses. This surplus suggests that the procurement of a healthcare plan should be financially feasible for the Appellant.

Conclusion

The Appellant has not demonstrated a financial hardship as defined by law. See 956 CMR 6.08(1)(e). Therefore, the 4-month penalty is upheld.

PENALTY ASSESSED

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

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

NOTIFICATION OF YOUR RIGHT TO APPEAL TO COURT

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

Hearing Officer

cc. Connector Appeals Unit

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

Massachusetts Health Connector Appeals Unit

FINAL APPEAL DECISION: PA 23-408

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

Hearing Issue: Appeal of the 2023 Tax Year Penalty

Hearing Date: November 18, 2024

Decision Date: November 27, 2024

AUTHORITY

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

JURISDICTION

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

HEARING RECORD

Appellant appeared at the hearing, which was held by telephone, on November 18, 2024. The hearing record consists of the testimony of Appellant, and the following documents, which were admitted into evidence:

- Exhibit 1: Health Connector Hearing Notice (2 pages)
- Exhibit 2: Appeal Case Information sheet¹ (1 page)
- Exhibit 3: Statement of Grounds (with attachments) (4 pages)

FINDINGS OF FACT

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

1. Appellant was 22 at the end of 2023. Exhibit 2.
2. Appellant lived in Bristol County in 2023. Exhibit 2.
3. Appellant filed his taxes as a single person with no dependents. Exhibit 2.
4. Appellant's household income in 2023, as reported on his 2023 state income tax returns and confirmed at the hearing, equaled \$84,536. Exhibit 2.

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

5. Appellant reported in the Schedule HC that he filed with his 2023 state income taxes, and confirmed at the hearing, that he did not have health insurance at any point in 2023. Exhibit 2.
6. Before the start of 2023, Appellant had worked at a job that offered him health insurance. He was enrolled in that insurance.
7. Late in 2022, Appellant took a new position. He assumed that, when he started that job, he would be automatically enrolled in health insurance. At the time, he had never enrolled actively in health insurance and was unfamiliar with the process.
8. He learned that he was uninsured when he had to pay his 2023 taxes and was notified that he was subject to a penalty.
9. He was able to enroll in health insurance through his employer at the next open enrollment. He was enrolled in health insurance as of the date of the hearing.

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

ANALYSIS AND CONCLUSIONS OF LAW

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

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

Appellant would not have been eligible to receive Connector Care, which is government-subsidized health insurance in Massachusetts. To be eligible for Connector Care, an individual must have household income below 300 percent of the federal poverty limit. See 956 C.M.R. § 12.04 (Connector Care eligibility requirements.) In 2023, 300 percent of the federal poverty limit for a household of one person like Appellant’s was \$40,770. (I obtain the figure of \$40,770 from Table 2 to the instructions for the 2023 Schedule HC.) In this case, Appellant’s household income during 2023 was \$84,536 and therefore he was not income-eligible for Connector Care.

However, Appellant would have been able to obtain affordable insurance through either employment or purchase on the non-group market.

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During 2023, Appellant worked at a job that offered him affordable health insurance. I infer that the insurance was affordable because he enrolled in it for 2024 and was able to afford it then. However, he was not enrolled in 2023 because of an oversight on his part and because his employer did not tell him about the enrollment process when he was hired.

Finally, Appellant could have afforded to purchase health insurance on the non-group market under affordability standards established by the Health Connector Board pursuant to M.G.L. c. 111M. Under those standards, an individual like Appellant who was in a household of one person and had annual income of \$84,536 was deemed able to afford 8 percent of income on insurance. (I obtain that figure from Table 3 of the 2023 instructions for the Schedule HC.) In this case, that amounts to \$6,762 annually or \$563 a month. During 2023, a person like Appellant who lived in Bristol County and was 22 years of age could have obtained health insurance at a premium of \$312 a month. (I obtain the premium figure from Table 4 to the instructions for the 2023 Schedule HC). Thus, under state standards, this amount would have been affordable.

Because Appellant could have obtained affordable health insurance in 2023 but didn't, I am required to consider whether he has stated grounds sufficient to waive the penalty under Health Connector regulations. 956 C.M.R. § 6.08. I conclude that he has. Appellant was under the mistaken belief that he was automatically enrolled in health insurance when he started his new job in late 2022. He was 21 years old at that time and had never actively enrolled in health insurance. The need to enroll actively was not made clear when he started his new job. Because he was under the mistaken belief that he was insured, he did not take any further steps in 2023 to obtain health insurance. Once he learned that he was not actually enrolled, he did seek to sign up for the insurance through his employer at the next opportunity. As a result, he was enrolled in health insurance as of the date of the hearing. In light of the foregoing, I will exercise my discretion and allow this appeal, waiving the penalty in full.

PENALTY ASSESSED

Number of Months Appealed: 12

Number of Months Assessed: 0

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

NOTIFICATION OF YOUR RIGHT TO APPEAL TO COURT

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

Hearing Officer

Cc: Connector Appeals Unit

Massachusetts Health Connector Appeals Unit

FINAL APPEAL DECISION: PA 23-409

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

Hearing Issue: Appeal of the 2023 Tax Year Penalty

Hearing Date: November 18, 2024

Decision Date: November 27, 2024

AUTHORITY

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

JURISDICTION

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

HEARING RECORD

Appellant appeared at the hearing, which was held by telephone, on November 18, 2024. The hearing record consists of the testimony of Appellant, and the following documents, which were admitted into evidence:

- Exhibit 1: Health Connector Hearing Notice (2 pages)
- Exhibit 2: Appeal Case Information sheet¹ (1 page)
- Exhibit 3: Statement of Grounds (with attachments) (11 pages)

FINDINGS OF FACT

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

1. Appellant was 46 at the end of 2023. Exhibit 2.
2. Appellant lived in Suffolk County in 2023. Exhibit 2.
3. Appellant filed his taxes as a single person with no dependents. Exhibit 2.
4. Appellant's household income in 2023, as reported on his 2023 state income tax returns and confirmed at the hearing, equaled \$57,132. Exhibit 2.

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

5. Appellant reported in the Schedule HC that he filed with his 2023 state income taxes, and confirmed at the hearing, that he did not have health insurance at any point in 2023. Exhibit 2.
6. Appellant worked at a job in the food retail industry. He worked about 30 hours a week and so was not eligible for health insurance through his work.
7. Appellant offered evidence of expenses, including rent and necessary utilities, that consumed all but \$109 of his monthly income. Exhibit 3 (attachments).

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

ANALYSIS AND CONCLUSIONS OF LAW

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

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

During 2023, Appellant worked at a job, but he was not eligible to receive health insurance through that employment.

Further, Appellant would not have been eligible to receive Connector Care, which is government-subsidized health insurance in Massachusetts. To be eligible for Connector Care, an individual must have household income below 300 percent of the federal poverty limit. See 956 C.M.R. § 12.04 (Connector Care eligibility requirements.) In 2023, 300 percent of the federal poverty limit for a household of one person like Appellant’s was \$40,770. (I obtain the figure of \$40,770 from Table 2 to the instructions for the 2023 Schedule HC.) In this case, Appellant’s household income during 2023 was \$57,132 and therefore he was not income-eligible for Connector Care.

Finally, Appellant could not have afforded to purchase health insurance the non-group market under affordability standards established by the Health Connector Board pursuant to M.G.L. c. 111M. Under those standards, an individual like Appellant who was in a household of one person and had annual income of \$45,572 was deemed able to afford 8 percent of income on insurance. (I obtain that figure from Table 3 of the 2023 instructions for the Schedule HC.) In this case, that amounts to \$4,570 annually or \$380 a month. During 2023, a person like Appellant who lived in Suffolk County and was 46 years of

age would have had to pay a premium of at least \$409 a month to obtain health insurance. (I obtain the premium figure from Table 4 to the instructions for the 2023 Schedule HC). Thus, under state standards, this amount would not have been affordable.

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

PENALTY ASSESSED

Number of Months Appealed: 12

Number of Months Assessed: 0

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

NOTIFICATION OF YOUR RIGHT TO APPEAL TO COURT

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

Hearing Officer

Cc: Connector Appeals Unit

Massachusetts Health Connector Appeals Unit

FINAL APPEAL DECISION: PA22-1436

Appeal Decision: The penalty is overturned in full.

Hearing Issue: Appeal of the 2022 Tax Year Penalty

Hearing Date: April 19, 2024

Decision Date: November 2, 2024

AUTHORITY

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

JURISDICTION

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

HEARING RECORD

The appellant appeared at the hearing which was held by telephone on April 19, 2024. The procedures to be followed during the hearing were reviewed with Appellant who was then sworn in. Exhibits were marked and admitted in evidence with no objection from the appellant. Appellant testified. At the end of the hearing, the record was left open until May 19, 2024 to give Appellant time to submit additional evidence. Documents were received from the appellant on May 29, 2024. These have been marked as exhibits and admitted in evidence. The record is now closed.

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

- Exhibit 1: Statement of Grounds for Appeal 2022 signed and dated by Appellant on June 15, 2023 with letter and Forms MA-1099HC attached
- Exhibit 2: Appeal Case Information from Schedule HC 2022
- Exhibit 3: Notice of Hearing sent to Appellant dated March 12, 2024 for April 19, 2024 hearing
- Exhibit 3a: Notice of Hearing sent to Appellant dated January 16, 2024 for February 20, 2024 hearing
- Exhibit 4: Receipts for payment of health insurance coverage, March-June, 2022 with email from company regarding non-payment of premium and cancellation notice dated August 15, 2022
- Exhibit 5: Summary of health insurance plan purchased by Appellant, March-June, 2022

FINDINGS OF FACT

The record shows, and I so find:

1. Appellant, who filed a 2022 Massachusetts tax return married filing separately with no dependents claimed, was 39 years old in 2022. Appellant's husband had a serious illness and was unemployed all year (Exhibit 2, Testimony of Appellant).
2. Appellant resided in Suffolk County in 2022 (Exhibit 2, Testimony of Appellant).
3. Appellant's Federal Adjusted Gross Income for 2022 was \$65,535. Most of this income came from a one-time withdrawal from the appellant's 401k. Appellant was unemployed from January through September; she earned about \$21,000 gross during the last three months of the year (Exhibit 2, Testimony of Appellant).

4. Appellant had health insurance which met the Commonwealth's minimum creditable coverage standards in January, November and December, 2022. After Appellant got a new job in October, she was offered health insurance with an effective start date of November 1, 2022. Appellant enrolled in the plan offered (Exhibit 1 attachments, Testimony of Appellant).
5. From March through June, 2022, Appellant purchased health insurance through a private company. Appellant paid \$273 per month for the insurance. The plan had no coverage for urgent care, for pre-existing conditions (12 months prior to obtaining coverage), emergency room visits, lab work, scans, visits and care for pregnancy and childbirth, among other exclusions. The appellant was uninsured from July through October (Testimony of Appellant, Exhibit 5).
6. The appellant has been assessed a tax penalty for six months, May through October. She has appealed the assessment (Exhibits 1 and 2).
7. I take administrative notice of the financial information set forth in Tables 1 through 6 in the DOR 2022 Massachusetts Schedule HC Health Care Instructions and Worksheets. Tables 3 and 4 incorporate affordability and premium schedules adopted by the Board of Directors for the Commonwealth Health Insurance Connector Authority for 2022. Table 2 sets forth income at 300% of the Federal poverty level and Tables 5 and 6 set forth tax penalties in effect for 2022.
8. According to Table 3 of Schedule HC for 2022, the appellant with no dependents claimed with an adjusted gross income of \$65,535 could afford to pay \$436 per month for health insurance. According to Table 4, Appellant, 39 years old, could have purchased insurance for \$298 per month for a plan. Health insurance through the individual market was affordable for the appellant in 2022 (Schedule HC for 2022, Exhibit 2).
9. According to Table 2 of Schedule HC for 2022, Appellant, with no dependents, earning more than \$38,640, the income limit for an individual, would have been ineligible for the ConnectorCare program based upon income (Exhibit 2, Table 2 of Schedule HC-2022, 956 CMR 12.00 et. seq.).
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 2022 (Testimony of Appellant).
11. Appellant did not fall more than thirty days behind in rent payments in 2022 (Testimony of Appellant).
12. Appellant did not receive a shut-off notice for any utility during 2022 (Testimony of Appellant).
13. Appellant had the following monthly expenses for basic necessities in 2022: rent, heat, and electricity-\$1,200; telephone-\$100; food, personal care items, household items-\$800; clothing-\$45; transportation-\$150; old credit card debt-\$1,500. Appellant had a loan for which she made payments of \$8,000 during 2022. From March through June, Appellant paid \$273 for health insurance which did not meet the Commonwealth's standards (Testimony of Appellant, Exhibit 5).
14. As of the date of this hearing, Appellant had health insurance which met the Commonwealth's standards through employment (Testimony of Appellant).

ANALYSIS AND CONCLUSIONS OF LAW

The issue on appeal is whether the tax penalty assessed by the Massachusetts Department of Revenue for 2022 should be waived, either in whole or in part. Appellant had insurance which met the Commonwealth's minimum

creditable coverage standards in January, November and December. Appellant has both been assessed a penalty for six months, May through October. Appellant has appealed the penalty. See Exhibits 1 and 2, and Massachusetts General Laws Chapter 111M, Section 2.

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

To determine if the Appellant’s penalty should be waived in whole or in part, we must consider whether affordable insurance which met minimum creditable coverage standards was available to the appellant through employment, through the 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 appellant because Appellant experienced a financial hardship as defined in 956 CMR 6.08.

According to Table 3 of Schedule HC for 2022, the appellant with no dependents claimed with an adjusted gross income of \$65,535 could afford to pay \$436 per month for health insurance. According to Table 4, Appellant, 39 years old, could have purchased insurance for \$298 per month for a plan. Health insurance through the individual market was affordable for the appellant in 2022. See Schedule HC for 2022, Tables 3 and 4, and Exhibit 2.

The appellant was unemployed during most of the months for which she has been assessed a tax penalty, May through September. In October, she got a job and was offered health insurance. Appellant enrolled in the offered plan, but the coverage did not begin until November 1, 2022. Health insurance was, therefore, not available through employment to the appellant from May through October. See the testimony of the appellant which I find to be credible.

According to Table 2 of Schedule HC for 2022, Appellant, with no dependents, earning more than \$38,640, the income limit for an individual, would have been ineligible for the ConnectorCare program based upon income. See Exhibit 2, Table 2 of Schedule HC-2022, 956 CMR 12.00 et. seq. There is no evidence in the record that Appellant was eligible for any other government-sponsored plan.

Since Appellant had access to affordable insurance through the individual market, we need to determine if the appellant experienced a financial hardship making coverage unaffordable for her. See 956 CMR 6.08 et. seq.

From February through September, the appellant was unemployed and had no earnings. Her spouse was also unemployed. Appellant made a one-time withdrawal from her 401k to meet expenses. She obtained employment in October and from that month through the end of the year, Appellant earned about \$21,000 gross. Most of her income came from the 401k withdrawal. Appellant’s expenses during the months for which she has been assessed a tax penalty came to about \$4,000 a month. Besides rent, a significant portion of her expenses were for old credit card debt and loan repayments. See the testimony of the appellant which I find to be credible.

I also note that Appellant tried to obtain health insurance when she lost coverage at the end of January, 2022. She purchased a plan for which she paid \$273 a month, thinking that she was obtaining good coverage. In fact, Appellant purchased a plan that did not come close to meeting the Commonwealth’s standards. For example, it did not

provide coverage for emergency room visits, for urgent care, for any services relating to pregnancies and childbirth, for hospitalization for more than five days per year, or for scans, x-rays, and lab work. It did not cover treatments for any pre-existing conditions (during the 12 months prior to purchasing the plan). See Exhibit 5.

Based upon the facts summarized above, I determine that the cost of purchasing health insurance would have caused the appellant to experience a serious deprivation of basic necessities. See 956 CMR 6.08(1)(e). The purchase of health insurance was, therefore, not affordable for the appellant during October and November. I also consider another financial issue raised by the appellant—that the bulk of her income for the year came from a one-time withdrawal from her 401k. See 6.08 (3) which allows the consideration of issues raised by the appellant during the appeal. In addition, I note that appellant tried to obtain health insurance and, unfortunately, purchased a plan which left her with non-compliant coverage. Because of these issues, I determine that Appellant’s penalty should be waived.

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

PENALTY ASSESSED

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

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

NOTIFICATION OF YOUR RIGHT TO APPEAL TO COURT

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

Cc: Connector Appeals Unit

Hearing Officer

Massachusetts Health Connector Appeals Unit

FINAL APPEAL DECISION: PA23-458

Appeal Decision Appeal Allowed

Hearing Issue: Appeal of the 2023 Tax Year Penalty

Hearing Date: November 20, 2024

Decision Date: November 27, 2024

AUTHORITY

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

JURISDICTION

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

HEARING RECORD

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

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

- Exhibit 1: Notice of Hearing dated October 18, 2024
- Exhibit 2: Appeal Case Information from form Schedule HC
- Exhibit 3: Statement of Grounds for Appeal Dated May 2, 2024
- Exhibit 4: Written Statement of Appeal Dated May 2, 2024

FINDINGS OF FACT

The record shows, and I so find:

1. The appellant is sixty-three years old and is single. She lives in Middlesex County, Massachusetts. Appellant works as a self-employed house cleaner.
2. Appellant sold her house in New Hampshire and moved in with a friend in Massachusetts in December 2022. Appellant did not know that Massachusetts required health insurance until she received her penalty.
3. Appellant does have health insurance in 2024.
4. The Appellant's monthly expenses totaled \$2,038.00, consisting of rent \$600.00, heat & light \$105.00 cell phone \$125.00, car insurance \$123.00, car gas \$400.00, food \$300.00, credit card \$135.00, clothing \$100.00 toiletries \$50.00, entertainment \$100.00, car repair \$125.00.
5. The Appellant did submit a Statement of Grounds for Appeal-2023 under "Other. During 2023 other circumstances, such as : applying the Affordability Tables in Schedule HC to you is inequitable". And should have appealed under " During 2023, the expense of purchasing health insurance would have caused a serious deprivation of food, shelter, clothing or other necessities" I will hear 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 2023. Table 1 sets forth the income eligibility standards for various family sizes at 150% of the federal poverty level and Table 2 sets forth the income eligibility standards for various family sizes at 300 per cent of the federal poverty level, which is the income eligibility standard for the government-subsidized health insurance program. See Mass. G.L. c. 118H, s.3(a)(1). Tables 5 and 6 set forth the tax penalties for 2023.
7. Based on the appellant's federal adjusted gross income and the above referenced tables, I find the appellant may have been eligible for subsidized health insurance, since Appellant's income of \$28,389.00 was less than \$40,770.00. The monthly premium for health insurance available on the private market in Middlesex County for a 62 year old single person was \$490.00. The tables reflect that Appellant could afford \$98.53 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 sold her house in New Hampshire and moved in with a friend in Massachusetts in December 2022. Appellant did not know that Massachusetts required health insurance until she received her penalty.

The Appellant did submit a Statement of Grounds for Appeal-2023 under “Other. During 2023 other circumstances, such as: applying the Affordability Tables in Schedule HC to you is inequitable”. And should have appealed under “During 2023, the expense of purchasing health insurance would have caused a serious deprivation of food, shelter, clothing or other necessities” I will hear Appellant’s appeal under both grounds.

The Health Care Reform Act of 2006 requires every adult resident of Massachusetts to obtain and maintain creditable insurance coverage “so long as it is deemed affordable” under the schedule established by the board of the Connector. Mass. Gen. Laws ch. 111M, § 2(a). Massachusetts residents who fail to indicate on their state tax returns that they obtained the mandated creditable coverage are subject to a tax penalty for each month in which that the individual did not have creditable health insurance. *Id.* at § 2(b). However, individuals with incomes up to 150 percent of the Federal Poverty Level (“FPL”) are not subject to any penalty for non-compliance with the individual mandate. See Massachusetts Department of Revenue Technical Information Release (“TIR”) 13-1, available at <http://www.mass.gov/dor/businesses/help-and-resources/legal-library/tirs/tirs-by-years/2013-releases/tir-13-1.html>. For 2023, 150 percent of the FPL was \$20,385.00 for a single person . *Id.* In addition, a lapse in coverage of 63 days or less is not subject to the section 2(b) penalty. See Administrative Bulletin 03-10 (Dec. 7, 2010), available at <https://www.mahealthconnector.org/portal/binary/com.epicentric.contentmanagement.servlet.ContentDeliveryServlet/Health%2520Care%2520Reform/Regulations/documents/Administrative%20Information%20Bulletin%2003-10.pdf>; see also 830 Mass. Code Regs. 111M.2.1(5)(c) (2008). Thus, no penalty is imposed for lapses in coverage consisting of three or fewer consecutive calendar months. *Id.*

Since Appellant’s 2023 income was more than 150 percent of the FPL, making her potentially subject to an individual mandate penalty, the threshold issue to be addressed is whether creditable health insurance coverage was affordable to her in 2023. In determining affordability, consideration is given first to the amount Appellant is deemed able to afford for health insurance premiums under the Affordability Schedule and second to the cost of health insurance that was available through employer-sponsored plans, government-subsidized programs or on the private insurance market. See 2023 Schedule HC Instructions and Worksheets, *supra*.

Appellant reported a federal AGI of \$28,389.00 in 2023, 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 2023 Massachusetts Schedule HC, Appellant could afford to pay \$98.53 monthly for health insurance. See 2023 Schedule HC Instructions and Worksheets, *supra* at Table 3. *Id.* at Table 4.

Appellants are subject to the tax penalty unless appellants demonstrate a hardship. 956 Mass. Code Regs. 6.07(1) (2008). To prevail on a hardship appeal, an appellant must establish that “based on all his

circumstances, minimum creditable coverage was not affordable to him[er] because [s]he experienced a hardship.” Id. at 6.08(1).

On these facts, I find that Appellant has shown that she was precluded from purchasing affordable health insurance during 2023. 956 Mass. Code Regs. 6.08(3) (2008). Accordingly, I conclude that she is exempt from a tax penalty for her non-compliance with the individual mandate.

Accordingly, Appellant’s appeal is **ALLOWED**, and the 2023 penalty assessed is **OVERTURNED**.

PENALTY ASSESSED

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

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

OR

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

NOTIFICATION OF YOUR RIGHT TO APPEAL TO COURT

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

Hearing Officer

Cc: Connector Appeals Unit

Massachusetts Health Connector Appeals Unit

FINAL APPEAL DECISION: PA23-215

Appeal Decision: Penalty Overturned in Full
Hearing Issue: Appeal of the 2023 Tax Year Penalty
Hearing Date: July 8, 2024
Decision Date: November 18, 2024

AUTHORITY

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

JURISDICTION

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

HEARING RECORD

Appellant appeared at the hearing, which was held by telephone, on July 8, 2023. The procedures to be followed during the hearing were reviewed with Appellant. Appellant also appeared for Appellant Spouse. Appellant was sworn in. Exhibits were marked and admitted in evidence with no objection from Appellant. Appellant testified. The hearing record consists of the testimony of Appellant, and the following documents which were admitted in evidence:

- Exhibit 1: Schedule HC for Healthcare from DOR
- Exhibit 2: Statement of Grounds and supporting documents, dated March 23, 2024
- Exhibit 3: Correspondence from Health Connector, dated June 6, 2024

FINDINGS OF FACT

The record shows, and I so find:

1. Appellants were both 44 years old in 2023 and resided in Worcester County (Exhibit 1).
 2. Appellants filed a Massachusetts 2023 tax return as married filing jointly with three dependents claimed (Exhibit 1).
 3. Appellants have six children (Testimony of Appellant).
 4. Appellants had an Adjusted Gross Income for 2023 of \$75,229 (Exhibit 1).
 5. Appellants fell behind in their utility payments in 2023 (Exhibit 2 and Testimony of Appellant).
 6. Appellants struggled to meet everyday expenses such as food, clothing and housing during 2023 (Exhibit 2 and Testimony of Appellant).
 7. Appellant's health insurance coverage had lapsed, and Appellant had not yet reinstated it (Testimony of Appellant).
 8. Appellant had many obligations from work and home and did not complete the application process in a timely manner (Testimony of Appellant).
 9. Appellant was not covered by health insurance in 2023 (Exhibit 1 and Testimony of Appellant).
 10. Appellant Spouse was covered by health insurance in 2023 (Exhibit 1).
- Appellant was in the process of applying for health insurance at the time of the hearing (Testimony of Appellant).
11. I take administrative notice of the financial information set forth in Tables 1 through 6 in the DOR 2023 Massachusetts Schedule HC Health Care Instructions and Worksheets. Tables 3 and 4 incorporate affordability

and premium schedules adopted by the Board of Directors for the Commonwealth Health Insurance Connector Authority for 2023. Table 2 sets forth income at 300% of the Federal poverty level and Tables 5 and 6 set forth tax penalties in effect for 2023.

12. According to Table 3 of Schedule HC for 2023 a couple filing as married filing jointly with three dependents claimed with an adjusted gross income of \$75,229 could afford to pay \$467 per month for private insurance. According to Table 4, Appellants, who were 44 years old and lived in Worcester County could have purchased private insurance for a cost of \$898 per month.

13. Private insurance was not considered affordable for Appellants in 2023 (Schedule HC for 2023).

14. Appellant, earning less than \$97,410 would have been income eligible for government subsidized health insurance (Schedule HC for 2023).

15. Appellant did not have health insurance for twelve months of 2023 (Exhibit 1 and Testimony of Appellant).

16. Appellant has been assessed a penalty for twelve months for 2023 (Exhibit 1).

17. Appellant Spouse did have health insurance for twelve months of 2023 and has not been assessed a penalty (Exhibit 1 and Testimony of Appellant).

18. Appellants filed a hardship Appeal on March 23, 2023 (Exhibit 2).

ANALYSIS AND CONCLUSIONS OF LAW

G.L.c. 111M, § 2, also called the “individual mandate,” requires every adult resident of Massachusetts to obtain health insurance that meets minimum creditable coverage standards “[s]o long as it is deemed affordable” under the schedule set by the board of directors for the Commonwealth Health Insurance Connector Authority. Residents who do not obtain insurance or who do not obtain insurance that meets the minimum creditable coverage standard are subject to a tax penalty for “each of the months” that the individual did not have health insurance as required by the individual mandate. There is a three-month grace period to allow the taxpayer to obtain health insurance coverage or to make the transition between health insurance policies. See G. L. c. 111M, sec. 2(b) and for Tax Year 2023, Administrative Bulletin 03-10: Guidance Regarding M.G.L. c. 111M and M.G.L. c. 176Q, as implemented by 956 CMR 6.00, which interprets the 63-day gap in coverage to be three months. The Connector’s regulations provide for a waiver of the tax penalty in the case of a financial hardship. See 956 CMR 6.08.

Appellant has been assessed a tax penalty for twelve months. To determine if the penalty should be waived in whole or in part, we must consider whether affordable insurance was available to Appellant, before we consider whether Appellant suffered a financial hardship. See 956 CMR 6.

Appellant was eligible for government subsidized health insurance, so we must consider whether the purchase of insurance would have caused Appellant to experience a hardship.

Appellants struggled to pay for basic expenses, including food, clothing and housing. Appellants fell behind in their utility payments during 2023. I find that during 2023, Appellant could not afford to purchase health insurance that met minimum creditable coverage standards. See Schedule HC for 2023, 956 CMR 6.08 (1)(e), Exhibits 1, 2, and Testimony of Appellant, which I find to be credible.

I find the penalty assessed against Appellant for 2023 should be waived in its entirety.

PENALTY ASSESSED

Number of Months Appealed: 12/0

Number of Months Assessed: 0/0

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

OR

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

NOTIFICATION OF YOUR RIGHT TO APPEAL TO COURT

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

ADDENDUM

This decision is based upon the facts as I have found them for 2023 and Appellants should not assume that a similar decision would be made if either Appellant fails to have health insurance in future years.

If Appellant still does not have health insurance, Appellant should contact the Health Connector at 1 877 623-6765 to find out about affordable options and enroll in health insurance as soon as possible.

Massachusetts Health Connector Appeals Unit

FINAL APPEAL DECISION: PA23-374

Appeal Decision: Penalty Overturned in Full

Hearing Issue: Appeal of the 2023 Tax Year Penalty

Hearing Date: September 17, 2024

Decision Date: November 3, 2024

AUTHORITY

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

JURISDICTION

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

HEARING RECORD

The appellant appeared at the hearing which was held by telephone on September 17, 2024, and testified under oath. The hearing record consists of her testimony and the following documents which were admitted into evidence without objection:

- Ex. 1—Statement of Grounds for Appeal—2023
- Ex. 2—Appeal Case Information from Schedule HC ¹
- Ex. 3—Notice of Hearing

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

- Ex. 4—Open Record materials submitted by the Health Connector including Health Connector’s record of the appellant’s enrollment in health insurance in 2022; Health Connector’s Eligibility Determination Results for 2023 based on a program determination date of October 22, 2022; Health Connector’s Final Determination Notice for 2023 dated October 22, 2022; Health Connector’s Unpaid Premium Termination Warnings dated January 29, 2023, and February 28, 2023; and Health Connector’s Unpaid Premium Termination Notice dated March 29, 2023
- Ex. 5—Letter from the Health Connector dated October 8, 2024, summarizing the appellant’s enrollment in 2022 and 2023

At the hearing, the appellant testified that she visited three different locations including two Health Connector offices in East Boston and Brockton and a local hospital to apply for health insurance for 2023. She testified that she was advised of different things including that she did not qualify for insurance, that she would qualify if she paid an outstanding balance for unpaid premiums, and that she would not qualify even if she paid the balance.

¹ Ex. 2 is a computer printout that extracts information submitted by the appellant on Schedule HC as part of her 2023 Massachusetts income tax return. It also contains information about prior appeals, if any.

She also testified that she applied for insurance and was denied eligibility. She testified that she did not have a copy of the denial letter and did not remember the reason for the denial. She testified that she never received notices from the Connector regarding unpaid premiums and that they may have gone to an old address.

FINDINGS OF FACT

The record shows, and I so find:

1. The appellant is 49-years-old, is single, and has two adult children. She did not have health insurance in 2023. She resided in Essex County in 2023. ² (Testimony, Exs. 2,3)
2. The appellant was employed in 2023, but the employer did not offer health insurance. (Testimony)
3. The appellant was enrolled in a \$0 premium ConnectorCare plan through the Health Connector in 2022. (Exs. 4,5)
4. The appellant submitted an application for insurance for the 2023 enrollment year on October 22, 2022, and was determined eligible for ConnectorCare Plan Type 3A with an advanced premium tax credit (APTC). A Final Renewal Notice was sent to the appellant on that same date and on November 22, 2022, she enrolled for the 2023 enrollment year beginning on January 1, 2023. She did not pay her premium of \$93.00 for the month of January and by notice dated January 29, 2023, the appellant was advised that her insurance would be terminated on January 31, 2023, unless she paid her outstanding balance of \$186.00 by February 23, 2023. The appellant did not pay her outstanding balance and by notice dated February 28, 2023, the appellant was advised that her insurance would be terminated on or earlier than January 31, 2023, unless she paid her outstanding balance of \$279.00 by March 23, 2023. By notice dated March 29, 2023, the appellant was advised that her insurance would be terminated on or earlier than January 31, 2023, unless she paid an outstanding balance of \$465.00 by May 3, 2023. The appellant did not submit any payment to the Connector and her insurance was terminated as of January 31, 2023. ³ (Exs. 4,5)
5. The appellant rented a three-bedroom apartment with friends in 2023 and shared common expenses including heat, water, electricity, and internet. Her mother, who lived elsewhere, was very ill and died during 2023. The appellant sent her approximately \$350.00/month for her medical expenses. (Testimony)
6. The appellant reported an adjusted gross income of \$50,256.00 on her 2023 federal tax return, and reported that she was single with no dependents. (Ex. 2)
7. In 2023, the appellant had regular monthly expenses of approximately \$2939.00 for rent (\$750.00), heat (\$90.00), water (\$50.00), electricity and internet (\$250.00), cell phone (\$145.00), automobile payment (\$537.00), automobile insurance (\$277.00), gasoline (\$240.00) and food (\$600.00). In addition, she paid approximately \$35.00/month towards credit card debt. (Testimony)

² The appellant testified that she resided at an address in Essex County in 2023. The Connector's Notice of Hearing (Ex.3) and her Statement of Grounds for Appeal (Ex.1) list that same address in Essex County. However, she attached paystubs to the Statement dated May 5, 2023, and May 15, 2023, which list an address in Bristol County, the same address that she identified on her application for insurance in October, 2022, and which was used by the Connector for its notices and correspondence in 2022 and 2023.

³ In addition to English, all of the notices referred to in Finding No. 4 were sent to the appellant in the language of her preferred choice.

In addition to the foregoing, I take administrative notice of the 2023 Schedule HC Instructions and Worksheets, available at <http://www.mass.gov/dor/docs/dor/health-care/2023>, and in particular, Tables 1-6 which include the Affordability Schedule and other financial information used in making 2023 individual mandate tax penalty determinations.

ANALYSIS AND CONCLUSIONS OF LAW

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

The appellant submitted a statement of grounds for appeal (Ex. 1) claiming that the individual mandate did not apply to her in 2023 because the expense of purchasing health insurance would have caused a serious deprivation of food, clothing, shelter or other necessities. On her statement, she listed income as the reason for her appeal and stated that: “Because I actually applied for health insurance through the health connector because my income didn’t allow me to afford private insurance, the cost is very high.”

The appellant did not have health insurance in 2023. According to M.G.L. c. 111M, s. 2, residents are permitted a 63-day gap between periods of coverage without facing a tax penalty; for Tax Year 2023, Administrative Bulletin 03-10: Guidance Regarding M.G.L. c. 111M and M.G.L. c. 176Q, as implemented by 956 CMR 6.00, interprets the 63-day gap in coverage to be three months. <https://www.mahealthconnector.org/wp-content/uploads/rules-and-regulations/AdminBulletin03-10.pdf> As a result, gaps of three months are not subject to penalty. Since the appellant was uninsured for the entire year, she was assessed and is appealing a penalty of twelve months.

The appellant testified that she was employed in 2023, but the employer did not offer health insurance. She testified that she went to two Health Connector offices and a local hospital to apply for insurance through the Health Connector and was advised either that she did not qualify for insurance, that she would qualify if she paid an outstanding balance for unpaid premiums, and that even if she paid her outstanding balance, she still would not qualify. She testified that she applied for insurance and was denied eligibility, but she did not recall the reason for the denial. Finally, she testified that she did not receive notices from the Connector regarding unpaid premiums and that they may have gone to an old address.

The appellant’s testimony was contradicted by the documentation submitted by the Connector in response to the Open Record Request. That documentation established that the appellant was enrolled in subsidized insurance in 2022 and applied for coverage for the 2023 enrollment year in October, 2022. It further established that she was approved for a subsidized plan with a monthly premium of \$93.00 and enrolled on November 22, 2022, effective January 1, 2023. According to the documentation, the appellant never paid the premium for the month of January, and was notified in January, February and March that if she paid her outstanding balance, her coverage would be reinstated to January. The appellant did not submit any payment and her coverage was terminated as of January 31, 2023.

The appellant maintained that she did not receive any of the Connector notices warning that her insurance would be terminated because they may have gone to an old address. Her credibility was weakened by the fact that all of the notices were sent to the address listed by her on her application and on the paystubs she attached to her Statement of Grounds for Appeal.

Although the appellant's contention regarding the denial of her eligibility to enroll in insurance in 2023 was undercut by the foregoing evidence, her appeal was filed on the ground that insurance was unaffordable and will be analyzed accordingly.

The evidence provided by the appellant established that her income for 2023, \$50,256.00, was more than 300% of the federal poverty level (FPL), which for 2023 was \$40,770.00 for an individual.⁴ Table 3 of the Affordability Schedule indicates that an individual with no dependents with a federal adjusted gross income between \$47,566.00 and \$54,360.00 is deemed to be able to afford a monthly premium of \$318.29 (7.60% of \$50,256.00/12). Table 4 of the Premium Schedule indicates that a 48-year-old individual (the age of the appellant in 2023) in Bristol County⁵ (where the appellant resided in 2023) could have purchased private insurance for \$409.00 per month, more than the monthly amount deemed affordable from Table 3. Thus, according to the foregoing analysis, the appellant could not have purchased affordable private health insurance in 2023.

While private health insurance may not have been affordable to the appellant under the law, it is noted that she was determined eligible for subsidized insurance at a cost of \$93.00/month. 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 2023. Examples of hardships include being homeless or overdue in rent or mortgage payments, receiving a shut-off notice for utilities, or incurring unexpected increases in basic living expenses due to domestic violence, death of a family member, sudden responsibility for providing care for a family member or fire, flood or natural disaster. In addition, the appellant's tax penalty for 2023 could be waived if 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 2023, she incurred basic monthly expenses of approximately \$3324.00, including payment of her credit card debt and the money she sent to her mother. Although those expenses were less than her regular monthly pre-tax income of approximately \$4188.00, the difference of \$864.00 between income and expenses was inadequate to cover a subsidized insurance premium of \$93.00/month, particularly given the unforeseen expenses that typically arise. 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 on 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 2023 only and is based upon the extent of information submitted in this appeal.

⁴ Although the appellant's income was greater than 300% of the FPL, she was determined eligible for a plan in 2023 (ConnectorCare Plan Type 3A) which was for individuals with income less than 300% of the FPL. It is unclear what income figures were relied on by the Connector to make that determination and they may have been lower than the income she reported on her 2023 tax return.

⁵ As noted in Footnote 2, there is conflicting evidence as to where the appellant resided in 2023. Given the fact that she appears to have misrepresented facts regarding her eligibility for insurance, the address used for this analysis will be the one in Bristol County which the Connector used for its notices and correspondence in 2023. In the end, this is a distinction without a difference since the premiums in Table 4 are the same for both Bristol and Essex counties.

It is noted that the totality of the evidence established that the appellant was not truthful about her eligibility for health insurance through the Health Connector in 2023 or about Connector notices that were sent to her regarding unpaid premiums. This is a troubling conclusion and should serve as a warning to her should she be assessed and appeal a penalty for not having 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 2023 for the amount equal to one half of the lowest cost health insurance plan available to you for each month you have been assessed the penalty, as listed above, plus applicable interest back to the due date of the return without regard to extension.

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

NOTIFICATION OF YOUR RIGHT TO APPEAL TO COURT

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

Hearing Officer

Cc: Connector Appeals Unit

Massachusetts Health Connector Appeals Unit

FINAL APPEAL DECISION: PA23-414

Appeal Decision: Appeal Approved.

Hearing Issue: Appeal of the 2023 Tax Year Penalty

Hearing Date: November 19, 2024

Decision Date: November 21, 2024

AUTHORITY

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

JURISDICTION

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

HEARING RECORD

The Appellant appeared at the hearing, which was held by telephone, on November 19, 2024. The procedures to be followed during the hearing were reviewed with the Appellant who was then sworn in. Exhibits were marked and admitted into evidence with no objection from the Appellant. The hearing record consists of the Appellant's testimony and the following documents which were admitted into evidence:

- Exhibit 1: Health Connector Appeals Unit Notice of Hearing dated October 23, 2024.
- Exhibit 2: Appeal Case Information from Schedule HC -2023.
- Exhibit 3: Statement of Grounds for Appeal, with attachments, dated April 28, 2024.

FINDINGS OF FACT

The record shows, and I so find:

1. The Appellant, age 35 in April 2023, filed their 2023 Federal Income Tax return as a single person with no dependents claimed (Exhibit 2).
2. The Appellant lived in Essex County, MA in 2023 (Exhibit 2).
3. The Appellant's Federal Adjusted Gross Income for 2023 was \$36,059 (Exhibit 2).
4. The Appellant had health insurance for the period of January through June but did not have health insurance for the period of July through December in tax year 2023 and consequently has been assessed a three-month penalty (Exhibit 2).
5. The Appellant filed an appeal of the assessment in April 2024 (Exhibit 3).
6. I take administrative notice of the financial information set forth in Tables 1 through 6 in the DOR 2023 Massachusetts Schedule HC Health Care Instructions and Worksheets. Tables 3 and 4

incorporate affordability and premium schedules adopted by the Board of Directors for the Commonwealth Health Insurance Connector Authority for 2023. Table 2 sets forth income at 300% of the Federal poverty level and Tables 5 and 6 set forth tax penalties in effect for 2023.

7. In accordance with Table 3 of Schedule HC for 2023, the Appellant filing the Federal tax return as a single person with no dependents claimed, with an annual adjusted gross income of \$36,059 could afford to pay \$146 per month for health insurance. In accordance with Table 4, the Appellant, age 35, living in Essex County, could have purchased private insurance for \$335 per month for a plan (Schedule HC for 2023). Private insurance was not affordable for the Appellant in tax year 2023.
8. The Appellant did not have access to affordable employer sponsored health insurance (Appellant Testimony).
9. The Appellant was financially eligible for ConnectorCare coverage in 2023 because the Appellant's income of \$36,059 was less than 300% of the federal poverty level, which was \$40,770 for a household of one in 2023 (See Table 2 of Schedule HC-2023 and 956 CMR 12.04) (Exhibit 2).
10. The Appellant testified that they had insurance coverage through MassHealth eligibility for the first six months of tax year 2023. MassHealth terminated the Appellant's eligibility when the Covid protection regulations expired and the Appellant was referred to the Health Connector. The Appellant said that they spoke with Health Connector Customer Service and the cost of coverage was between \$179 to \$200 and did not allow them to keep their current treating sources. The Appellant said that to keep their same doctor they would have had to spend over \$500 per month. The Appellant said that given their take home pay and expenses they could not afford to pay for health insurance for the period of July through December (Exhibit 3 and Appellant Testimony).
11. The Appellant's monthly living expenses of \$2,245 included: rent-\$1,050; telephone-\$176; car insurance-\$191; internet: \$90; gas heat-\$35; electricity-\$78; gasoline-\$100; personal hygiene-\$75; food-\$400 and credit card payment-\$35. The Appellant said that they struggled to meet these expenses with weekly take home pay of \$565.92 but their landlord worked with them when they got behind. I found the Appellant to be credible (Exhibit 3 and Appellant Testimony).

ANALYSIS AND CONCLUSIONS OF LAW

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

The Appellant filed their 2023 tax return as a single person with no dependents claimed. The Appellant had health insurance for the period of January through June but did not have health insurance for the period of July through December in tax year 2023 and consequently has been assessed a three-month penalty. The Appellant appealed the penalty in April 2024 citing financial hardship as the basis for their appeal.

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

In accordance with Table 3 of Schedule HC for 2023, the Appellant filing the Federal tax return as a single person with no dependents claimed with an adjusted gross income of \$36,059 could afford to pay \$146 per month for health insurance. According to Table 4, the Appellant, age 35, living in Essex County, could have purchased a private insurance plan for \$335 month. See Schedule HC for 2023. Private insurance was not affordable for the Appellant in tax year 2023.

The Appellant did not have access to affordable employer sponsored health insurance. The Appellant would have been eligible for ConnectorCare coverage based upon the household's income that was less than 300% of the federal poverty level which was \$40,770 for their household of one. See Table 2 of Schedule HC 2023 and 956 CMR 12.04 for eligibility criteria. Since affordable insurance was available to the Appellant in 2023, it must be determined whether the Appellant experienced a financial hardship pursuant to 956 CMR 6.08 (1).

The Appellant testified that they had MassHealth for the period of January through June and lost the coverage when the Covid protections expired. The Appellant said that they did look into getting coverage through the Health Connector but found that the monthly premiums quoted were too expensive. The Appellant explained that their weekly take home pay was only \$565.92 and their monthly living expenses were only slightly less than their take home pay which made paying a monthly health insurance premium unaffordable. The Appellant said that they did get behind in their rent but luckily their landlord worked with them to allow them to catch up. Under these circumstances the Appellant has demonstrated that purchasing health insurance would have caused the Appellant significant financial hardship. The Appellant's three-month penalty is waived in full. 956 CMR 6.08(1)(a),(e).

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

PENALTY ASSESSED

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

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

NOTIFICATION OF YOUR RIGHT TO APPEAL TO COURT

If you disagree with this decision, you have the right to appeal to Court in accordance with Chapter 30A of the you reside, or Suffolk County Superior Court within thirty (30) days of your receipt of this decision.

Cc: Connector Appeals Unit

Massachusetts Health Connector Appeals Unit

FINAL APPEAL DECISION: PA23-437

Appeal Decision: Penalty Overturned in Full

Hearing Issue: Appeal of the 2023 Tax Year Penalty

Hearing Date: November 19, 2024

Decision Date: November 29, 2024

AUTHORITY

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

JURISDICTION

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

HEARING RECORD

The appellant appeared at the hearing which was held by telephone on November 19, 2024, 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—2023
- Ex. 2—Appeal Case Information from Schedule HC ¹
- Ex. 3—Notice of Hearing

FINDINGS OF FACT

The record shows, and I so find:

1. The appellant is 35-years-old, is single and does not have children. He did not have health insurance in 2023. (Testimony, Exs. 1,2)
-
2. Prior to 2023, the appellant never had health insurance. He has been subject to a penalty in prior years for not having insurance which he has paid. This is the first year that he is appealing the assessment of the penalty. (Testimony)
3. The appellant was employed in 2023 and the employer offered health insurance. The appellant did not enroll because he could not afford the monthly premium of approximately \$300.00. (Testimony)
4. By notice dated December 8, 2023, National Grid notified the appellant that his electric service would be scheduled for termination if he did not pay his outstanding balance of \$198.54 by December 24, 2023. He worked out a payment plan and was able to avoid a shut off of his service. He had received

¹ Ex. 2 is a computer printout that extracts information submitted by the appellant on Schedule HC as part of his 2023 Massachusetts income tax return. It also contains information about prior appeals, if any.

other termination of service notices from National Grid at earlier points in 2023, and worked out similar modifications. (Testimony, Ex. 1)

5. The appellant's heat was shut off for the month of October and part of November, 2023, due to inability to pay for his service. The heat resumed in mid-November and has remained on since then. He had not previously lost his heat. (Testimony)
6. The appellant reported an adjusted gross income of \$41,046.00 on his 2023 federal tax return, and reported that he was single with no dependents. (Ex. 2)

In addition to the foregoing, I take administrative notice of the 2023 Schedule HC Instructions and Worksheets, available at <http://www.mass.gov/dor/docs/dor/health-care/2023>, and in particular, Tables 1-6 which, as discussed below, include the Affordability Schedule and other financial information used in making 2023 individual mandate tax penalty determinations.

ANALYSIS AND CONCLUSIONS OF LAW

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 2023 because he received a shut-off notice, was shut off, or was refused delivery of essential utilities.

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 2023, Administrative Bulletin 03-10: Guidance Regarding M.G.L. c. 111M and M.G.L. c. 176Q, as implemented by 956 CMR 6.00, interprets the 63-day gap in coverage to be three months.

<https://www.mahealthconnector.org/wp-content/uploads/rules-and-regulations/AdminBulletin03-10.pdf> As a result, gaps of three months are not subject to penalty. Since the appellant was uninsured for the entire year, he was assessed and is appealing a penalty of twelve months.

The appellant testified credibly that he never had insurance prior to 2023, and has been subject to penalty which he has paid. He testified that he was employed in 2023, and the employer offered health insurance, but he could not afford the monthly premium of approximately \$300.00. He testified that he received a notice of termination for his electric service in December, 2023, and was able to avoid the shut off by working out a payment plan with the provider. He testified that his heat was shut off for the month of October and part of November because he could not pay for service. He testified that his heat was resumed in mid-November and has remained on since then.

The appellant may not be subject to a penalty for failing to get health insurance if he can show that he experienced a hardship during 2023. Examples of hardships include being homeless or overdue in rent or mortgage payments, receiving a shut-off notice for utilities, incurring unexpected increases in basic living expenses due to domestic violence or death of a family member, sudden responsibility for providing care for a family member, or fire, flood or natural disaster. In addition, the appellant's tax penalty for 2023 could be waived

if he experienced financial circumstances such that the expense of purchasing health insurance would have caused him to experience a serious deprivation of food, shelter, clothing or other necessities. See 956 CMR 6.08.

The appellant's testimony regarding a shut off of his utilities was corroborated by a notice from National Grid indicating that his electric service would be terminated unless he paid an outstanding balance of \$198.54 by December 24, 2024. He testified that he worked out a payment plan with the provider and avoided a shut off of his service. He further testified that he had received other termination notices earlier in the year and each time he was able to work out a plan. Accordingly, it is concluded that the appellant established through substantial and credible evidence that he experienced a financial hardship within the meaning of 956 CMR 6.08(1)(a), as a result of which he should not be subject to a penalty.

Based upon the totality of the evidence, it is concluded that since the appellant's request for a waiver from the penalty is **granted** for the months in question. The determination that the appellant is eligible for a hardship waiver is with respect to 2023, only and is based upon the extent of information submitted by him 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 2023 for the amount equal to one half of the lowest cost health insurance plan available to you for each month you have been assessed the penalty, as listed above, plus applicable interest back to the due date of the return without regard to extension.

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

NOTIFICATION OF YOUR RIGHT TO APPEAL TO COURT

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

Hearing Officer

Cc: Connector Appeals Unit

ADDENDUM

The appellant is encouraged to investigate health insurance options for 2025 on the Health Connector website at <https://www.mahealthconnector.org> or by contacting customer service at 1-877-623-6765 during the open enrollment period which runs from November 1, 2024, through January 23, 2025.

Massachusetts Health Connector Appeals Unit

FINAL APPEAL DECISION: PA23-438

Appeal Decision: Penalty Overturned in Full

Hearing Issue: Appeal of the 2023 Tax Year Penalty

Hearing Date: November 19, 2024

Decision Date: November 29, 2024

AUTHORITY

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

JURISDICTION

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

HEARING RECORD

The appellant appeared at the hearing which was held by telephone on November 19, 2024, and testified under oath. The hearing record consists of his testimony and the following documents which were admitted into evidence without objection:

Ex. 1—Statement of Grounds for Appeal—2023

Ex. 2—Appeal Case Information from Schedule HC ¹

Ex. 3—Notice of Hearing

FINDINGS OF FACT

The record shows, and I so find:

1. The appellant is 59-years-old, is single, and has three children. In 2023, he had minimum creditable coverage (MCC) health insurance from January through April. (Testimony, Exs. 1,2)
2. The appellant had employer provided health insurance from January through April, 2023, at which time he lost his job. Prior to 2023, he had worked for different employers and always had insurance coverage through each one. (Testimony, Ex. 1)
3. Subsequent to losing his job, the appellant looked into health insurance options through the Health Connector both online and by calling customer service. He was not able to connect with anyone on the phone and left a message. After his online session, he was bombarded by phone calls from numerous insurance brokers which bewildered him. He contacted one of them and following a discussion of options, he enrolled in a medical plan that provided discounts for medical services with certain providers,

¹ Ex. 2 is a computer printout that extracts information submitted by the appellant on Schedule HC as part of his 2023 Massachusetts income tax return. It also contains information about prior appeals, if any.

and discounts for labs, imaging and prescriptions. His enrollment began on June 1, 2023, and he paid \$658.99/month for the plan. (Testimony, Ex. 1)

4. The appellant received the plan agreement and a membership card in the mail. He did not review the terms of the agreement and put it away in a drawer. In the Disclosures section, the first line states that “the plan is not insurance”. On another page, it states in part that “This plan is not insurance and is not intended to replace health insurance. This plan does not meet the minimum creditable coverage requirements under M.G.L.c.111M and 956 CMR 5.00.” In a section for Massachusetts residents, the agreement states in part that it is not insurance coverage and does not meet the minimum creditable coverage requirements under the foregoing sections of the law. (Testimony, Ex. 1)
5. The appellant used the plan for several doctors’ visits and prescriptions over the following months. In December, he went to get a flu shot at a pharmacy and was advised that his plan did not cover the cost. He was confused and contacted the plan at which point he was advised that the plan was not considered health insurance in Massachusetts. This was the first time he was made aware that the plan did not comply with state insurance requirements and he was very upset. He terminated his coverage and contacted Health Care for All which helped him enroll in coverage through the Health Connector for 2024. (Testimony, Ex. 1)
6. The appellant got a new job in June, 2024, and has been enrolled in employer health insurance since that time. (Testimony)
7. Massachusetts MCC-compliant plans must provide a broad range of medical services. There must be some level of coverage for the following services: ambulatory patient services, diagnostic imaging and screening procedures, emergency services, hospitalization, maternity and newborn care, medical/surgical care, mental health and substance abuse services, prescription drugs and radiation/chemotherapy. There can be no limit on prescriptions drug benefits, the total amount paid for a particular illness or for benefits paid in a single year, or certain services such as a fixed dollar amount per day or stay in the hospital, with the patient responsible for all other charges. There are also requirements regarding what a plan can charge for deductibles and in-network services. See 956 CMR 5.03. [Massachusetts Individual Mandate – Massachusetts Health Connector \(betterhealthconnector.com\)](https://www.betterhealthconnector.com)

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 2023, because he purchased health insurance that didn't meet minimum creditable coverage standards since that is what his employer offered, and he felt that his circumstances prevented him from buying other insurance that met the requirements.² He also submitted a letter with his statement in which he stated in part that he had an unfortunate encounter with a health insurance scam and was misled into purchasing what he believed was legitimate Massachusetts health insurance.

² The language of the ground on which the appeal was filed is partially inapplicable in that the plan that the appellant purchased was not offered by his employer but was obtained in the private market.

In 2023, the appellant had MCC health insurance from January through April, and non-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 2023, Administrative Bulletin 03-10: Guidance Regarding M.G.L. c. 111M and M.G.L. c. 176Q, as implemented by 956 CMR 6.00, interprets the 63-day gap in coverage to be three months. <https://www.mahealthconnector.org/wp-content/uploads/rules-and-regulations/AdminBulletin03-10.pdf> As a result, gaps of three months are not subject to penalty. Since the appellant is considered to have been uninsured for seven months due to the MCC issue, and is entitled to the application of the three-month period, he should have been assessed a penalty of two months. However, on his Schedule HC, he was assessed and is appealing a penalty of five months.

The appellant testified credibly that he had employer health insurance from January through April when he lost his job. He testified that he contacted the Health Connector to investigate health insurance options and was bombarded by telephone calls from insurance brokers which he found bewildering. He testified that prior to 2023 he had always had employer health insurance for many years. He testified that he contacted one of the brokers and eventually enrolled in what he believed was an acceptable Massachusetts health insurance plan for which he paid \$658.99/month. He testified that he received the plan agreement and membership card in the mail and did not review the information. He testified that he used the plan over the next few months for doctors' visits and prescriptions without issue. He testified that when he got a flu shot in December at the pharmacy, he was advised that it was not covered by his plan. He testified that he contacted the plan and was told that his plan was not considered to be acceptable insurance in the state. Finally, he testified that he was very upset with the news and immediately terminated his coverage after which he enrolled in a plan through the Health Connector for 2024.

The appellant offered substantial and credible testimony which established that he was unaware that the discount medical plan he purchased was not considered health insurance which complied with MCC standards until he got a flu shot in December. Upon further investigation, he determined that he had been misled as to the terms of what he thought he was getting under the agreement and terminated it immediately. It is acknowledged that the appellant could perhaps have avoided the unfortunate outcome had he reviewed the agreement which unequivocally stated in several places that the plan was not considered insurance which met state MCC requirements. However, since this was the first time he had purchased health insurance in the private market after many years of having employer insurance, his lack of inquiry and reliance on the broker's representations was not unreasonable. As such, even though he was enrolled in non-conforming coverage, the penalty will be waived for the period in question based on his good faith reliance on what he believed was legitimate insurance. It is also noted that he enrolled in coverage through the Health Connector immediately after becoming aware of the problem thereby demonstrating that the mandate to purchase MCC insurance was not lost on him.

Based on the totality of the evidence, it is concluded that the appellant's request for a waiver from the penalty is **granted** for the months for which he was assessed. The determination that the appellant is eligible for a waiver is with respect to 2023, only and is based upon the extent of information submitted by him in this appeal.

PENALTY ASSESSED

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

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

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

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

NOTIFICATION OF YOUR RIGHT TO APPEAL TO COURT

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

Hearing Officer

Cc: Connector Appeals Unit