

Massachusetts Health Connector Appeals Unit

FINAL APPEAL DECISION: PA19-701

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

Hearing Issue: Appeal of the 2019 Tax Year Penalty

Hearing Date: October 8, 2020

Decision Date: October 14, 2020

AUTHORITY

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

JURISDICTION

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

HEARING RECORD

Appellant appeared at the hearing, which was held by telephone, on October 8, 2020. The hearing record consists of the testimony of Appellant, and the following documents, which were admitted into evidence:

Exhibit 1: Health Connector Hearing Notice (2 pages)

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

Exhibit 3: Statement of Grounds (with attachment) (5 pages)

FINDINGS OF FACT

The record shows, and I so find:

1. Appellant was 61 at the end of 2019.
2. During 2019, Appellant lived in Norfolk County.
3. Appellant filed his 2019 Massachusetts taxes as single with no dependents.
4. Appellant reported on his Massachusetts tax return, and confirmed at the hearing, that he had adjusted gross income in 2019 of \$24,875. See Exhibit 2
5. Appellant stated in the Schedule HC and confirmed at the hearing that he did not have health insurance meeting minimum creditable (MCC) standards at any point during 2019.

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

6. Appellant stated that his employer does not offer health insurance.
7. He reported that he had monthly expenses including rent, auto insurance and fuel costs.
8. Appellant has not had health insurance for years. He has paid the individual mandate penalty in previous years, under state or federal law as applicable.

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

ANALYSIS AND CONCLUSIONS OF LAW

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

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

Appellant stated that he did not have employer-sponsored insurance available to him during 2019, because he worked at a job that did not offer him health insurance. Further, Appellant could not have afforded to buy unsubsidized health insurance in the individual market, using affordability standards set by the Health Connector board in accordance with state law, M.G.L. c. 111M. A person like Appellant who is in a household of one and has an income of \$24,875 is deemed able to afford 4.2% of income for health insurance under those affordability standards. (I obtained that percentage figure from Table 3 in the 2019 instructions for the Schedule HC.) In this case, that amounts to \$1,044 a year or \$87 a month. In 2019, an individual like Appellant who lived in Norfolk County and was 61 years old would have had to pay a premium of \$418 a month for health insurance. (I obtain that premium figure from Table 4, Premiums, printed in the instructions to Schedule HC.) Thus, using state-established standards, based on his annual income, Appellant was deemed unable to afford unsubsidized insurance in 2019.

However, Appellant could have qualified for government subsidized insurance. His annual income in 2019 was below \$36,420, which is 300 percent of the federal poverty limit. (I obtain the figure of \$36,420 from Table 2 to the instructions for the 2019 Schedule HC.) Persons with household incomes below 300 percent of the federal poverty limit are eligible for Connector Care, which is government-subsidized insurance, provided they meet the other eligibility requirements, which include residence in Massachusetts, citizenship or legal permanent residence in the United States, and lack of access to employer-subsidized insurance. See 956 CMR 12.04 (Connector Care eligibility requirements.) I conclude that Appellant met these other requirements based on his testimony.

Because Appellant could have obtained affordable health insurance, but didn’t, I must determine whether he has stated a hardship sufficient to constitute grounds for a waiver of the penalty. See 956 CMR 6.08(1). I determine that he has not made that showing. If Appellant had obtained insurance

through Connector Care, he would have been charged an affordable premium based on what he could afford under state standards. Appellant pointed to nothing unusual that would have prevented him from paying those affordable premiums. He reported expenses, such as rent, fuel costs and auto insurance. These are normal expenses, which are taken into account when determining the amount a person can afford under the standards and how much the Connector Care premium will be. I also take into account the fact that Appellant has been assessed a penalty in the past for not having insurance.

At the hearing, Appellant was urged to apply for Connector Care. He was given the number to call the Health Connector for assistance in applying; that number is 877-623-6765. Further, Appellant was given the number of a health care navigator, which is an organization funded by the Health Connector to provide assistance to consumers seeking health insurance; the phone number for a navigator at Sturdy Memorial Hospital, which is relatively near Appellant's home, is 508-222-5200.

PENALTY ASSESSED

Number of Months Appealed : 12____ Number of Months Assessed: __12

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

NOTIFICATION OF YOUR RIGHT TO APPEAL TO COURT

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

Hearing Officer

Cc: Connector Appeals Unit

Massachusetts Health Connector Appeals Unit

FINAL APPEAL DECISION: PA19-604

Appeal Decision: Appeal Approved

Hearing Issue: Appeal of the 2019 Tax Year Penalty

Hearing Date: September 22, 2020

Decision Date: October 28, 2020

AUTHORITY

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

JURISDICTION

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

HEARING RECORD¹

The Appellant appeared at the hearing, which was held by telephone, on September 22, 2020.

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

Exhibit 1: Hearing Notice dated August 17, 2020 (1 page)

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

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

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

Exhibit 5: PA13-1392 Final Appeal Decision, 8/9/14 (5 pages)

Exhibit 6: PA14-335 Final Appeal Decision, 9/2/15 (5 pages)

Exhibit 7: PA15-201 Final Appeal Decision, 7/9/16 (5 pages)

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

FINDINGS OF FACT

The record shows, and I so find:

1. The Appellant turned 54 years old in November 2019. The Appellant filed their Federal Income Tax Return as a single person with no dependents claimed. (Exhibit 2).
2. The Appellant lived in Worcester County, Massachusetts in 2019. (Exhibit 2 and Appellant's Testimony).
3. The Appellant's Federal Adjusted Gross Income (AGI) for 2019 was \$36,640.00. (Exhibit 2).
4. The Appellant did not have health insurance during ten (10) months of tax year 2019. (Exhibit 2 and Appellant's Testimony).
5. The Appellant has been assessed a seven (7)-month tax penalty for 2019. (Exhibits 2 and Appellant's Testimony). The Appellant filed an appeal of the assessment in April 2020. (Exhibit 3 and Appellant's Testimony).
6. I take administrative notice of the financial information set forth in Tables 1 through 6 of the DOR 2019 Massachusetts Schedule HC Health Care Instructions and Worksheet. Tables 3 and 4 incorporate affordability and premium schedules adopted by the Board of Directors for the Commonwealth Health Insurance Connector Authority for 2019. Table 2 sets forth income at 300% of the Federal poverty level and Tables 5 and 6 set forth tax penalties in effect for 2019.
7. In accordance with Table 3 of Schedule HC for 2019, the Appellant filing the Federal tax return as a single person, with no dependents claimed, with an annual adjusted gross income of \$36,640.00, could afford to pay \$227.47 per month for government-sponsored health insurance. In accordance with Table 4, the Appellant, age 54, living in Worcester County, could have purchased private market health insurance for \$406.00 per month. (Table 4, Schedule HC for 2019). Private insurance was not affordable for the Appellant in 2019.
8. The Appellant, who worked as a chauffeur, had employer-sponsored insurance for January and February of 2019. (Appellant's Testimony and Exhibit 2).
9. The Appellant testified they were injured on the job in late January 2019. They were out of work and received reduced worker's compensation benefits for medical care in connection with their work injury from late January through late April 2019. (Appellant's Testimony and Exhibit 4).
10. The Appellant further testified that after returning to work, they called their primary care physician for an appointment in May 2019 and was told for the first time that they did not have health insurance coverage. The Appellant testified that they then went to their supervisor who eventually learned for the first time themselves that the company had ended

health insurance coverage for all its employees in March and advised them to go to the Health Connector for insurance. The Appellant testified that they did not receive any notice from their employer about discontinuation of their health insurance coverage. (Appellant's Testimony and Exhibit 4). I credit Appellant's Testimony on these points.

11. Appellant testified that they believed they could not enroll in a Connector plan until open enrollment period in late fall 2019 so did not attempt to enroll in a plan until then. (Appellant's Testimony). Appellant further testified that they applied for health insurance through the Connector in November or December 2019 and have coverage through Tufts Health plan in 2020. (Appellant's Testimony). I credit Appellant's Testimony.
12. The Appellant was not eligible for government-subsidized ConnectorCare coverage in 2019 because the Appellant's adjusted gross income of \$36,640.00 was greater than 300% of the Federal poverty level, which was \$36,420.00 in 2019. (Schedule HC, Table 2).
13. The Appellant's monthly living expenses of \$1,855.00 monthly or **\$22,260** annually included: Rent - \$660.00, Electricity - \$80, Car loan- \$200, Car insurance - \$75, Vios - \$176, Gas - 50, Food - \$200, Credit Card debt \$438.00 (Appellant's Testimony).
14. The Appellant had appealed tax penalty assessments for four prior tax years.

ANALYSIS AND CONCLUSIONS OF LAW

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

The Appellant is appealing the assessed tax penalty of seven (7) months. They checked the box on the Statement of Grounds for Appeal saying that the expense of purchasing health insurance in 2019 would have caused them a deprivation of food and other living expenses. (Exhibit 3 & 4 and Appellant's Testimony).

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

In accordance with Table 3 of Schedule HC for 2019, the Appellant filing the Federal tax return as a single person with no dependents claimed, with an adjusted gross income of \$36,640.00, could afford to pay \$227.47 per month for government-sponsored health insurance. In accordance with Table 4, the Appellant, age 54, living in Worcester County, could have purchased private market health insurance for \$406.00 per month. (Schedule HC for 2019). Private insurance was not affordable for the Appellant in 2019.

The Appellant had health insurance through their employer in January and February of 2019. They did not become aware until May 2019, when they returned to work following a job-related injury, that their employer had discontinued health insurance coverage for all employees as of March 2019. (Appellant's Testimony). The Appellant believed they had to wait until the fall 2019 open enrollment period to enroll in a Health Connector Plan so did not apply until then. (Appellant's Testimony). Appellant did enroll in a Connector plan in about November 2019 and currently has coverage through the Connector. (Appellant's Testimony). Thus, employer-sponsored insurance was not available to Appellant for ten months of 2019.

The Appellant was not eligible for government-subsidized ConnectorCare coverage in 2019 because the Appellant's adjusted gross income of \$36,640.00 was greater than 300% of the Federal poverty level, which was \$36,420.00 in 2019. (Schedule HC, Table 2).

Even if affordable insurance had been available to Appellant in 2019, the Appellant's penalty is waived based on financial hardship and equitable grounds. See 956 CMR 6.07(8) and 6.08(1) & (3). Given that the Appellant was unaware about the discontinuation of their employer's health coverage while out of work injured, did not receive notice from their employer and then mistakenly believed they could not enroll until the open enrollment period, the seven (7) month penalty should be waived as an equitable matter. (Appellant's Testimony). Moreover, Appellant has insurance coverage in 2020. 956 CMR 6.07(8) and 6.08(3).

The Appellant's adjusted gross income was \$36,420 in 2019. That amount obscures the fact that the Appellant was out of work injured from the end of January through the end of April 2019, receiving reduced worker's compensation wage benefits. (Appellant's Testimony). During that time of reduced income, Appellant incurred additional incidental expenses beyond their monthly living expenses. Under the totality of these circumstances and the evidence contained in the administrative record, I conclude the Appellant has demonstrate financial hardship that would have caused them deprivation of food and basic living necessities if they had to purchase health insurance after February 2019. See 956 CMR 6.08(1) & (3).

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

PENALTY ASSESSED

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

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

NOTIFICATION OF YOUR RIGHT TO APPEAL TO COURT

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

Hearing Officer

Cc: Connector Appeals Unit

Massachusetts Health Connector Appeals Unit
Final Appeal Decision PA 19-624

Appeal Decision: ___Penalty Upheld XXPenalty Overturned in Full ___Penalty Overturned in Part

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

Hearing Date: September 21, 2020

Decision Date: October 26, 2020

AUTHORITY

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

JURISDICTION

Any person aggrieved by the assessment or potential assessment of the individual mandate penalty may file an appeal, pursuant to the provisions of M.G.L. c. 30A and c. 111M, 45 C.F.R. 155, 801 C.M.R. 1.02, 956 C.M.R. 6.07, 956 C.M.R. 12.00, and the rules and regulations promulgated thereunder.

HEARING RECORD

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

- Exhibit 1: HC Appeals Unit Notice of Hearing dated August 17, 2020.
- Exhibit 2: Appeal Case Information from Schedule HC 2019.
- Exhibit 3: Statement of Grounds for Appeal dated April 22, 2020.

FINDINGS OF FACT

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

1. Appellant turned 32 years old and resided in Worcester County in 2019. (Exhibit 2).
2. Appellant filed his Federal Income Tax return as single with no dependents claimed, reporting an Adjusted Gross Income for 2019 of \$44,244. (Exhibit 2).
3. In 2019, Appellant was insured January through March, uninsured April through September, and insured again October through December. (Exhibit 2; Appellant Testimony).

4. Appellant was laid off in February of 2019, with his employer-sponsored health insurance terminating at the end of March, 2019.
5. Appellant found a new job with a hire date of September 2, 2019 and obtained employer-sponsored health insurance through his new employer beginning in October of 2019.

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

ANALYSIS AND CONCLUSIONS OF LAW

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

Appellant has been assessed and is appealing a three-month tax penalty for 2019. (Exhibit 2).

The issue before me is whether the three-month 2019 Tax Year penalty assessed against Appellant should be waived in whole or in part.

Appellant was laid off in February of 2019, with his employer-sponsored health insurance terminating at the end of March, 2019. (Appellant Testimony). Appellant found a new job with a hire date of September 2, 2019 and obtained employer-sponsored health insurance through his new employer beginning in October of 2019. (Appellant Testimony). Appellant was uninsured from April through September of 2019, with periods of health insurance coverage on either end of this uninsured period. (Appellant Testimony).

Pursuant to the Connector’s Administrative Bulletin 03-10, applying M.G.L. c. 111M, §2(b), taxpayers are given a three-month grace period for any lapse in coverage to allow the taxpayer to obtain health insurance coverage or to make the transition between health insurance policies.

Based on the record before me, I find that Appellant is entitled to a six-month waiver of the penalty, which includes an initial grace period permitting him to seek coverage after the termination of his insurance resulting from his job loss, and a second grace period based on the waiting period before Appellant could sign up for employer-sponsored health insurance with his new employer. As Appellant has been assessed only a three-month penalty for Tax Year 2019, I find that waiver of the entire penalty is warranted.

Accordingly, Appellants’ appeal is **UPHELD** and the three-month 2019 Tax Penalty is **OVERTURNED**.

PENALTY ASSESSED

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

The Connector has notified the Department of Revenue that, pursuant to its decision, you should NOT be assessed a penalty for Tax Year 2019.

NOTIFICATION OF YOUR RIGHT TO APPEAL TO COURT

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

Hearing Officer

Cc: Connector Appeals Unit

Massachusetts Health Connector Appeals Unit
Final Appeal Decision PA 19-625

Appeal Decision: ___Penalty Upheld XXPenalty Overturned in Full ___Penalty Overturned in Part

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

Hearing Date: September 21, 2020

Decision Date: October 26, 2020

AUTHORITY

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

JURISDICTION

Any person aggrieved by the assessment or potential assessment of the individual mandate penalty may file an appeal, pursuant to the provisions of M.G.L. c. 30A and c. 111M, 45 C.F.R. 155, 801 C.M.R. 1.02, 956 C.M.R. 6.07, 956 C.M.R. 12.00, and the rules and regulations promulgated thereunder.

HEARING RECORD

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

- Exhibit 1: HC Appeals Unit Notice of Hearing dated August 17, 2020.
- Exhibit 2: Appeal Case Information from Schedule HC 2019.
- Exhibit 3: Statement of Grounds for Appeal dated August 25, 2020.
- Exhibit 4: Letter from Appellant in support of this Appeal dated May 1, 2020.
- Exhibit 5: HC Appeals Unit Open Record Form.
- Exhibit 6: ESI Form completed by Appellant’s 2019 employer.

FINDINGS OF FACT

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

1. Appellant turned 22 years old and resided in Suffolk County in 2019. (Exhibit 2).
2. Appellant filed his Federal Income Tax return as single with no dependents claimed, reporting an Adjusted Gross Income for 2019 of \$34,186. (Exhibit 2).

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

ANALYSIS AND CONCLUSIONS OF LAW

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

Pursuant to the Connector’s Administrative Bulletin 03-10, applying M.G.L. c. 111M, §2(b), taxpayers are given a three-month grace period for any lapse in coverage to allow the taxpayer to obtain health insurance coverage or to make the transition between health insurance policies. In support of his appeal, Appellant claims that he inadvertently reported on his 2019 tax return that he did not have health insurance when he did, in fact, have coverage during all of 2019, and because of this his penalty should be waived. (Exhibits 3 through 6; Appellant Testimony).

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

Appellant testified that due to the constraints of the particular software he was using to prepare and file his 2019 tax return, he inadvertently reported on his return that he did not have health insurance even though he had coverage through his employer for the entirety of 2019. (Exhibit 4; Appellant Testimony) Appellant submitted insufficient documentation establishing that he had health insurance coverage in 2019, and the appeal hearing record was kept open for him to provide additional documentation. (Exhibit 5).

Appellant timely submitted an Employer Sponsored Insurance Worksheet Form signed by his employer, confirming that Appellant has been enrolled in employer-sponsored health insurance meeting Minimum Creditable Coverage (“MCC”) since November of 2018, at a cost to Appellant of \$36.00 per week. Based on the record before me, I conclude that Appellant had employer-sponsored health insurance meeting MCC for all months in 2019.

Accordingly, Appellants’ appeal is **UPHELD** and the twelve-month 2019 Tax Penalty 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 NOT be assessed a penalty for Tax Year 2019.

NOTIFICATION OF YOUR RIGHT TO APPEAL TO COURT

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

Hearing Officer

Cc: Connector Appeals Unit

Massachusetts Health Connector Appeals Unit

FINAL APPEAL DECISION: PA19-687

Appeal Decision: Appeal Approved
Hearing Issue: Appeal of the 2019 Tax Year Penalty
Hearing Date: October 5, 2020
Decision Date: October 28, 2020

AUTHORITY

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

JURISDICTION

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

HEARING RECORD¹

Both the Primary Taxpayer Appellant (Primary Taxpayer) and their spouse (Appellant Spouse) appeared at the hearing, which was held by telephone, on October 5, 2020. The Primary Taxpayer and Appellant Spouse each were sworn in. Exhibits were marked and admitted into evidence with no objection.

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

- Exhibit 1: Hearing Notice dated September 3, 2020 (2 pages)
- Exhibit 2: Appeal Case Info. from Sch. HC 2019 (1 page)
- Exhibit 3: Statement of Grounds for Appeal (2 pages)
- Exhibit 4: Appellant Spouses supporting Letter (1 page)
- Exhibit 5: Payment to A. Gonzalez , April 29, 2020 (1 page)

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

Exhibit 6: Form 1095B 2019 and letter from Harvard Pilgrim (2 pages)

Exhibit 7: Letter to Primary Taxpayer from Harvard Pilgrim, 10/5/20 (2 pages)

FINDINGS OF FACT

The record shows, and I so find:

1. The Primary Taxpayer turned 50 years old in August 2019. The Primary Taxpayer filed their Federal Income Tax Return as a married person filing jointly with no dependents claimed. (Exhibit 2).
2. The Appellant Spouse turned 30 years old in June 2019. (Exhibit 2).
3. The Appellants lived in Norfolk County, MA in 2019. (Exhibit 2).
4. The Appellants' Federal Adjusted Gross Income for 2019 was \$75,808.00. (Exhibit 2).
5. The Primary Taxpayer had health insurance during twelve (12) months of tax year 2019. (Exhibit 6 and Primary Taxpayer's Testimony). The Primary Taxpayer has not been assessed a tax penalty for 2019. (Exhibit 2).
6. The Appellant Spouse did not have health insurance during eleven months in 2019. (Exhibit 2 and Appellant Spouse's Testimony). The Appellant Spouse has been assessed a tax penalty of eight (8) months in 2019. (Exhibit 2).
7. I take administrative notice of the financial information set forth in Tables 1 through 6 of the DOR 2019 Massachusetts Schedule HC Health Care Instructions and Worksheet. Tables 3 and 4 incorporate affordability and premium schedules adopted by the Board of Directors for the Commonwealth Health Insurance Connector Authority for 2019. Table 2 sets forth income at 300% of the Federal poverty level and Tables 5 and 6 set forth tax penalties in effect for 2019.
8. In accordance with Table 3 of Schedule HC for 2019, the Primary Taxpayer filing the Federal tax return as a married person, filing jointly, with no dependents claimed, with an annual adjusted gross income of \$75,808.00, could afford to pay \$505.39 per month for government-sponsored health insurance. In accordance with Table 4, the Primary Taxpayer age 50, living in Norfolk County, could have purchased private market health insurance for \$812.00 per month. (Table 4, Schedule HC for 2019). Private insurance was not affordable for the Appellants in 2019.
9. The Primary Taxpayer worked as an Information Technology (IT) manager at a Center for Child Development/Autism in 2019. Their employer offered health insurance that cost the primary taxpayer about \$150 for individual coverage and about \$300 for a family plan. (Appellant Spouse's Testimony and Exhibit 4). Employer-sponsored insurance was affordable for the Appellants based on Table 3 of Schedule HC for 2019.

10. The Appellant's Spouse worked part-time as behavior technician in 2019. They also worked part-time as a free-lance photographer in 2019. Their employer as a behavioral technician offered individual health insurance that cost about \$250 per month. (Exhibit 4 and Appellant Spouse's Testimony). Appellant believed that cost was unaffordable for them. (Appellant Spouse's Testimony).
11. The Appellants were not eligible for government-subsidized ConnectorCare coverage in 2019 because the Appellants' adjusted gross income of \$75,000.00 was more than 300% of the Federal poverty level for a family of two (2), which was \$49,380 in 2019. (Schedule HC, Table 2).
12. The Appellants moved to Massachusetts from California in January 2019. They testified that were not familiar with the Massachusetts individual mandate requirement and the Health Connector. The Primary Taxpayer only learned about the individual mandate in October 2019 when they began to prepare their tax information. (Primary Taxpayer's Testimony). I credit the Primary Taxpayer's testimony.
13. The Appellant Spouse lived in California much of the time from February through December 2019 looking for photography work there. (Appellant Spouse's Testimony). They did not understand that they were required to have Massachusetts insurance even when living out of state part time. (Appellant Spouse's Testimony). I credit the Appellant Spouse's testimony.
14. When Appellants learned about the individual mandate requirement, the Primary Taxpayer enrolled in insurance that would cover their spouse beginning in December 2019. (Primary Taxpayer's Testimony and Exhibit 6). They maintained that coverage until March 2020. (Primary Taxpayer's Testimony).
15. Appellant Spouse became unemployed in March 2020 because of the Covid-19 pandemic. They returned to California in March 2020 when it appeared that job opportunities in the photography field might develop there. Appellant Spouse currently lives in California with a friend. They testified they have not changed their legal residence from Massachusetts and do not currently have Massachusetts health insurance. (Appellant Spouse's Testimony).
16. The Appellants had monthly living expenses of \$4,392.00 which included: Mortgage - \$2,300, Car payments - \$322.00, Car insurance - \$75.00, Gas - \$300.00, Telephone - \$170.00, Food - \$800.00, UHaul storage - \$150.00, Gym - \$275.00. Appellants also incurred expenses in connection with moving from California and setting up their new condominium. Additionally, Appellant Spouse incurred dental expenses of about \$2,500.00. (Primary Taxpayer and Appellant Spouse's Testimony).

ANALYSIS AND CONCLUSIONS OF LAW

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

months that the individual did not have health insurance as required by the individual mandate. There is a three-month grace period to allow the taxpayer to obtain health insurance coverage or to make the transition between health insurance policies. See M.G.L. c. 111M, sec. 2(b) and for Tax Year 2011, Administrative Bulletin 03-10: M.G.L. c. 111M and M.G.L. c. 176Q as implemented by 956 CMR 6.00, which interprets the 63-day gap in coverage to be three months. The Connector's regulations provide for a waiver of the tax penalty in the case of financial hardship. See 956 CMR 6.08.

The Primary Taxpayer did not have any tax penalty assessed. The Appellant Spouse is appealing his assessed tax penalty of eight (8) months. They checked the box on the Statement of Grounds for Appeal saying that the expense of purchasing health insurance would have caused deprivation of food and other living necessities. (Exhibit 3 & 4 and Appellant Spouse's Testimony).

As an initial matter, I note that because the Appellants were new residents to Massachusetts in 2019, a three-month grace period would apply to them, reducing the Appellant Spouse's penalty from eight (8) months to five (5) months.

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

In accordance with Table 3 of Schedule HC for 2019, the Primary Taxpayer filing the Federal tax return as a married person filing jointly with no dependents claimed, with an adjusted gross income of \$75,808.00 could afford to pay \$505.39 per month for government-sponsored health insurance. In accordance with Table 4, the Primary Taxpayer, age 50, living in Norfolk County, could have purchased private market health insurance for \$812.00 per month. (Schedule HC for 2019). Private insurance was not affordable for the Appellants in 2019.

Employer-sponsored health insurance was available to the Primary Taxpayer in 2019. (Primary Taxpayer's and Appellant Spouse's Testimony and Exhibit 6).

The Appellants were not eligible for government-subsidized ConnectorCare coverage in 2019 because the Appellants' adjusted gross income of \$75,808.00 was more than 300% of the Federal poverty level for a family of two (2), which was \$49,380 in 2019. (Schedule HC, Table 2).

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

As new residents to Massachusetts in 2019, the Appellants were unaware about the individual mandate. The Primary Taxpayer testified credibly that they only learned about the individual mandate in October 2019 when they began to prepare their tax information. (Primary

Taxpayer's Testimony). Upon learning of the requirement, the Primary Taxpayer purchased insurance for Appellant Spouse, who had coverage as of December 2019. (Primary Taxpayer's and Appellant Spouses' Testimony and Exhibit 6).). The Appellants' lack of knowledge as new Massachusetts residents about the individual mandate serves as a one-time equitable basis to waive the Appellant Spouse's five-month penalty, in addition to their financial hardship, discussed below. 956 CMR 6.07(8) and 956 CMR 6.08 (3).

Additionally, under the circumstances described in this Decision and based on the administrative record as a whole, I conclude that based on the Appellants' monthly living expenses and special expenses incurred in moving to Massachusetts and expenses for Appellant spouse to travel back and forth between Massachusetts and California in 2019, the Appellants have established that purchasing health insurance in 2019 for Appellant Spouse would have caused financial hardship that would have deprived them basic living necessities. 956 CMR 6.08 (1)(e) & (3). Accordingly, the five (5)-month penalty for Appellant Spouse is waived.

The Appellants should note that the waiver of Appellant Spouse's penalty is based upon facts that I have determined to be true in 2019. The Appellants should not assume that a similar determination will be made for subsequent tax years should they again be assessed a tax penalty for failure to have health insurance as the individual mandate requires. Appellants have been advised to contact the Health Connector for assistance in obtaining affordable coverage for Appellant Spouse given their changed circumstances based on unemployment in March 2020.²

PENALTY ASSESSED

Appellant Primary Taxpayer:

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

Appellant Primary Taxpayer's Spouse:

No. of Months Appealed: 8 No. of Months Assessed: 0

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

NOTIFICATION OF YOUR RIGHT TO APPEAL TO COURT

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

² If Appellant Spouse does not have health insurance coverage by the time they receive this Decision, the Appellant was advised to contact a Health Connector Customer Service Representative at 1-877-623-6765 to explore if Appellants qualifies for ConnectorCare coverage or other health insurance made available through the Connector marketplace.

Hearing Officer

Cc: Connector Appeals Unit

Massachusetts Health Connector Appeals Unit

FINAL APPEAL DECISION: PA19-689

Appeal Decision: Appeal Approved

Hearing Issue: Appeal of the 2019 Tax Year Penalty

Hearing Date: October 5, 2020

Decision Date: October 29, 2020

AUTHORITY

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

JURISDICTION

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

HEARING RECORD¹

The Appellant appeared at the hearing, which was held by telephone, on October 5, 2020.

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

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

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

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

Exhibit 4: Appellant's supporting Letter (2 pages)

Exhibit 5: Certificate of Death, Blanquetta Swift, 6/13/19 (2 pages)

Exhibit 6: Final Appeal Decision PA18-871, 12/19/19 4 (4 pages)

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

- Exhibit 7: Order for Child Support, 3/22/11 (1 page)
- Exhibit 8: NationalGrid Blanquettta Swift Bill (1 page)
- Exhibit 9: Salem Water & Sewer bill 2020 (1 page)
- Exhibit 10: W-2 2019 (1 page)
- Exhibit 11: Salem Property Tax Bill, 5/1/20 (1 page)

FINDINGS OF FACT

The record shows, and I so find:

1. The Appellant turned 58 years old in May 2019. The Appellant filed their Federal Income Tax Return as a single person with no dependents claimed. (Exhibit 2).
2. The Appellant lived in Essex County, MA in 2019. (Exhibit 2 and Appellant's Testimony).
3. The Appellant's Federal Adjusted Gross Income (AGI) for 2019 was \$29,449.00. (Exhibit 2).
4. The Appellant did not have health insurance during twelve (12) months of tax year 2019 according to the Appeal Case Information from Schedule HC. (Exhibit 2 and Appellant's Testimony).
5. The Appellant has been assessed a twelve (12)-month tax penalty for 2019. (Exhibit 2 and Appellant's Testimony). The Appellant filed an appeal of the assessment in April 2020. (Exhibits 3 and Appellant's Testimony).
6. I take administrative notice of the financial information set forth in Tables 1 through 6 of the DOR 2019 Massachusetts Schedule HC Health Care Instructions and Worksheet. Tables 3 and 4 incorporate affordability and premium schedules adopted by the Board of Directors for the Commonwealth Health Insurance Connector Authority for 2019. Table 2 sets forth income at 300% of the Federal poverty level and Tables 5 and 6 set forth tax penalties in effect for 2019.
7. In accordance with Table 3 of Schedule HC for 2019, the Appellant filing the Federal tax return as a single person, with no dependents claimed, with an annual adjusted gross income of \$29,449.00, could afford to pay \$103.07 per month for government-sponsored health insurance. In accordance with Table 4, the Appellant, age 58, living in Essex County, could have purchased private market health insurance for \$375.00 per month. (Table 4, Schedule HC for 2019). Private insurance was not affordable for the Appellant in 2019.
8. The Appellant's part-time employer did not offer health insurance. (Appellant's Testimony). Thus, employer-sponsored insurance was not available to the Appellant.

9. The Appellant was income-eligible eligible for government-subsidized ConnectorCare coverage in 2019 because the Appellant's adjusted gross income of \$29,449.00 was less than 300% of the Federal poverty level, which was \$36,420.00 in 2019. (Schedule HC, Table 2).
10. The Appellant lived with and was the primary caretaker for their terminally ill mother who lived at home in hospice until her death in June 2019. Their mother required round-the-clock daily care. (Appellant's Testimony and Exhibits 4).
11. The Appellant had worked some mornings as a part-time school bus driver during 2019 to allow them maximum time to care for their mother. (Appellant's Testimony). They had to hire help to care for their mother during the hours that they worked. (Appellant's Testimony).
12. During the time caring for their mother, the Appellant was not able to care properly for themselves, led a sedentary lifestyle, did not eat well and developed their own health problems, including diabetes. (Appellant's Testimony). Because of their diabetes, the Appellant lost their job as a bus driver following their mother's death. (Appellant's Testimony).
13. The Appellant worked to address their health issues and in 2020 was allowed to return to their job on a part-time basis. However, they became unemployed in about March 2020 because of the COVID-19 pandemic and only recently began to pick up a few hours of work per week. (Appellant's Testimony).
14. The Appellant testified that they logged onto the Health Connector website by computer but was unable to identify a health plan that was affordable for them and did not understand the application process. They currently do not have health insurance. (Appellant's Testimony). I credit the Appellant's testimony.
15. The Appellant continues to live in their mother's home and bears the expenses of maintaining the home.
16. The Appellant testified that their fifteen-year-old daughter has weekly, three-day visits at their home.
17. The Appellant's monthly living expenses of \$2,618.00, or \$31,416.00, annually included: Property insurance - \$318.00, Gas - \$60.00, Electricity - \$200.00, Car loan- \$200, Telephone - \$120.00, Internet - \$120.00, Food - \$500.00, Laundry/household - \$125.00, Diabetic care - \$25.00, Child support - \$400, Weekly visits with daughter - \$325.00, Supplies and other necessities for caring for mother - \$225.00. (Appellant's Testimony). Additionally, the Appellant incurred special expenses of about \$3,400 in 2019 in connection with the cremation of their mother.

ANALYSIS AND CONCLUSIONS OF LAW

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

The Appellant is appealing the assessed tax penalty of twelve (12) months. They checked the box on the Statement of Grounds for Appeal saying that says during 2019 they incurred significant increased expenses in connection with caring for their aging mother. (Exhibit 3). Additionally, the Appellant testified that the expense of purchasing health insurance in 2019 would have caused them a deprivation of food and other living expenses. (Exhibit 3 & 4 and Appellant’s Testimony).

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

In accordance with Table 3 of Schedule HC for 2019, the Appellant filing the Federal tax return as a single person with no dependents claimed, with an adjusted gross income of \$29,449.00, could afford to pay \$103.07 per month for government-sponsored health insurance. In accordance with Table 4, the Appellant, age 58, living in Essex County, could have purchased private market health insurance for \$375.00 per month. (Schedule HC for 2019). Private insurance was not affordable for the Appellant in 2019 based on adjusted gross income.

Employer sponsored health insurance was not available to the Appellant from their part-time employer. (Appellant’s Testimony).

The Appellant was income-eligible for government-subsidized ConnectorCare coverage in 2019 because the Appellant’s adjusted gross income of \$29,449.00 was less than 300% of the Federal poverty level, which was \$36,420.00 in 2019. (Schedule HC, Table 2).

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

The Appellant's adjusted gross income was \$29,449.00 and their monthly living expenses in 2019 totaled \$2,618.00 or \$31,416.00 annually. The Appellant's annual living expenses exceeded their income in 2019. Further, the Appellant experienced certain special expenses in 2019 including in connection with their mother's death. Accordingly, they demonstrated financial hardship that would have prevented them from purchasing health insurance without depriving them of basic living necessities in 2019. 956 CMR 6.08 (1) (e) & (3). Under these circumstances and based on the administrative record as a whole, the Appellant's twelve-month penalty assessment is waived.

The Appellant should note that the waiver of their penalty is based upon facts that I have determined to be true in 2019. The Appellant should not assume that a similar determination will be made for subsequent tax years should they again be assessed a tax penalty for failure to have health insurance as the individual mandate requires. Especially given that it appears the Appellant may be income-eligible for subsidized ConnectorCare coverage and that they have had tax penalties assessed in prior years, Appellant is advised to contact the Health Connector at 1-877-623-6765 to explore affordable health insurance coverage.

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 2011.

NOTIFICATION OF YOUR RIGHT TO APPEAL TO COURT

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

Hearing Officer

Cc: Connector Appeals Unit

Massachusetts Health Connector Appeals Unit

FINAL APPEAL DECISION: PA19-726

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

Hearing Issue: Appeal of the 2019 Tax Year Penalty

Hearing Date: October 16, 2020

Decision Date: October 29, 2020

AUTHORITY

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

JURISDICTION

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

HEARING RECORD

Appellant appeared at the hearing, which was held by telephone, on October 16, 2020. The hearing record consists of the testimony of Appellant, and the following documents, which were admitted into evidence:

Exhibit 1: Health Connector Hearing Notice (2 pages)

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

Exhibit 3: Statement of Grounds (with attachments) (6 pages)

FINDINGS OF FACT

The record shows, and I so find:

1. Appellant was 40 at the end of 2019.
2. During 2019, Appellant lived in Middlesex County.
3. Appellant filed his 2019 Massachusetts taxes as single with no dependents.
4. Appellant reported on his Massachusetts tax return, and confirmed at the hearing, that he had adjusted gross income in 2019 of \$58,929. See Exhibit 2
5. Appellant stated in the Schedule HC and confirmed at the hearing that he had health insurance meeting minimum creditable (MCC) standards during the months of January through April 2019,

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

and then again from October through December 2019. He did not have insurance meeting MCC standards for the five months from May through September.

6. Appellant was working at the start of 2019 at a job in the pharmaceutical industry. He had health insurance through that employment.
7. Effective May 2019, Appellant was let go from that job and consequently lost his health insurance.
8. For the next five months, Appellant was living on unemployment compensation benefits. His benefit payments amounted to about \$2,400 monthly.
9. Appellant found a new job and started in that position in October of 2019. That job provided him with health insurance, which he took. He was insured for the remainder of 2019 and was insured at the date of the hearing.
10. During the time that he was unemployed, Appellant struggled to meet his regular monthly expenses. In addition to rent and utilities, he was paying off a car loan and student loans. He produced bills and receipts indicating that his monthly expenses were roughly equal to the amount of money he was receiving in unemployment benefits during that period of time.

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

ANALYSIS AND CONCLUSIONS OF LAW

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

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

To determine whether Appellant should face a penalty for not having insurance, I must first determine whether he had affordable insurance available to him during the period without insurance.

Appellant did not have employer-sponsored insurance available to him during the five months that he was uninsured, because he was unemployed at that time.

Further, Appellant could not have qualified for government subsidized insurance. His annual income in 2019 was above \$36,420, which is 300 percent of the federal poverty limit. (I obtain the figure of \$36,420 from Table 2 to the instructions for the 2019 Schedule HC.) Persons with household incomes

above 300 percent of the federal poverty limit are not eligible for Connector Care, which is government-subsidized insurance. See 956 CMR 12.04 (Connector Care eligibility requirements.)

However, based on his annual income, Appellant could have afforded to buy unsubsidized health insurance in the individual market, using affordability standards set by the Health Connector board in accordance with state law, M.G.L. c 111M. A person like Appellant who is in a household of one and has an income of \$58,929 is deemed able to afford 8% of income for health insurance under those affordability standards. (I obtained that percentage figure from Table 3 in the 2019 instructions for the Schedule HC.) In this case, that amounts to \$4,714 a year or \$392 a month. In 2019, an individual like Appellant who lived in Middlesex County and was 40 years old could have obtained health insurance for a premium of \$306 a month. (I obtain that premium figure from Table 4, Premiums, printed in the instructions to Schedule HC.) Thus, using state-established standards, based on his annual income, Appellant was deemed able to afford unsubsidized insurance in 2019.

Nevertheless, I conclude that it would be inequitable to base the affordability calculation on Appellant's annual income, because of the circumstances of this case. During the period when he was uninsured, his actual income was only \$2,400 a month, which consisted primarily of unemployment compensation. If that figure is annualized, it amounts to \$28,800 a year. A person making that amount is deemed able to afford only 4.2% of their income for health insurance under state affordability standards referenced above; in this case, that would equal \$1,209 a year or a little over \$100 a month. That amount would not be sufficient to purchase health insurance, which, as stated above, would have cost at least \$306 a month.

Thus, in this case, I determine that Appellant could not afford health insurance during the period that he was uninsured and unemployed. Because I have reached this conclusion, I do not have to determine whether Appellant has stated grounds to appeal the penalty on the basis of a financial hardship, as permitted under the Health Connector's regulations at 956 CMR 6.08(1). However, I note that Appellant has offered evidence of high expenses during that period which roughly equaled the amount of money he was receiving; thus, purchasing health insurance during that period of time would have constituted a financial hardship, justifying a waiver of the penalty under the regulations.

In conclusion, I am waiving the penalty in its entirety.

PENALTY ASSESSED

Number of Months Appealed : 2_____ Number of Months Assessed: __0

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

NOTIFICATION OF YOUR RIGHT TO APPEAL TO COURT

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

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

Hearing Officer

Cc: Connector Appeals Unit

Massachusetts Health Connector Appeals Unit

FINAL APPEAL DECISION: PA19-728

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

Hearing Issue: Appeal of the 2019 Tax Year Penalty

Hearing Date: October 16, 2020

Decision Date: October 28, 2020

AUTHORITY

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

JURISDICTION

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

HEARING RECORD

Appellant appeared at the hearing, which was held by telephone, on October 16, 2020. The hearing record consists of the testimony of Appellant, and the following documents, which were admitted into evidence:

Exhibit 1: Health Connector Hearing Notice (2 pages)

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

Exhibit 3: Statement of Grounds (with attachment) (4 pages)

FINDINGS OF FACT

The record shows, and I so find:

1. Appellant was 46 at the end of 2019.
2. During 2019, Appellant lived in Worcester County.
3. Appellant filed his 2019 Massachusetts taxes as single with no dependents.
4. Appellant reported on his Massachusetts tax return, and confirmed at the hearing, that he had adjusted gross income in 2019 of \$49,835. See Exhibit 2

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

5. Appellant reported in the Schedule HC that he filed with his 2019 state income taxes, and confirmed at the hearing, that he did not have health insurance meeting minimum creditable (MCC) standards at any point during 2019.
6. Throughout 2019, Appellant worked at a job at which he was paid by the number of hours worked. His hours varied over the course of the year and as a result his income was variable.
7. His employer offered him insurance, but he considered it too expensive for him to afford because of the variable nature of his income.
8. In addition to the normal costs of living, which included housing and car expenses, Appellant was paying to support his two children, who lived with his ex-wife.
9. Appellant stated that he has obtained a new position since 2019, with more regular hours, and as a result, he has taken the insurance offered by his employer.

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

ANALYSIS AND CONCLUSIONS OF LAW

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

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

Appellant stated that his employer offered him insurance, but he considered it too expensive. Appellant did not know the actual amount that his employer would have charged for insurance in 2019. Thus, I cannot determine if the amount was affordable to him. However, I note that his income was variable. Thus, a fixed deduction from his paycheck, such as the cost of insurance, would have been difficult to sustain because, in the periods of time when his income was low, the deduction would not have left him enough money to meet his other fixed expenses and his obligation to support his children.

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

Finally, using state affordability standards, Appellant was not able to afford unsubsidized insurance available in the individual market. The Health Connector’s board has established affordability standards in accordance with state law, M.G.L. c 111M. Under those standards, a person like Appellant who is in a household of one and has an income of \$49,835 is deemed able to afford 8% of income for health

insurance. (I obtained that percentage figure from Table 3 in the 2019 instructions for the Schedule HC.) In this case, that amounts to \$3,986 a year or \$332 a month. In 2019, a person like Appellant who lived in Worcester County and was 46 years old would have had to pay a premium of \$350 for unsubsidized health insurance in the individual market. (I obtain that premium figure from Table 4, Premiums, printed in the instructions to Schedule HC.) Thus, using state-established standards, based on his annual income, Appellant was deemed unable to afford unsubsidized insurance in 2019.

Because I cannot determine whether Appellant had affordable insurance available through his employer, I have considered whether Appellant has stated grounds to waive the penalty under Health Connector regulations at 956 CMR 6.08(1). Appellant's income was variable, as has been already stated. As a result, it was difficult for him to meet fixed expenses. Further, Appellant's income was stretched by the obligation to pay support for his two children. Given this obligation, Appellant was actually able to afford less than is indicated by the affordability standards I have discussed above. Given these circumstances, I conclude that Appellant has established that the purchase of health insurance would have been a financial hardship, which constitutes a basis for waiving the penalty under the governing regulations. In reaching this conclusion, I take into account the fact that the Appellant has as of the time of the hearing obtained insurance through his employment, now that he is in a position with more dependable income.

PENALTY ASSESSED

Number of Months Appealed : 12____ Number of Months Assessed: __0

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

NOTIFICATION OF YOUR RIGHT TO APPEAL TO COURT

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

Hearing Officer

Cc: Connector Appeals Unit

Massachusetts Health Connector Appeals Unit

FINAL APPEAL DECISION: PA19-730

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

Hearing Issue: Appeal of the 2019 Tax Year Penalty

Hearing Date: October 16, 2020

Decision Date: October 28, 2020

AUTHORITY

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

JURISDICTION

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

HEARING RECORD

Appellant appeared at the hearing, which was held by telephone, on October 16, 2020. The hearing record consists of the testimony of Appellant, and the following documents, which were admitted into evidence:

Exhibit 1: Health Connector Hearing Notice (2 pages)

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

Exhibit 3: Statement of Grounds (with attachment) (5 pages)

FINDINGS OF FACT

The record shows, and I so find:

1. Appellant was 38 at the end of 2019.
2. During 2019, Appellant lived in Hampden County.
3. Appellant filed his 2019 Massachusetts taxes as single with no dependents.
4. Appellant reported on his Massachusetts tax return, and confirmed at the hearing, that he had adjusted gross income in 2019 of \$35,579. See Exhibit 2

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

5. Appellant reported in the Schedule HC that he filed with his 2019 state income taxes, and confirmed at the hearing, that he did not have health insurance meeting minimum creditable (MCC) standards at any point during 2019.
6. Throughout 2019, Appellant worked at a job that did not offer him benefits such as as health insurance.
7. During this time, his hours were sporadic and he was not guaranteed a particular number of hours a week.
8. He stated that he was not aware of the Connector Care program, which is government-subsidized insurance. Appellant was a citizen of the United States and a resident of Massachusetts in 2019. Further, during 2019, he did not have access to employer-sponsored insurance. Thus, Appellant met the eligibility criteria for Connector Care.

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

ANALYSIS AND CONCLUSIONS OF LAW

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

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

Appellant was not eligible for insurance through his employment, because he was working in a temporary position that was not benefits-eligible.

Further, using state affordability standards, Appellant was not deemed able to afford unsubsidized insurance available in the individual market. The Health Connector’s board has established affordability standards in accordance with state law, M.G.L. c 111M. Under those standards, a person like Appellant who is in a household of one and has an income of \$35,579 is deemed able to afford 5% of income for health insurance. (I obtained that percentage figure from Table 3 in the 2019 instructions for the Schedule HC.) In this case, that amounts to \$1,778 a year or \$148 a month. In 2019, a person like Appellant who lived in Hampden County and was 38 years old would have had to pay a premium of \$286 for unsubsidized health insurance in the individual market. (I obtain that premium figure from Table 4, Premiums, printed in the instructions to Schedule HC.) Thus, using state-established standards, based on his annual income, Appellant was deemed unable to afford unsubsidized insurance in 2019.

However, Appellant would have qualified for government-subsidized insurance. His annual income in 2019 was below \$36,420, which is 300 percent of the federal poverty limit. (I obtain the figure of \$36,420 from Table 2 to the instructions for the 2019 Schedule HC.) Persons with household incomes

below 300 percent of the federal poverty limit are eligible for Connector Care, which is government-subsidized insurance, provided they meet the other eligibility criteria, which are citizenship or legal permanent resident in the United States, residence in Massachusetts, and lack of access to employer-sponsored insurance. See 956 CMR 12.04 (Connector Care eligibility requirements.) Based on Appellant's testimony I conclude that he would have met all those requirements had he applied for Connector Care.

However, Appellant stated that he was unaware of the possibility of getting Connector Care. As a consequence, he did not apply. If he had done so, and had been determined eligible, Connector Care would have been affordable for him, because the monthly premium is scaled to the insured person's income.

Because Appellant had affordable insurance available to him but didn't take it, I must consider whether he has stated grounds to waive the penalty under Health Connector regulations at 956 CMR 6.08(1). Appellant's income was variable and somewhat undependable, as has been already stated. As a result, it was difficult to meet any fixed expenses such as a monthly premium charge. Given these circumstances, I conclude that Appellant has established that the purchase of health insurance would have been a financial hardship, which constitutes a basis for waiving the penalty under the governing regulations. Accordingly, I am waiving the penalty for 2019.

However, Appellant was still uninsured as of the date of the hearing. As a result, he may be subject to the penalty for lack of insurance once again when he files his 2020 taxes. Appellant was urged to apply for Connector Care, which he can do at the Health Connector's website at www.mahealthconnector.org, by selecting the option to "Apply now" and responding "yes" to the question of whether he seeks financial assistance.

PENALTY ASSESSED

Number of Months Appealed : 12____ Number of Months Assessed: __0

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

NOTIFICATION OF YOUR RIGHT TO APPEAL TO COURT

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

Hearing Officer

Cc: Connector Appeals Unit

Massachusetts Health Connector Appeals Unit
Final Appeal Decision PA 19-567

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

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

Hearing Date: September 14, 2020

Decision Date: October 13, 2020

AUTHORITY

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

JURISDICTION

Any person aggrieved by the assessment or potential assessment of the individual mandate penalty may file an appeal, pursuant to the provisions of M.G.L. c. 30A and c. 111M, 45 C.F.R. 155, 801 C.M.R. 1.02, 956 C.M.R. 6.07, 956 C.M.R. 12.00, and the rules and regulations promulgated thereunder.

HEARING RECORD

Appellant appeared at the hearing, which was held by telephone on September 14, 2020. The procedures to be followed during the hearing were reviewed with Appellant, who was sworn in. Exhibits were marked and admitted into evidence without objection. The hearing record consists of the Appellant's testimony, and the following documents, which were admitted into evidence:

- Exhibit 1: HC Appeals Unit Notice of Hearing dated August 10, 2020.
- Exhibit 2: Appeal Case Information from Schedule HC 2019.
- Exhibit 3: Statement of Grounds for Appeal dated April 23, 2020.

FINDINGS OF FACT

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

1. Appellant turned 46 years old and resided in Plymouth County in 2019. (Exhibit 2).
2. Appellant filed her Federal Income Tax return as single with no dependents claimed, reporting an Adjusted Gross Income for 2019 of \$54,742. (Exhibit 2).
3. Appellant was uninsured for the entirety of 2019. (Exhibit 2; Appellant Testimony).
4. Appellant was uninsured for the entirety of 2018. (Appellant Testimony).

5. Appellant is currently uninsured. (Appellant Testimony).

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

ANALYSIS AND CONCLUSIONS OF LAW

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

Pursuant to the Connector’s Administrative Bulletin 03-10, applying M.G.L. c. 111M, §2(b), taxpayers are given a three-month grace period for any lapse in coverage to allow the taxpayer to obtain health insurance coverage or to make the transition between health insurance policies. Because Appellant did not have health insurance for the entirety of 2019, the three-month grace period is inapplicable and she is appealing a twelve-month tax penalty for 2019. (Exhibit 2). In support of her appeal, Appellant claims that the individual mandate tax penalty does not apply to her because she claims she is homeless. (Exhibit 3; Appellant Testimony).

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

According to Schedule HC for 2019 Table 2, I find that Appellants’ 2019 Adjusted Gross Income of \$54,742 made her ineligible for Connector Care (eligibility for government-subsidized health insurance is based on income being no more than 300% of the Federal Poverty Level, which in 2019 was \$36,420 for an individual). *See* 2019 Schedule HC Instructions and Worksheets, *supra*, at Table 2.

Based on Schedule HC for 2019 Table 4, it would have cost Appellant, age 46 and living in Plymouth County, \$350 per month to purchase a single plan on the private insurance market. Based on the Affordability Schedule, Appellant filing the Federal tax return as single, with no dependents, with an annual Adjusted Gross Income of \$54,742 could afford to pay \$365 monthly for a single health insurance plan. *See* 2019 Schedule HC Instructions and Worksheets, *supra*, at Table 3. I conclude that private insurance was affordable for Appellant in 2019.

Appellant was working two full-time jobs in 2019, one of which offered Appellant employer-sponsored health insurance, and that the reason she did not enroll was because her employer “never got back to her”. (Appellant Testimony). I do not find this a credible reason for Appellant failing to enroll in the employer-sponsored health insurance available to her in 2019, particularly where Appellant did not enroll in this same employer-sponsored health insurance available to her from the same employer in 2018, Appellant is currently uninsured, and Appellant claimed homelessness on her Statement of Grounds for this Appeal, rather than a lack of response from her employer. (Exhibit 3; Appellant Testimony). I conclude that in 2019 Appellant had access to affordable employer-sponsored health insurance.

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

Appellant testified that she has been homeless for seven years. (Exhibit 3; Appellant Testimony). I do not credit this assertion or Appellant’s characterization of herself as homeless. Appellant testified that she lives in a fully drivable, fully insured RV, complete with heat and electricity supplied by a generator, regularly replenished her propane and gas, and regularly services her RV. (Appellant Testimony). Appellant maintained not one, but two full time jobs in 2019, sent and received mail at an established post office box, and regularly paid her bills while living in the RV. (Appellant Testimony).

Appellant claims the following monthly expenses in 2019: propane - \$140; RV insurance - \$120; phone - \$50; food - \$200. (Appellant Testimony). Appellant’s monthly expenses for basic necessities in 2019 totaled \$510, while her gross monthly income was \$4,561. (Appellant Testimony). Even accounting for Appellant’s monthly cost of \$87 to rent a storage unit, typically not an expense considered in a hardship analysis, Appellant’s income significantly exceeds her expenses. I find Appellant has failed to demonstrate that the cost of purchasing health insurance in 2019 would have caused her to experience a serious financial hardship. *See* 956 C.M.R. 6.08.

Based on the record before me, I conclude that in 2019 Appellant had access to affordable health insurance, and did not experience a financial hardship as defined by 956 C.M.R. 6.08. Accordingly, Appellant’s twelve-month penalty is **UPHELD**.

PENALTY ASSESSED

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

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

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

NOTIFICATION OF YOUR RIGHT TO APPEAL TO COURT

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

Hearing Officer

Cc: Connector Appeals Unit

Massachusetts Health Connector Appeals Unit
Final Appeal Decision PA 19-568

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

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

Hearing Date: September 14, 2020

Decision Date: October 13, 2020

AUTHORITY

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

JURISDICTION

Any person aggrieved by the assessment or potential assessment of the individual mandate penalty may file an appeal, pursuant to the provisions of M.G.L. c. 30A and c. 111M, 45 C.F.R. 155, 801 C.M.R. 1.02, 956 C.M.R. 6.07, 956 C.M.R. 12.00, and the rules and regulations promulgated thereunder.

HEARING RECORD

Appellant appeared at the hearing, which was held by telephone on September 14, 2020. The procedures to be followed during the hearing were reviewed with Appellant, who was sworn in. Exhibits were marked and admitted into evidence without objection. The hearing record consists of the Appellant's testimony, and the following documents, which were admitted into evidence:

- Exhibit 1: HC Appeals Unit Notice of Hearing dated August 10, 2020.
- Exhibit 2: Appeal Case Information from Schedule HC 2019.
- Exhibit 3: Statement of Grounds for Appeal dated April 26, 2020.
- Exhibit 4: Letter from Appellant in support of this Appeal dated April 26, 2020.

FINDINGS OF FACT

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

1. Appellant turned 24 years old and resided in Middlesex County in 2019. (Exhibit 2).
2. Appellant filed his Federal Income Tax return as single with no dependents claimed, reporting an Adjusted Gross Income for 2019 of \$54,861. (Exhibit 2).
3. Appellant was uninsured for the entirety of 2019. (Exhibit 2; Appellant Testimony).
4. Appellant was uninsured for the entirety of 2018 and paid a penalty. (Appellant Testimony).

5. Appellant currently has employer-sponsored health insurance. (Appellant Testimony).

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

ANALYSIS AND CONCLUSIONS OF LAW

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

Pursuant to the Connector’s Administrative Bulletin 03-10, applying M.G.L. c. 111M, §2(b), taxpayers are given a three-month grace period for any lapse in coverage to allow the taxpayer to obtain health insurance coverage or to make the transition between health insurance policies. Because Appellant did not have health insurance for the entirety of 2019, the three-month grace period is inapplicable and he is appealing a twelve-month tax penalty for 2019. (Exhibit 2). In support of his appeal, Appellant claims that the individual mandate tax penalty does not apply to him because the expense of purchasing health insurance was unaffordable for him. (Exhibits 3 and 4; Appellant Testimony).

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

According to Schedule HC for 2019 Table 2, I find that Appellants’ 2019 Adjusted Gross Income of \$54,861 made him ineligible for Connector Care (eligibility for government-subsidized health insurance is based on income being no more than 300% of the Federal Poverty Level, which in 2019 was \$36,420 for an individual). See 2019 Schedule HC Instructions and Worksheets, *supra*, at Table 2.

Based on the Affordability Schedule, Appellant filing the Federal tax return as single, with no dependents, with an annual Adjusted Gross Income of \$54,861 could afford to pay \$366 monthly for a single health insurance plan. See 2019 Schedule HC Instructions and Worksheets, *supra*, at Table 3. Based on Schedule HC for 2019 Table 4, it would have cost Appellant, age 24 and living in Middlesex County, \$231 per month to purchase a single plan on the private insurance market. I conclude that private insurance was affordable for Appellant in 2019.

Appellant was working a full-time job in 2019, which offered employer-sponsored health insurance at an approximate monthly cost of \$300. (Exhibit 4; Appellant Testimony). Appellant testified that he refused this employer-sponsored health insurance available to him in 2019 because it was not affordable, but did enroll in employer-sponsored health insurance for 2020, at a monthly cost of \$200, which was affordable for him. (Appellant Testimony).

Based on Appellant's 2019 Adjusted Gross Income and the relatively low cost difference between 2019 monthly premiums Appellant deemed affordable and 2020 premiums Appellant deemed unaffordable, I find that Appellant has not demonstrated a credible reason for failing to enroll in the employer-sponsored health insurance available to him in 2019. I conclude that in 2019 Appellant had access to affordable employer-sponsored health insurance.

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

Appellant claims the following monthly expenses in 2019: rent - \$600; electricity - \$50; car payment - \$300; car insurance - \$290; phone/internet - \$150; food - \$600. (Appellant Testimony). Appellant's monthly expenses for basic necessities in 2019 totaled \$1,990, while his gross monthly income was \$4,572. (Exhibit 2; Appellant Testimony). I find that Appellant's 2019 income significantly exceeded his expenses and that Appellant has failed to demonstrate that the cost of purchasing health insurance in 2019 would have caused him to experience a serious financial hardship. *See* 956 C.M.R. 6.08.

Based on the record before me, I conclude that in 2019 Appellant had access to affordable health insurance, and did not experience a financial hardship as defined by 956 C.M.R. 6.08. Accordingly, Appellant's twelve-month penalty is **UPHELD**.

PENALTY ASSESSED

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

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

NOTIFICATION OF YOUR RIGHT TO APPEAL TO COURT

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

Hearing Officer

Cc: Connector Appeals Unit

Massachusetts Health Connector Appeals Unit
Final Appeal Decision PA 19-569

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

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

Hearing Date: September 14, 2020

Decision Date: October 13, 2020

AUTHORITY

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

JURISDICTION

Any person aggrieved by the assessment or potential assessment of the individual mandate penalty may file an appeal, pursuant to the provisions of M.G.L. c. 30A and c. 111M, 45 C.F.R. 155, 801 C.M.R. 1.02, 956 C.M.R. 6.07, 956 C.M.R. 12.00, and the rules and regulations promulgated thereunder.

HEARING RECORD

Appellant appeared at the hearing, which was held by telephone on September 14, 2020. The procedures to be followed during the hearing were reviewed with Appellant, who was sworn in. Exhibits were marked and admitted into evidence without objection. The hearing record consists of the Appellant's testimony, and the following documents, which were admitted into evidence:

- Exhibit 1: HC Appeals Unit Notice of Hearing dated August 10, 2020.
- Exhibit 2: Appeal Case Information from Schedule HC 2019.
- Exhibit 3: Statement of Grounds for Appeal dated April 21, 2020.
- Exhibit 4: Hearing Officer's Open Record Form leaving record open until September 28, 2020.
- Exhibit 5: 2018 Tax Year Penalty Final Appeal Decision dated September 8, 2019.

FINDINGS OF FACT

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

1. Appellant turned 35 years old and resided in Plymouth County in 2019. (Exhibit 2).
2. Appellant filed his Federal Income Tax return as single with no dependents claimed, reporting an Adjusted Gross Income for 2019 of \$71,126. (Exhibit 2).
3. Appellant was uninsured for the entirety of 2019. (Exhibit 2; Appellant Testimony).

4. Appellant successfully appealed a Tax Year 2018 Individual Mandate penalty based on financial hardship. (Exhibit 5).

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

ANALYSIS AND CONCLUSIONS OF LAW

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

Pursuant to the Connector’s Administrative Bulletin 03-10, applying M.G.L. c. 111M, §2(b), taxpayers are given a three-month grace period for any lapse in coverage to allow the taxpayer to obtain health insurance coverage or to make the transition between health insurance policies. Because Appellant did not have health insurance for the entirety of 2019, the three-month grace period is inapplicable and he is appealing a twelve-month tax penalty for 2019. (Exhibit 2). In support of his appeal, Appellant claims that the individual mandate tax penalty does not apply to him because in 2019 he was more than thirty days in arrears in rent or received an eviction notice. (Exhibits 3 and 4; Appellant Testimony).

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

Appellant testified that he was able to enroll in Connector Care coverage, at a cost of \$125 per month. (Appellant Testimony). Appellant claims that after submitting his paystubs to the Connector, his coverage cost was calculated at \$400 per month. (Appellant Testimony). Appellant claims that these paystubs contained overtime hours and were not a true reflection of his regular wages, which he explained to the Connector to no avail, at which time Appellant dropped out of Connector Care. (Appellant Testimony). It is wholly unclear how an individual earning double the Connector Care eligibility threshold was able to apply for Connector Care unless income was significantly underreported to the Connector. Irrespective of this, based on Schedule HC for 2019 Table 2, I find that Appellants’ 2019 Adjusted Gross Income of \$71,126 made him ineligible for Connector Care (eligibility for government-subsidized health insurance is based on income being no more than 300% of the Federal

Poverty Level, which in 2019 was \$36,420 for an individual). See 2019 Schedule HC Instructions and Worksheets, *supra*, at Table 2.

Appellant credibly testified that in 2019 he worked full-time for an employer who did not offer employer-sponsored health insurance. (Appellant Testimony).

Based on the Affordability Schedule, Appellant filing the Federal tax return as single, with no dependents, with an annual Adjusted Gross Income of \$71,126 could afford to pay \$474 monthly for a single health insurance plan. See 2019 Schedule HC Instructions and Worksheets, *supra*, at Table 3. Based on Schedule HC for 2019 Table 4, it would have cost Appellant, living in Plymouth County, \$279 per month at age 34, and \$286 per month at age 35, to purchase a single plan on the private insurance market. I conclude that private insurance was affordable for Appellant in 2019.

Appellant testified that he searched for health insurance on the private market but did not find a plan he liked. (Appellant Testimony). I do not find this a credible reason for Appellant's failure to obtain health insurance on the private market in 2019.

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

Appellant claims that the individual mandate tax penalty does not apply to him because in 2019 he was more than thirty days in arrears in rent or received an eviction notice. (Exhibits 3 and 4; Appellant Testimony). The record was held open for Appellant to submit documentation demonstrating these claims; the open record period elapsed without Appellant having submitted the requested documentation. (exhibit 4).

Based on the record before me, I conclude that in 2019 Appellant had access to affordable health insurance, and did not experience a financial hardship as defined by 956 C.M.R. 6.08. Accordingly, Appellant's twelve-month penalty is **UPHELD**.

PENALTY ASSESSED

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

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

NOTIFICATION OF YOUR RIGHT TO APPEAL TO COURT

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

Hearing Officer

Cc: Connector Appeals Unit

FINAL APPEAL DECISION: PA19-677

Appeal Decision: The penalty is overturned in full.
Hearing Issue: Appeal of the 2019 Tax Year Penalty
Hearing Date: October 8, 2020
Decision Date: October 16, 2020

AUTHORITY

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

JURISDICTION

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

HEARING RECORD

The Appellant appeared at the hearing, which was held by telephone on September 10, 2020. 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. Appellant testified.

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

- Exhibit 1: Appeal Case Information from Schedule HC. (1 page).
- Exhibit 2: Statement of Grounds for Appeal 2019 Signed by Appellant on 5/15/2020. (2 PP).
- Exhibit 2(a) Appellant's Supporting Correspondence to the Health Connector 5/15/2019 (1 PP).
- Exhibit 2(b) Appellant's Supporting Documentation Health Connector 2020 Eligibility (2 PP).
- Exhibit 3: Health Connector's Notice of Hearing dated 8/17/2020 (2 PP).

FINDINGS OF FACT

The record shows, and I so find:

1. The Appellant, who filed a 2019 Massachusetts tax return reported she was single with zero dependents, was age 30 in 2019, and lived in Middlesex County. (Exhibit 1, Testimony of Appellant).
2. The Appellant did have health insurance in 2019 through MassHealth who notified the Appellant that her insurance was suspended while she was travelling out of the country. (Exhibit 2 (a). Testimony of Appellant).
3. The Appellant attempted in March and April to contact MassHealth and the Connector to determine why her insurance had terminated but was not able receive clarification why it stopped. (Exhibit 2 (a). Testimony of Appellant).

4. When the Appellant returned from travelling in May 2019 she again contacted the Connector and learned that her insurance had been terminated on March 2, 2020. (Exhibit 2 (a). Testimony of Appellant).
5. The Appellant testified that she received information from the Connector that she had missed the 60-day window for reapplying for health insurance and that she could not qualify for special enrollment unless she had a qualifying event. (Exhibit 2 (a). Testimony of Appellant).
6. The Appellant was working three (3) part time jobs upon her return from travelling all of whom did not offer health insurance. (Exhibit 2 (a). Testimony of Appellant).
7. The Appellant continued to attempt to enroll on numerous occasions with the Connector under a Special Enrollment Plan given the Appellant's job changes including the part time jobs but did not meet the criteria. (Exhibit 2 (a). Testimony of Appellant).
8. In late November, the Appellant left her jobs and did not have income, and was able to obtain MassHealth for the remainder of the year. (Exhibit 2 (a). Testimony of Appellant).
9. The Appellant's Federal Adjusted Gross Income for 2019 was \$47,547(Exhibit 1).
10. The Appellant has been assessed a tax penalty for four (4) months in 2019. (Exhibit 1).
11. According to Table 3 Appellant could have afforded \$ 301.13 per month for health insurance in 2019. According to Table 4 Appellant could have purchased an individual insurance plan for \$257.00 per month. (Testimony of Appellant).
12. The Appellant looked into obtaining short term private insurance during the time she was not enrolled but it was not available. (Exhibit 2 (a). Testimony of Appellant).
13. In addition to the foregoing, I take administrative notice of the 2019 Schedule HC Instructions and Worksheets, available at <http://www.mass.gov/dor/docs/dor/health-care/2019>, and in particular, Tables 1-6 which, as discussed below, include the Affordability Schedule and other financial information used in making 2019 individual mandate tax penalty determinations.

ANALYSIS AND CONCLUSIONS OF LAW

The issue on appeal is whether the tax penalty assessed by the Massachusetts Department of Revenue for 2019 should be waived, either in whole or in part. Appellant has been assessed a tax penalty for four (4) months in 2019. Appellant has appealed the penalty. (See Exhibits 1 and 2).

The Appellant submitted grounds with her appeal and did produce testimony that Other. During 2019 other circumstances that she was unable to obtain government sponsored-subsidized insurance that the expense of purchasing health insurance was not affordable to her. (See Exhibit 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.

The Appellant credibly testimony and the evidence provided by the Appellant established that that her insurance was suspended while she was travelling out of the country. The evidence also shows that the Appellant attempted in March and April of 2019 to contact MassHealth and the Connector to determine why her insurance had terminated but was not able receive clarification why it had terminated. The Appellant returned from travelling in May 2019, contacted the Connector and learned that her insurance had been terminated on March 2, 2020. The Appellant attempted to obtain health insurance coverage through the Connector’s Special Enrollment Period but was unable to qualify. The Appellant also investigated obtaining short term private insurance during the time she was working part time jobs but was unable to do. I find that the mandate was not lost on the Appellant as she obtained MassHealth as soon as she could.

Based upon the facts summarized above, I determine that the Appellant is not subject to a penalty where the Appellant established through substantial and credible evidence that she in good faith attempted to obtain health insurance and that her circumstances including the income changed during that time she did not have insurance. She attempted to obtain government sponsored insurance but was unable to do so. It is concluded that the Appellant established through substantial and credible evidence that he experienced other grounds within the meaning of 956 CMR 6.08 (3).

The Appellant’s penalty is, therefore, waived.

Appellant should note that any waiver granted here is for 2019 only and is based upon the specific facts I have found to be true and should not assume that the same determination will be made should Appellant be assessed a penalty in the future.

PENALTY ASSESSED

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

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

NOTIFICATION OF YOUR RIGHT TO APPEAL TO COURT

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

Cc: Connector Appeals Unit

Hearing Officer

ADDENDUM

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

Massachusetts Health Connector Appeals Unit

FINAL APPEAL DECISION: PA19-696

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

Hearing Issue: Appeal of the 2019 Tax Year Penalty

Hearing Date: October 8, 2020

Decision Date: October 14, 2020

AUTHORITY

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

JURISDICTION

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

HEARING RECORD

Appellant appeared at the hearing, which was held by telephone, on October 8, 2020. The hearing record consists of the testimony of Appellant, and the following documents, which were admitted into evidence:

Exhibit 1: Health Connector Hearing Notice (2 pages)

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

Exhibit 3: Statement of Grounds (with attachment) (5 pages)

FINDINGS OF FACT

The record shows, and I so find:

1. Appellant was 31 at the end of 2019.
2. During 2019, Appellant lived in Norfolk County.
3. Appellant filed his 2019 Massachusetts taxes as single with no dependents.
4. Appellant reported on his Massachusetts tax return, and confirmed at the hearing, that he had adjusted gross income in 2019 of \$30,030. See Exhibit 2
5. Appellant stated in the Schedule HC and confirmed at the hearing that he did not have health insurance meeting minimum creditable (MCC) standards at any point during 2019.

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

6. Appellant had lost a job in the fall of 2018 and was out of work at the start of 2019.
7. In April of 2019, Appellant started a new job and continued working there throughout the remainder of the year. That job didn't offer him health insurance.
8. During his period of unemployment, Appellant had difficulty meeting his basic monthly expenses. He was forced to borrow money from friends to pay his expenses. Even after he began working regularly, he was still having trouble financially.
9. At some point in 2020, Appellant applied for health insurance through the Health Connector. He was insured in the Connector Care program as of the date of the hearing.

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

ANALYSIS AND CONCLUSIONS OF LAW

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

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

Appellant did not have employer-sponsored insurance available to him during 2019, either because he was unemployed or because he worked at a job that did not offer him health insurance. Further, Appellant could not have afforded to buy unsubsidized health insurance in the individual market, using affordability standards set by the Health Connector board in accordance with state law, M.G.L. c 111M. A person like Appellant who is in a household of one and has an income of \$30,030 is deemed able to afford 5% of income for health insurance under those affordability standards. (I obtained that percentage figure from Table 3 in the 2019 instructions for the Schedule HC.) In this case, that amounts to \$1,501 a year or \$125 a month. In 2019, an individual like Appellant who lived in Norfolk County and was 31 years old would have had to pay a premium of \$279 a month for insurance. (I obtain that premium figure from Table 4, Premiums, printed in the instructions to Schedule HC.) Thus, using state-established standards, based on his annual income, Appellant was deemed unable to afford unsubsidized insurance in 2019.

However, Appellant could have qualified for government subsidized insurance. His annual income in 2019 was below \$36,420, which is 300 percent of the federal poverty limit. (I obtain the figure of \$36,420 from Table 2 to the instructions for the 2019 Schedule HC.) Persons with household incomes below 300 percent of the federal poverty limit are eligible for Connector Care, which is government-subsidized insurance, provided they meet the other eligibility requirements, which include residence in Massachusetts, citizenship or legal permanent residence in the United States, and lack of access to employer-subsidized insurance. See 956 CMR 12.04 (Connector Care eligibility requirements.) I

conclude that Appellant met these other requirements because he qualified for Connector Care in 2020 when he applied. Appellant did not have an explanation for why he didn't apply for Connector Care in 2019, other than to say that he was concerned about his lack of money and his difficulty meeting expenses. Had he applied and received insurance, he would likely have had to pay a monthly premium, in an amount deemed affordable at his income level.

Because Appellant could have obtained affordable health insurance, but didn't, I must determine whether he has stated a hardship sufficient to constitute grounds for a waiver of the penalty. See 956 CMR 6.08(1). I determine that he has made that showing. During the period that he was uninsured, Appellant's financial situation was challenging. He was out of work for four months without any guarantee as to when he would get regular work again. During that period of time, he was going into debt in order to meet basic expenses. Once he got a job, he struggled to pay back that debt and continue meeting his monthly costs. Further, I take into account the fact that Appellant did get insurance in 2020 and was insured at the time of the hearing. This indicates that his period of uninsuredness was a temporary condition caused by his financial difficulties. Thus, I will exercise my discretion to waive the individual mandate penalty for 2019 in its entirety.

PENALTY ASSESSED

Number of Months Appealed : 12____ Number of Months Assessed: __0

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

NOTIFICATION OF YOUR RIGHT TO APPEAL TO COURT

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

Hearing Officer

Cc: Connector Appeals Unit

Massachusetts Health Connector Appeals Unit

FINAL APPEAL DECISION: PA19-697

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

Hearing Issue: Appeal of the 2019 Tax Year Penalty

Hearing Date: October 8, 2020

Decision Date: October 14, 2020

AUTHORITY

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

JURISDICTION

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

HEARING RECORD

Appellant appeared at the hearing, which was held by telephone, on October 8, 2020. The hearing record consists of the testimony of Appellant, and the following documents, which were admitted into evidence:

Exhibit 1: Health Connector Hearing Notice (2 pages)

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

Exhibit 3: Statement of Grounds (with attachment) (5 pages)

FINDINGS OF FACT

The record shows, and I so find:

1. Appellant was 34 at the end of 2019.
2. During 2019, Appellant lived in Plymouth County.
3. Appellant filed his 2019 Massachusetts taxes as single with no dependents.
4. Appellant reported on his Massachusetts tax return, and confirmed at the hearing, that he had adjusted gross income in 2019 of \$47,286. See Exhibit 2
5. Appellant stated in the Schedule HC and confirmed at the hearing that he did not have health insurance meeting minimum creditable (MCC) standards at any point during 2019.

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

6. In mid-2018, Appellant lost his job, through which he had been getting health insurance.
7. He remained unemployed through all of 2019. During that time, he collected unemployment insurance.
8. At the time he lost his job, Appellant filed a legal claim against his employer. He reached a settlement in late 2019, and as a result he received a lump sum payment of approximately \$30,000, which formed part of his reported income for 2019. The balance of his reported income was unemployment compensation.
9. At some point during 2019, Appellant applied for health insurance through the Health Connector. He said that he received a request for further information in order to complete his application, but he never responded to that request. As a result, he did not obtain subsidized insurance and remained uninsured at the time of the hearing.

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

ANALYSIS AND CONCLUSIONS OF LAW

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

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

Appellant did not have employer-sponsored insurance available to him during 2019, because he was unemployed during the entire year.

Further, he would not have qualified for government-subsidized insurance. His annual income in 2019 was \$47,286. This is above \$36,420, which is 300 percent of the federal poverty limit. (I obtain the figure of \$36,420 from Table 2 to the instructions for the 2019 Schedule HC.) Persons with household incomes above 300 percent of the federal poverty limit are not eligible for Connector Care, which is government-subsidized insurance. See 956 CMR 12.04 (Connector Care eligibility requirements.)

However, based on his annual income, Appellant could have afforded to buy unsubsidized health insurance in the individual market, using affordability standards set by the Health Connector board in accordance with state law, M.G.L. c. 111M. A person like Appellant who is in a household of one and has an income of \$47,286 is deemed able to afford 7.6% of income for health insurance under those affordability standards. (I obtained that percentage figure from Table 3 in the 2019 instructions for the Schedule HC.) In this case, that amounts to \$3,594 a year or \$299 a month. In 2019, an individual like Appellant who lived in Plymouth County and was 34 years old could have obtained health insurance for a premium of \$279 a month. (I obtain that premium figure from Table 4, Premiums, printed in the

instructions to Schedule HC.) Thus, using state-established standards, based on his annual income, Appellant was deemed able to afford unsubsidized insurance in 2019.

However, I conclude that it would be inequitable in this case to base the affordability calculation on Appellant's annual income, because of the circumstances under which he obtained that income. The bulk of his income, approximately \$30,000, came from a lump sum settlement that he received in November 2019. Thus, for most of the year, his actual income, which came from unemployment compensation, was considerably lower than the \$47,286 that he reported on his 2019 taxes. If the \$30,000 settlement is deducted from his annual reported income, the remaining figure is \$17,286. Under state affordability standards, a person with that income would have been unable to afford anything for health insurance. See Table 3 in the 2019 instructions for the Schedule HC.

Thus, in this case, I determine that Appellant could not afford health insurance in 2019 because of his unusual circumstances. Because I have reached this conclusion, I do not have to determine whether Appellant has stated grounds to appeal the penalty on the basis of a financial hardship, as permitted under the Health Connector's regulations at 956 CMR 6.08(1). Rather, I am waiving the penalty in its entirety.

However, I note that Appellant was uninsured at the time of the hearing. Based on his testimony about his financial situation in 2020, it appeared likely that he could qualify for Connector Care insurance. He was urged to apply for that insurance at www.mahealthconnector.org, so that he could be insured and avoid future impositions of the individual mandate penalty.

PENALTY ASSESSED

Number of Months Appealed : 12_____ Number of Months Assessed: __0

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

NOTIFICATION OF YOUR RIGHT TO APPEAL TO COURT

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

Hearing Officer

Cc: Connector Appeals Unit

Massachusetts Health Connector Appeals Unit

FINAL APPEAL DECISION: PA19-698

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

Hearing Issue: Appeal of the 2019 Tax Year Penalty

Hearing Date: October 8, 2020

Decision Date: October 14, 2020

AUTHORITY

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

JURISDICTION

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

HEARING RECORD

Appellant appeared at the hearing, which was held by telephone, on October 8, 2020. The hearing record consists of the testimony of Appellant, and the following documents, which were admitted into evidence:

Exhibit 1: Health Connector Hearing Notice (2 pages)

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

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

FINDINGS OF FACT

The record shows, and I so find:

1. Appellant was 34 at the end of 2019.
2. During 2019, Appellant lived in Suffolk County.
3. Appellant filed his 2019 Massachusetts taxes as single with no dependents.
4. Appellant reported on his Massachusetts tax return, and confirmed at the hearing, that he had adjusted gross income in 2019 of \$68,846. See Exhibit 2

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

5. Appellant reported in the Schedule HC that he did not have health insurance meeting minimum creditable (MCC) standards at any point during 2019. Thus, he was assessed a penalty for not having health insurance.
6. However, Appellant in fact was covered under his father's health insurance throughout 2019. He provided proof of that insurance in the form of an insurance card, which was appended to his statement of grounds. See Exhibit 3.
7. Appellant stated that he filed his own taxes using tax reporting software. He misunderstood a question asked about insurance as he was reporting that tax information. As a result, he inadvertently reported that he was uninsured, thus resulting in the imposition of the penalty.
8. Appellant stated that, as of the date of the hearing, he was receiving health insurance through his own job in the high tech field.

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

ANALYSIS AND CONCLUSIONS OF LAW

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

In this case, I find as fact that Appellant was insured throughout the entire year. He testified credibly to that fact, and he produced corroborating evidence in the form of an insurance card. He obtained coverage under his father's employer-based insurance. He was able to be covered under that plan because he was under 26. Under the Affordable Care Act, a group plan, such as an employer plan, that covers children must continue coverage of the enrollee's child until that child turns 26. 42 U.S.C. § 300gg-14. Appellant explained that he had included erroneous information in the Schedule HC he filed with his 2019 taxes because he misunderstood a question asked as part of the tax reporting program he was using.

Because Appellant was in fact insured, I do not have to determine whether he had affordable insurance available to him in 2019 or, if he had affordable insurance but didn't take it, whether he had stated grounds to appeal the penalty under Health Connector regulations at 956 CMR 6.08(1). Rather, I determine that the penalty should not have been imposed and accordingly, I am allowing this appeal and waiving the penalty in its entirety.

PENALTY ASSESSED

Number of Months Appealed : 12____ Number of Months Assessed: __0

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

NOTIFICATION OF YOUR RIGHT TO APPEAL TO COURT

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

Hearing Officer

Cc: Connector Appeals Unit

Massachusetts Health Connector Appeals Unit

FINAL APPEAL DECISION: PA19-700

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

Hearing Issue: Appeal of the 2019 Tax Year Penalty

Hearing Date: October 8, 2020

Decision Date: October 14, 2020

AUTHORITY

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

JURISDICTION

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

HEARING RECORD

Appellant appeared at the hearing, which was held by telephone, on October 8, 2020. The hearing record consists of the testimony of Appellant, and the following documents, which were admitted into evidence:

Exhibit 1: Health Connector Hearing Notice (2 pages)

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

Exhibit 3: Statement of Grounds (with attachments) (37 pages)

FINDINGS OF FACT

The record shows, and I so find:

1. Appellant was 38 at the end of 2019.
2. During 2019, Appellant lived in Hampden County.
3. Appellant filed her 2019 Massachusetts taxes as single with no dependents.
4. Appellant reported on her Massachusetts tax return, and confirmed at the hearing, that she had adjusted gross income in 2019 of \$39,956. See Exhibit 2

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

5. Appellant reported in the Schedule HC that she filed with her 2019 state income taxes, and confirmed at the hearing, that she did not have health insurance meeting minimum creditable (MCC) standards at any point during 2019.
6. Appellant stated that her employer offers health insurance, but the monthly premium is approximately \$300, which she considered unaffordable. As a result, she never took that insurance.
7. Appellant had considerable expenses in 2019. In addition to the cost of her mortgage, she had student loan payments, credit card payments, an auto loan, and a personal loan. At one point she fell behind on her mortgage and had to do a loan modification in order to avoid foreclosure.

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

ANALYSIS AND CONCLUSIONS OF LAW

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

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

Using state affordability standards, Appellant was not able to afford either the insurance offered to her by her employer or unsubsidized insurance available in the individual market. The Health Connector’s board has established affordability standards in accordance with state law, M.G.L. c 111M. Under those standards, a person like Appellant who is in a household of one and has an income of \$39,956 is deemed able to afford 7.45% of income for health insurance. (I obtained that percentage figure from Table 3 in the 2019 instructions for the Schedule HC.) In this case, that amounts to \$2,976 a year or \$248 a month. The insurance offered by Appellant’s employer cost \$290 a month. Thus, under the governing standards, it was unaffordable.

Further, in 2019, an individual like Appellant who lived in Hampden County and was 38 years old would have had to pay a premium of \$286 for unsubsidized health insurance in the individual market. (I obtain that premium figure from Table 4, Premiums, printed in the instructions to Schedule HC.) Thus, using state-established standards, based on her annual income, Appellant was deemed unable to afford unsubsidized insurance in 2019.

Finally, Appellant did not qualify for government-subsidized insurance. Her annual income in 2019 was above \$36,420, which is 300 percent of the federal poverty limit. (I obtain the figure of \$36,420 from Table 2 to the instructions for the 2019 Schedule HC.) Persons with household incomes above 300

percent of the federal poverty limit are not eligible for Connector Care, which is government-subsidized insurance. See 956 CMR 12.04 (Connector Care eligibility requirements).

Thus, in this case, Appellant did not have affordable insurance available to her in 2019. As a result, she is not subject to the individual mandate penalty under Chapter 111M, because that penalty is only imposed if an individual has affordable insurance available but does not take it. Because of this, I do not have to consider whether Appellant has stated grounds to waive the penalty under Health Connector regulations at 956 CMR 6.08(1). Rather, I am allowing the appeal and waiving the penalty in its entirety.

PENALTY ASSESSED

Number of Months Appealed : 12____ Number of Months Assessed: __0

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

NOTIFICATION OF YOUR RIGHT TO APPEAL TO COURT

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

Hearing Officer

Cc: Connector Appeals Unit

FINAL APPEAL DECISION: PA19-672

Appeal Decision: The penalty is overturned in full.
Hearing Issue: Appeal of the 2019 Tax Year Penalty
Hearing Date: October 8, 2020
Decision Date: October 16, 2020

AUTHORITY

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

JURISDICTION

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

HEARING RECORD

The Appellant appeared at the hearing, which was held by telephone on October 8, 2020. 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. Appellant testified.

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

- Exhibit 1: Appeal Case Information from Schedule HC. (1 page).
- Exhibit 2: Statement of Grounds for Appeal 2019 Signed by Appellant on 5/6/2020. (2 PP).
- Exhibit 2(a) Appellant's Supporting Documentation Health Connector 4/5/19 and 5/6/2020 (2 PP).
- Exhibit 2(b) Appellant's Supporting Documentation: Paystub, 1095-C, Employer's Note (8 PP).
- Exhibit 3: Health Connector's Notice of Hearing dated 9/2/2020 (2 PP).

FINDINGS OF FACT

The record shows, and I so find:

1. Appellant, who filed a 2019 Massachusetts tax return reported he was single, was age 38 in 2019, lived in Worcester County, and had filed taxes as single with a family size of 1. (Exhibit 1, Testimony of Appellant).
2. Appellant worked full time at the beginning of 2019 but was looking for a new full-time job which he started in February. (Testimony of Appellant).
3. Appellant testified that his full time Employer offer health insurance at approximately \$250/week, but he could not afford it. (Testimony of Appellant).
4. Appellant was able to find full time employment in February and after a 90-day waiting period obtained

health insurance coverage in June 2020. (Testimony).

5. Appellant's Federal Adjusted Gross Income for 2019 was \$45,502 (Exhibit 1).
6. Appellant has been assessed a tax penalty for two (2) months in 2019. The Appellant has appealed this assessment (Exhibits 1, 2).
7. Appellant had the following monthly expenses for basic necessities in 2019: Mortgage: \$650.00, Utilities \$201, Cell Phone \$50, Cable/Internet: \$35, Food \$100, Car Insurance: \$200, Gas \$200, Child Support \$ \$720, Out of Pocket Medication \$10, totaling \$2,161. (Testimony of Appellant).
8. Appellant testified his weekly net take home pay was approximately under \$500 a week after child support deductions, or approximately \$2,150/month. (Appellant Testimony).
9. Appellant looked into but missed the Connector open enrollment period in 2018. (Testimony of Appellant).
10. Appellant testified he was required to sign up for a family plan because of court proceedings.
11. According to Table 3 Appellant could have afforded \$ 288.18 per month for health insurance in 2019. According to Table 4 Appellant could have purchased insurance for \$286.00 per month.
12. In addition to the foregoing, I take administrative notice of the 2019 Schedule HC Instructions and Worksheets, available at <http://www.mass.gov/dor/docs/dor/health-care/2019>, and in particular, Tables 1-6 which, as discussed below, include the Affordability Schedule and other financial information used in making 2019 individual mandate tax penalty determinations.

ANALYSIS AND CONCLUSIONS OF LAW

The issue on appeal is whether the tax penalty assessed by the Massachusetts Department of Revenue for 2019 should be waived, either in whole or in part. Appellant has been assessed a tax penalty for two (2) months in 2019. Appellant has appealed the penalty. (See Exhibits 1 and 2).

The Appellant submit grounds with his appeal that during 2019: Other: During 2019 other circumstances, such as: applying the Affordability Tables in Schedule HC is inequitable, or he was unable to obtain government sponsored insurance even though his income qualified him. The Appellant also introduced testimony at the hearing that the expense of purchasing health insurance would have caused a serious deprivation of food, shelter, clothing or other necessities, and 3) that he incurred an unexpected natural or human caused event causing substantial household or personal damage to him. (Exhibit 2).

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

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

To determine if 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 2019, \$45,502.00, was more than 300% of the federal poverty level, which for 2019 was \$36,420 for an individual with a family size of one (1). According to Table 3 of Schedule HC for 2019, the Appellant had an adjusted gross income of \$45,502 in 2019 and could have afforded \$288.18 per month. According to Table 4, Appellant, age 38 and living in Worcester County during the time he was being penalized for not having insurance, could have purchased insurance for \$286.00 per month. Individual coverage was affordable through the individual market for the Appellant in 2019 (Schedule HC for 2019).

The next issue to consider is whether the appellant had access to affordable employer health insurance ("ESI"). The Appellant credibly testified that health insurance was offered through his employer, but he could not afford the \$250 per week, or \$1,075 monthly premium. See 956 CMR 12.05 and 45 CFR section 155.305 (f)(1)(ii)(B). Pursuant to 26 IRC section 36B and 45 CFR section 155.305(f), applicants are eligible for an Advanced Premium Tax Credit (APTC) if they meet qualifying income levels and other eligibility requirements. Massachusetts residents may also be eligible for additional state premium assistance through the Health Connector's ConnectorCare program if: a) their household income does not exceed 300 percent of the Federal Poverty Level (FPL) and b) they are eligible for an APTC. 956 CMR 12.09(1). An applicant who has access to other qualifying health insurance, including insurance through an employer, will be blocked from eligibility for an APTC if the coverage is affordable and meets minimum value standards, as those terms are defined by the law. See 26 CFR section 1.36B-2(c)(3). Coverage for plan year 2019 is considered to be affordable if the employee's contribution for an individual plan is 9.86 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, the monthly cost for a plan through the appellant's employer was \$1,075. That cost is more than 9.86 percent of the appellant's projected household MAGI for 2019 (i.e.—9.86 percent of \$45,502.00 is \$4,486.49/12 or \$373/month). Hence, since the cost of employer insurance is more than \$373/month, he is considered to not have had access to qualifying employer health insurance. See 956 CMR 12.05 and 45 CFR section 155.305 (f)(1)(ii)(B). Moreover, the ESI cost of \$1075 is greater than the amount he could have afforded under Table 3 of the Schedule HC (\$288.18), and as a result ESI was not affordable under Table 3.

Where the Appellant had access to affordable insurance through the individual market but not through employer sponsored coverage, we need to determine if the Appellant experienced a financial hardship such the coverage would have been unaffordable for him. See 956 CMR 6.08. et. seq. The Appellant may

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

The Appellant testified credibly that he had the following monthly expenses for basic necessities in 2019: Mortgage: \$650.00, Utilities \$201, Cell Phone \$50, Cable/Internet: \$35, Food \$100, Car Insurance: \$200, Gas \$200, Child Support \$720, Out of Pocket Medication \$10, totaling \$2,161.

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. The Appellant credibly testified that he could not afford \$288.18 per month as well as the cost of employer sponsored insurance given that his net take home pay was approximately \$2,150 per month. I find that his basic monthly expenses of \$2,151 were subsumed in his monthly net take home income. 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), (e), and (3) which allows consideration of financial issues raised by the Appellant on appeal.

The Appellant's penalty is, therefore, waived.

Appellant should note that any waiver granted here is for 2019 only and is based upon the specific facts I have found to be true and should not assume that the same determination will be made should Appellant be assessed a penalty in the future.

PENALTY ASSESSED

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

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

NOTIFICATION OF YOUR RIGHT TO APPEAL TO COURT

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

Cc: Connector Appeals Unit

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: PA19-645

Appeal Decision: The penalty is overturned in full.

Hearing Issue: Appeal of the 2019 Tax Year Penalty

Hearing Date: September 24, 2020

Decision Date: October 15, 2020

AUTHORITY

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

JURISDICTION

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

HEARING RECORD

The Appellant appeared at the hearing, which was held by telephone on September 24, 2020. An Interpreter at the request of the Appellant also appeared on behalf of the Appellant. The Interpreter was sworn in. 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. Appellant testified.

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

- Exhibit 1: Appeal Case Information from Schedule HC. (1 page).
- Exhibit 2: Statement of Grounds for Appeal 2019 Signed by Appellant 5/9/2020. (2 PP).
- Exhibit 2(a) Appellant's Supporting Correspondence (1 PP).
- Exhibit 2(b) Appellant's Supporting Documentation 2019 1040 Tax Return. (1 P).
- Exhibit 3: Health Connector's Notice of Hearing dated 8/17/2020 (2 PP).

The record was left open until October 7, 2020 for the Appellant to submit and itemization and any additional documentation in support of 2019 basic monthly expenses.

- Exhibit 4: Appellant's supporting correspondence outlining monthly expenses.

FINDINGS OF FACT

The record shows, and I so find:

1. Appellant, who filed a 2019 Massachusetts tax return reported he was single, was age 40 in 2019, lived in Suffolk County, and had a family size of 1. (Exhibit 1).

2. Appellant worked a part time job which gave him \$200/week and could not afford insurance until he obtained a full-time job in October 2019 which offered him health insurance. (Testimony of Appellant).
3. Appellant testified that he obtained health insurance from his full time Employer in October. (Testimony of Appellant).
4. Appellant was a new immigrant and was not aware that he was mandated to obtain health insurance. (Testimony).
5. Appellant's Federal Adjusted Gross Income for 2019 was \$26,130 (Exhibit 1).
6. Appellant has been assessed a tax penalty for six (6) months in 2019. The Appellant has appealed this assessment (Exhibits 1, 2).
7. Appellant had the following monthly expenses for basic necessities in 2019: Food \$ 300, Utilities \$200, \$50 on gas, and other expenses which the Appellant did not provide a specific amount or documents in support thereof, totaling \$ 550. (Testimony of Appellant).
8. Appellant testified his weekly net take home pay was \$200 a week or \$860/month during the time he did not have insurance. (Appellant Testimony, Exhibit 2(a)).
9. According to Table 3 Appellant could have afforded \$ 91.46 per month for health insurance in 2019. According to Table 4 Appellant could have purchased insurance for \$306.00 per month.
10. In addition to the foregoing, I take administrative notice of the 2019 Schedule HC Instructions and Worksheets, available at <http://www.mass.gov.dor/docs/dor/health-care/2019>, and in particular, Tables 1-6 which, as discussed below, include the Affordability Schedule and other financial information used in making 2019 individual mandate tax penalty determinations.

ANALYSIS AND CONCLUSIONS OF LAW

The issue on appeal is whether the tax penalty assessed by the Massachusetts Department of Revenue for 2019 should be waived, either in whole or in part. Appellant has been assessed a tax penalty for six (6) months in 2019. Appellant has appealed the penalty. (See Exhibits 1 and 2).

The Appellant submit grounds with his appeal that during 2019: that the expense of purchasing health insurance would have caused a serious deprivation of food, shelter, clothing or other necessities, and 3) that he incurred an unexpected natural or human caused event causing substantial household or personal damage to him. (Exhibit 2).

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

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

To determine if 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 2019, \$26,130.00, was less than 300% of the federal poverty level, which for 2019 was \$36,420 for an individual with a family size of one (1). According to Table 3 of Schedule HC for 2019, the Appellant had an adjusted gross income of \$26,130 in 2019 and could have afforded \$91.46 per month. According to Table 4, Appellant, age 40 and living in Suffolk County during the time he was being penalized for not having insurance, could have purchased insurance for \$306.00 per month. Individual coverage was not affordable through the individual market for the Appellant in 2019 (Schedule HC for 2019).

The next issue to consider is whether the appellant had access to affordable employer health insurance ("ESI"). The Appellant credibly testified that health insurance he was unable to afford health insurance as a part time worker and he was not eligible through his employer.

Where the Appellant did not have access to affordable insurance through the individual market and through employer sponsored coverage, but where the Appellant had access to insurance through the ConnectorCare program, we need to determine if the Appellant experienced a financial hardship such the coverage would have been unaffordable for him. See 956 CMR 6.08. et. seq. The Appellant may not be subject to a penalty for failing to get health insurance for the months in question if he can show that he experienced a hardship during 2019. Examples of hardships include being homeless or overdue in rent or mortgage payments, receiving a shut-off notice for utilities, or incurring unexpected increases in basic living expenses due to domestic violence, death of a family member, sudden responsibility for providing care for a family member or fire, flood or natural disaster. In addition, the Appellants' tax penalty for 2019 could be waived if he experienced financial circumstances such that the expense of purchasing health insurance would have caused his to experience a serious deprivation of food, shelter, clothing or other necessities. See 956 CMR 6.08

Th Appellant testified credibly that he had the following monthly expenses for basic necessities in 2019. Food \$ 300, Utilities \$200, \$50 on gas, and other expenses which the Appellant did not provide a specific amount or documents in support thereof, totaling \$550.

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. The Appellant testified that he did not know that insurance was mandated, and also that he could not afford \$91.46 per month given his testimony based that his net take home pay was approximately \$860 per month during the time he was being penalized. I find that his basic monthly expenses of \$ \$550 were subsumed in his annual gross adjusted earnings of \$26,130. The mandate was not lost on the Appellant as he obtained health

insurance in October. 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), (e), and (3) which allows consideration of financial issues raised by the Appellant on appeal.

The Appellant's penalty is, therefore, waived.

Appellant should note that any waiver granted here is for 2019 only and is based upon the specific facts I have found to be true and should not assume that the same determination will be made should Appellant be assessed a penalty in the future.

PENALTY ASSESSED

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

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

NOTIFICATION OF YOUR RIGHT TO APPEAL TO COURT

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

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: PA19-605

Appeal Decision: Appeal Approved
Hearing Issue: Appeal of the 2019 Tax Year Penalty
Hearing Date: September 22, 2020
Decision Date: October 16, 2020

AUTHORITY

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

JURISDICTION

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

HEARING RECORD¹

The Appellant appeared at the hearing, which was held by telephone, on September 22, 2020.

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

Exhibit 1: Hearing Notice dated August 17, 2020 (2 pages)

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

Exhibit 3: Statement of Grounds for Appeal (2 pages)

Exhibit 4: Final Appeal Decision: PA18-713

FINDINGS OF FACT

The record shows, and I so find:

1. The Appellant turned 51 years old in February 2019. The Appellant filed their Federal Income Tax Return as a head of household with one dependent claimed. (Exhibit 2).

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

2. The Appellant lived in Essex County, MA in 2019. (Exhibit 2). They were a legal permanent resident of the United States. (Exhibit 4 and Appellant's Testimony).
3. The Appellant's Federal Adjusted Gross Income for 2019 was \$30,642.00. (Exhibit 2).
4. The Appellant did not have health insurance during twelve (12) months of tax year 2019. (Exhibit 2 and Appellant's Testimony).
5. The Appellant has been assessed a twelve-month tax penalty for 2019. The Appellant filed an appeal of the assessment in April 2020. (Exhibits 3 and Appellant's Testimony).
6. I take administrative notice of the financial information set forth in Tables 1 through 6 of the DOR 2019 Massachusetts Schedule HC Health Care Instructions and Worksheet. Tables 3 and 4 incorporate affordability and premium schedules adopted by the Board of Directors for the Commonwealth Health Insurance Connector Authority for 2019. Table 2 sets forth income at 300% of the Federal poverty level and Tables 5 and 6 set forth tax penalties in effect for 2019.
7. In accordance with Table 3 of Schedule HC for 2019, the Appellant filing the Federal tax return as a head of household, with one dependent claimed, with an annual adjusted gross income of \$30,642.00, could afford to pay \$109.80 per month for government-sponsored health insurance. In accordance with Table 4, the Appellant, age 51 living in Essex County, could have purchased private market health insurance for \$968.00 per month. (Table 4, Schedule HC for 2019). Private insurance was not affordable for the Appellant in 2019.
8. The Appellant's employer did not offer health insurance during 2019. (Appellant's Testimony). Thus, no employer-sponsored insurance was available to the Appellant.
9. The Appellant was income-eligible for government-subsidized ConnectorCare coverage in 2019 because the Appellant's adjusted gross income of \$30,642.00 was less than 300% of the Federal poverty level for a family of two, which was \$49,380.00 in 2019. (Schedule HC, Table 2).
10. During 2019, the Appellant worked for a company that manufactured metal tables. They earned about \$14 per hour and had fluctuating hours. (Appellant's Testimony).
11. The Appellant testified that they called the Health Connector to look into getting health insurance but believed they were told the cost would be between \$140 and \$200 per month, which Appellant deemed was unaffordable. (Appellant's Testimony). I credit Appellant's Testimony on these points.
12. The Appellant's monthly living expenses of \$3,445.00 in 2019 included: Mortgage - \$2,300, Heat - \$100, Electricity - \$70, Car insurance - \$140, Gas - \$160, Telephone - \$150, Internet - \$45, Food - \$480.

13. Appellant was laid off in March 2020 because of the Covid-19 pandemic and remains unemployed. (Appellant's Testimony). The Appellant does not currently have health insurance. (Appellant's Testimony).

ANALYSIS AND CONCLUSIONS OF LAW

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

The Appellant is appealing the assessed tax penalty of twelve (12) months. They testified that that the expense of purchasing health insurance in 2019 would have caused a serious deprivation of food, shelter and other basic living necessities. (Appellant's Testimony).

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

In accordance with Table 3 of Schedule HC for 2019, the Appellant filing the Federal tax return as a head of household with one dependent claimed, with an adjusted gross income of \$30,642.00, could afford to pay \$109.80.77 per month for government-sponsored health insurance. In accordance with Table 4, the Appellant, age 51, living in Essex County, claiming one dependent, could have purchased private market health insurance for \$968.00 per month. (Schedule HC for 2019). Private insurance was not affordable for the Appellant in 2019.

The Appellant's employer did not offer health insurance in 2019. (Appellant's Testimony).

The Appellant was income-eligible for government-subsidized ConnectorCare coverage in 2019 because the Appellant's adjusted gross income of \$30,642.00 was less than 300% of the Federal poverty level for a family of two, which was \$49,380.00 in 2019. (Schedule HC, Table 2).

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

The Appellant's adjusted gross income was \$30,642.00. Their living expenses, with one dependent, were \$3,445.00 monthly or \$41,340.00 annually. (Appellant's Testimony and paragraph 12 above). The total amount of the Appellant's monthly living expenses in 2019 exceeded their adjusted gross income that year. Accordingly, I conclude that Appellant has demonstrated they would have experienced financial hardship if they had purchased health insurance during 2019. 956 CMR 6.08(1)(e) &(3).

I note that the Appellant had a twelve-month tax penalty assessed and waived for the 2018 tax year, was alerted in that Final Decision to their potential eligibility for subsidized insurance coverage, and they still do not have health insurance currently. (Exhibit 4 and Appellant's Testimony). Appellant testified that they contacted the Health Connector to obtain affordable insurance but apparently did not succeed in doing so because of confusion or misunderstanding. The Appellant has been unemployed since March 2020 because of the Covid-19 pandemic. (Appellant's Testimony). Particularly under these circumstances, it is important that the Appellant make every effort to obtain affordable government-sponsored or other insurance through the Connector. At the same time, the Connector will be alerted to this situation in an effort to assist Appellant.

Under the totality of these circumstances, the Appellant's twelve-month penalty will be waived. 956 CMR 6.07(8). The Appellant should note, however, that the waiver of their penalty is based upon facts that I have determined to be true in 2019. The Appellant should not assume that a similar determination will be made for subsequent tax years should they again be assessed a tax penalty for failure to have health insurance.

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 2011.

NOTIFICATION OF YOUR RIGHT TO APPEAL TO COURT

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

Hearing Officer

Cc: Connector Appeals Unit

Massachusetts Health Connector Appeals Unit

FINAL APPEAL DECISION: PA19-682

Appeal Decision: Penalty Overturned in Full

Hearing Issue: Appeal of the 2019 Tax Year Penalty

Hearing Date: October 9, 2020

Decision Date: October 26, 2020

AUTHORITY

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

JURISDICTION

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

HEARING RECORD

The appellant appeared at the hearing which was held by telephone on October 9, 2020, and testified under oath. The hearing record consists of the appellant's testimony and the following documents which were admitted into evidence without her objection:

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

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

- Ex. 4—2019 MA 1099-HC

FINDINGS OF FACT

The record shows, and I so find:

1. The appellant is 28-years-old, is single, and does not have children. She resided in Franklin County, MA in 2019. In 2019, she had health insurance from September through December. (Testimony, Ex. 4)
2. The appellant did not have health insurance in 2018 and paid a penalty for failure to obtain insurance. Prior to 2018, she believes she had insurance with MassHealth for one year. (Testimony)
3. The appellant worked at a restaurant in 2019 on a part-time basis and was not eligible for employer health insurance due to her part-time status. She researched health insurance options online and

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

concluded that she could not afford the cost, particularly since her income fluctuated from week to week due to erratic scheduling. Towards the end of the summer, she was promoted to manager and got an increase in her hours and salary. She investigated insurance options through the Health Connector and was determined eligible for subsidized insurance with Advanced Premium Tax Credits (APTC). She enrolled in a plan for \$375.00/month with APTC of \$87.00 from September 1st through the rest of the year. (Testimony, Ex. 4)

4. The appellant moved to New York at the end of January, 2020 and some of her mail was not forwarded to her new address. (Testimony)
5. The appellant reported an adjusted gross income of \$35,897.00 on her 2019 federal tax return, and reported that she was single with no dependents. (Ex. 2)
6. In 2019, the appellant had regular monthly expenses of approximately \$1015.00 for rent which included heat and utilities (\$500.00); cell phone (\$65.00); transportation by ride share services to and from work (\$250.00); and food (\$200.00). In addition, the appellant paid approximately \$500.00 to rent her phone. (Testimony)

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

ANALYSIS AND CONCLUSIONS OF LAW

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

The appellant submitted a statement of grounds for appeal (Ex. 1), claiming that the individual mandate did not apply to her during 2019 because the expense of purchasing health insurance would have caused a serious deprivation of food, shelter, clothing and other necessities. She also submitted a letter with her statement in which she stated in part that she could not afford to pay for insurance until her hours and wages increased above part-time hours.

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

² The appellant submitted documentation as part of an Open Record Request indicating that she was enrolled in minimum creditable coverage insurance from September through December. As such, she should technically only be assessed a penalty of five months (i.e. the months of uninsurance less the gap period of three months).

The appellant testified credibly that in 2019 she was employed as on a part-time basis at a restaurant and was not eligible for employer health insurance due to her part-time status. She testified that she investigated private health insurance options, but could not afford the cost particularly since her income fluctuated due to erratic scheduling. She testified that towards the end of the summer, she was promoted to manager and both her hours and salary increased so that she was able to enroll in health insurance from September through December.

The evidence provided by the appellant established that her income for 2019, \$35,897.00 was less than 300% of the federal poverty level (FPL), which for 2019 was \$36,420.00 for an individual. Table 3 of the Affordability Schedule indicates that an individual filing separately with no dependents with a federal adjusted gross income between \$30,351.00 and \$36,420.00 is deemed to be able to afford a monthly premium of \$149.57 (5.00% of \$35,897.00/12). Table 4 of the Premium Schedule indicates that a 27-year-old individual (the age of the appellant in 2019) in Franklin County (where the appellant resided in 2019) could have purchased private health insurance for \$231.00 per month, more than the monthly amount deemed affordable from Table 3. Thus, according to the foregoing analysis, the appellant could not have purchased affordable private health insurance in 2019.

Since the appellant's income was within 300% of the FPL, the appellant should have qualified for subsidized health insurance through the Health Connector, assuming she met all other eligibility criteria, and for which she would have been subject to a subsidized premium of approximately \$149.57 per month, pursuant to the aforementioned Affordability Schedule in Table 3.

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

The evidence presented by the appellant in this case is insufficient to establish that she experienced a financial hardship as defined by law so as to waive her penalty for the months in question. The appellant testified that in 2019 she incurred basic monthly expenses of approximately \$1015.00. Those expenses were less than her regular monthly pre-tax income of approximately \$2991.00, thereby making a subsidized insurance premium of \$149.57 seemingly manageable. While it is recognized that an approximate difference between income and expenses of \$1976.00 per month is not a panacea, it does not appear on its face that the payment of \$149.57 for health insurance would have caused an undue hardship.

Based on the foregoing, it is concluded that the appellant could have afforded subsidized health insurance and failed to establish that she experienced a financial hardship that would entitle her to a waiver of the penalty. Notwithstanding this conclusion, the penalty will be waived for the following reason. The appellant testified that that until she got an increase in her hours and salary at the end of the summer, she determined that she could not afford health insurance because her salary fluctuated while she was employed on a part-time basis. While it is not known how much of a difference there was in her salary before and after the promotion, it is not unreasonable to presume that the bulk of her income was earned following her promotion. Moreover, she also established that as soon as she achieved more financial stability, she purchased coverage, thereby demonstrating that the mandate to obtain insurance was not lost on her.

Therefore, based upon the totality of the evidence, 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 waiver is with respect to 2019, only and is based upon the extent of information submitted by her in this appeal.

PENALTY ASSESSED

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

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

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

NOTIFICATION OF YOUR RIGHT TO APPEAL TO COURT

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

Hearing Officer

Cc: Connector Appeals Unit

Massachusetts Health Connector Appeals Unit

FINAL APPEAL DECISION: PA19-5

Appeal Decision: Appeal Approved.

Hearing Issue: Appeal of the 2019 Tax Year Penalty

Hearing Date: October 7, 2020

Decision Date: October 14, 2020

AUTHORITY

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

JURISDICTION

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

HEARING RECORD

The Appellant appeared at the hearing, which was held by telephone, on October 7, 2020. The procedures to be followed during the hearing were reviewed with the Appellant who was then sworn in. Exhibits were marked and admitted into evidence with no objection from the Appellant. The hearing record consists of the Appellant's testimony and the following documents which were admitted into evidence:

- Exhibit 1: Health Connector Appeals Unit Notice of Hearing dated September 3, 2020.
- Exhibit 2: Appeal Case Information from Schedule HC 2019.
- Exhibit 3: The Statement of Grounds for Appeal signed by the Appellant on February 16, 2020.
- Exhibit 4: Health Connector Appeals Unit Final Appeal Decision of 2018 Tax Penalty dated October 10, 2019.
- Exhibit 5: Health Connector Appeals Unit Final Appeal Decision of 2017 Tax Penalty dated August 16, 2018.
- Exhibit 6: Health Connector Appeals Unit Final Appeal Decision of 2014 Tax Penalty dated August 15, 2015.

FINDINGS OF FACT

The record shows, and I so find:

1. The Appellant, age 35 in May, filed their Federal Income Tax return as a single person with no dependents claimed (Exhibit 2).
2. The Appellant lived in Hampden County, MA in 2019 (Exhibit 2).
3. The Appellant's Federal Adjusted Gross Income for 2019 was \$26,320 (Exhibit 2).
4. The Appellant did not have insurance for any months in tax year 2019 (Exhibit 2 and Appellant Testimony).
5. The Appellant has been assessed a twelve-month tax penalty for 2019. The Appellant filed an appeal of the assessment in February 2020 (Exhibits 2, 3).

6. I take administrative notice of the financial information set forth in Tables 1 through 6 in the DOR 2019 Massachusetts Schedule HC Health Care Instructions and Worksheets. Tables 3 and 4 incorporate affordability and premium schedules adopted by the Board of Directors for the Commonwealth Health Insurance Connector Authority for 2019. Table 2 sets forth income at 300% of the Federal poverty level and Tables 5 and 6 set forth tax penalties in effect for 2019.
7. In accordance with Table 3 of Schedule HC for 2019, the Appellant filing the Federal tax return as a single person with no dependents claimed, with an annual adjusted gross income of \$26,320 could afford to pay \$92 per month for health insurance. In accordance with Table 4, the Appellant, age 35, living in Hampden County, could have purchased private insurance for \$286 per month for a plan (Schedule HC for 2019). Private insurance was not affordable for the Appellant in 2019.
8. The Appellant testified credibly that their employer offered access to health insurance at a weekly cost of \$63. The monthly cost of \$273 is more than the \$92 deemed affordable to the Appellant under Table 3 of Schedule HC for 2019 and is therefore not affordable (Appellant Testimony).
9. In Tax year 2018 the Appellant's employer offered access to health insurance at a cost of cost of \$160 per month. The Appellant's 2018 tax penalty was waived because the insurance was found to have been less than 9.56% of the Appellant's Modified Adjusted Gross Income (MAGI), which blocked the Appellant from receiving Advance Premium Tax Credits and ConnectorCare (Exhibit 4).
10. The Appellant would have been eligible for ConnectorCare coverage in 2019 because the Appellant's income was less than than 300% of the federal poverty level, which was \$36,420 for a single person in 2019 and the monthly cost of the Appellant's employer sponsored insurance was \$273, and therefore greater than 9.86 % of the Appellant's MAGI (See Table 2 of Schedule HC-2019 and 956 CMR 12.04).
11. The Appellant's 2019 monthly expenses of \$2,042 included: rent-\$80; telephone-\$50; car insurance-\$920; gasoline-\$65; food-\$520; and child support of \$407. The Appellant testified that they struggled to meet their monthly living expenses and could afford to pay for health insurance. The Appellant said that based on the decision they received for tax year 2018 they thought they were blocked from receiving any kind of assistance to pay for their health insurance. I found the Appellant's testimony credible (Exhibit 4 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 did not have health insurance for any months in tax year 2019. The Appellant has been assessed a twelve-month penalty. The Appellant asserts that the penalty should not apply in this case because of financial hardship. To determine if the penalty should be waived in whole or in part, there must be an evaluation of whether affordable insurance which met minimum creditable coverage standards was available to the Appellant through employment, through private insurance, or through a government sponsored program. If affordable insurance was available, it must be determined if such insurance was not affordable to the Appellant because the Appellant experienced a financial hardship as defined in 956 CMR 6.08.

In accordance with Table 3 of Schedule HC for 2019, the Appellant filing the Federal tax return as a single person with no dependents claimed with an adjusted gross income of \$26,320 could afford to pay \$92 per month for health insurance. According to Table 4, the Appellant, age 35, living in Hampden County, could have purchased a private insurance plan for \$286 per month for a plan. See Schedule HC for 2019. Private insurance was not affordable for the Appellant in tax year 2019.

The Appellant's employer offered access to health insurance but the monthly cost of \$273 in tax year 2019 was more than the \$92 deemed affordable to the Appellant in accordance with Table 3 of Schedule HC for 2019. The Appellant did not have access to affordable employer sponsored health insurance in 2019. Unlike tax year 2018, the cost of the employer sponsored insurance was greater than 9.86% of the Appellant's MAGI and would not have blocked the Appellant from receiving insurance through a government sponsored program. 956.600, 45 CFR 155.305(f)(1)(ii)(B), 26 CFR § 1.36B-2(c)(3). The Appellant would have been eligible for ConnectorCare coverage based upon the Appellant's income which was less than \$36,420. See Table 2 of Schedule HC 2019 and 956 CMR 12.04 for eligibility criteria. Since affordable insurance was available to the Appellant in 2019, it must be determined whether the Appellant experienced a financial hardship pursuant to 956 CMR 6.08 (1).

The Appellant testified that because of prior appeals, they believed that they did not qualify for any assistance with payment of health care premiums. The Appellant explained that in addition to child support, they must pay for their living expenses and struggle to meet these expenses with their limited income. The Appellant has demonstrated that the cost of purchasing health insurance would have caused the Appellant to experience a significant financial hardship. The Appellant's twelve-month penalty is waived. See 956 CMR 6.08(1)(e).

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

PENALTY ASSESSED

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

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

NOTIFICATION OF YOUR RIGHT TO APPEAL TO COURT

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

Cc: Connector Appeals Unit

ADDENDUM

The Appellant is advised that they may telephone Health Connector Customer Service to apply for help with obtaining affordable government subsidize health insurance at 1-877-623-6765.

The Appellant may also apply online at www.mahealthconnector.org.

Massachusetts Health Connector Appeals Unit

FINAL APPEAL DECISION: PA19-79

Appeal Decision: Appeal Approved.

Hearing Issue: Appeal of the 2019 Tax Year Penalty

Hearing Date: October 7, 2020

Decision Date: October 14, 2020

AUTHORITY

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

JURISDICTION

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

HEARING RECORD

The Appellant appeared at the hearing, which was held by telephone, on October 7, 2020. The procedures to be followed during the hearing were reviewed with the Appellant who was then sworn in. Exhibits were marked and admitted into evidence with no objection from the Appellant. The hearing record consists of the Appellant's testimony and the following documents which were admitted into evidence:

- Exhibit 1: Health Connector Appeals Unit Notice of Hearing dated September 3, 2020.
- Exhibit 2: Appeal Case Information from Schedule HC 2019.
- Exhibit 3: The Statement of Grounds for Appeal signed by the Appellant on February 23, 2020.
- Exhibit 4: Appellant's letter in support of this appeal.

FINDINGS OF FACT

The record shows, and I so find:

1. The Appellant, age 26 in June, filed their Federal Income Tax return as a single person with no dependents claimed (Exhibit 2).
2. The Appellant lived in Essex County, MA in 2019 (Exhibit 2).
3. The Appellant's Federal Adjusted Gross Income for 2019 was \$42,932 (Exhibit 2).
4. The Appellant did not have insurance for any months in tax year 2019 (Exhibit 2 and Appellant Testimony).
5. The Appellant has been assessed a twelve-month tax penalty for 2019. The Appellant filed an appeal of the assessment in February 2020 (Exhibits 2, 3, 4).

6. I take administrative notice of the financial information set forth in Tables 1 through 6 in the DOR 2019 Massachusetts Schedule HC Health Care Instructions and Worksheets. Tables 3 and 4 incorporate affordability and premium schedules adopted by the Board of Directors for the Commonwealth Health Insurance Connector Authority for 2019. Table 2 sets forth income at 300% of the Federal poverty level and Tables 5 and 6 set forth tax penalties in effect for 2019.
7. In accordance with Table 3 of Schedule HC for 2019, the Appellant filing the Federal tax return as a single person with no dependents claimed, with an annual adjusted gross income of \$42,932 could afford to pay \$272 per month for health insurance. In accordance with Table 4, the Appellant, age 26, living in Essex County, could have purchased private insurance for \$259 per month for a plan (Schedule HC for 2019). Private insurance was affordable for the Appellant in 2019.
8. The Appellant testified credibly that they did not have access to employer sponsored health insurance in 2019 (Appellant Testimony).
9. The Appellant would not have been eligible for ConnectorCare coverage in 2019 because the Appellant's income was greater than 300% of the federal poverty level, which was \$36,420 for a single person in 2019 (See Table 2 of Schedule HC-2019 and 956 CMR 12.04).
10. The Appellant testified that they live with a partner and their child. In addition, the Appellant said that they have a second child who lives out of state. The Appellant stated that they pay \$100 each week for the support of this child (Exhibit 4 and Appellant Testimony).
11. The Appellant's 2019 monthly expenses of \$3,145 included: rent-\$1,200; heat -\$125; electricity- \$50; telephone-\$125; car payment-\$472; car insurance-\$160; gasoline-\$130; food-\$325; cable-\$125 and the out of state child support of \$433. The Appellant testified that with two children to support they struggle to meet their monthly living expenses and cannot afford to pay for health insurance. The Appellant said that they fell behind in their utility payments a few times but were able to catch up and avoid shut off. I found the Appellant's testimony credible.

ANALYSIS AND CONCLUSIONS OF LAW

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

The Appellant did not have health insurance for any months in tax year 2019. The Appellant has been assessed a twelve-month penalty. The Appellant asserts that the penalty should not apply in this case because of financial hardship. To determine if the penalty should be waived in whole or in part, there must be an evaluation of whether affordable insurance which met minimum creditable coverage standards was available to the Appellant through employment, through private insurance, or through a government sponsored program. If affordable

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

In accordance with Table 3 of Schedule HC for 2019, the Appellant filing the Federal tax return as a single person with no dependents claimed with an adjusted gross income of \$42,932 could afford to pay \$272 per month for health insurance. According to Table 4, the Appellant, age 26, living in Essex County, could have purchased a private insurance plan for \$259 per month for a plan. See Schedule HC for 2019. Private insurance was affordable for the Appellant in tax year 2019.

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

The Appellant testified that they although they did not claim dependents on their tax return, the Appellant is helping to support two children. The Appellant lives with a partner and their common child. The Appellant has a second child that lives out of state with their other parent. The Appellant testified credibly that they send \$100 weekly to help support this child. The Appellant reported having substantial monthly living expenses and testified credibly that due to their limited income they struggled to meet these expenses and support two children. The Appellant fell behind in their utility payments but was able to catch up and avoid a shut off. The Appellant has demonstrated that the cost of purchasing health insurance would have caused the Appellant to experience a significant financial hardship. The Appellant's twelve-month penalty is waived. See 956 CMR 6.08(1)(e).

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

PENALTY ASSESSED

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

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

NOTIFICATION OF YOUR RIGHT TO APPEAL TO COURT

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

Cc: Connector Appeals Unit

Massachusetts Health Connector Appeals Unit

FINAL APPEAL DECISION: PA19-435

Appeal Decision Appeal Approved.

Hearing Issue: Appeal of the 2019 Tax Year Penalty

Hearing Date: August 18, 2020

Decision Date: October 2, 2020

AUTHORITY

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

JURISDICTION

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

HEARING RECORD

Appellants appeared at the hearing, which was held by telephone, on August 18, 2020. The hearing record consists of the Appellants' testimony, and the following documents which were admitted into evidence without objection by Appellant:

- Exhibit 1: Notices of Hearing (7-16-20) (2 pages);
- Exhibit 2: Information from Schedule HC TY 2019 (1 page); and
- Exhibit 3: Statement of Grounds for Appeal (4-7-20) (with letter and documents) (89 pages).

FINDINGS OF FACT

The record shows, and I so find:

1. Appellants, ages 30 and 29 during 2019, from Middlesex County, filed married filing jointly on the tax return with a family size of 2. (Exhibit 2).
2. Appellants did not have health insurance during 2019. (Appellant's testimony, Exhibits 2, and 3).
3. Appellants' Federal Adjusted Gross Income for 2019 was \$87,607.00 (Exhibit 2).
4. Appellants were unsure what their total income would be. One of Appellants normally had overtime, but then did not have it for some time, and then did have overtime and the overall income ended up being higher than Appellants had anticipated. The base pay would have resulted in an annual income for both of Appellants of approximately \$60,000.00 (Appellant's testimony, Exhibit 3).

5. Appellants had access to health insurance through one of the employers but did not believe it was affordable for them. (Appellants' testimony, Exhibit 3).
6. Appellants' expenses for food, shelter, clothing, and other necessities, used a significant amount of the income (Appellant's Testimony). The monthly expenses for food, shelter, clothing, home repairs, vehicle expenses, and other necessities, totaled approximately \$5,443.00 per month averaged out, or \$65,316.00 for the year. (Appellant's Testimony, Exhibit 3).
7. I take administrative notice of the financial information set forth in Tables 1 through 6 in the DOR 2019 Massachusetts Schedule HC Health Care Instructions and Worksheets. Tables 3 and 4 incorporate affordability and premium schedules adopted by the Board of Directors for the Commonwealth Health Insurance Connector Authority for 2019. Table 2 sets forth income at 300% of the Federal poverty level and Tables 5 and 6 set forth tax penalties in effect for 2019.
8. Appellants could afford health insurance based on the tables in Schedule HC. According to Table 4, the health insurance would cost \$514.00 for coverage for a married couple with no dependents. According to Table 3, Appellants were deemed to afford \$584.00.
9. Private insurance was affordable for the Appellants in 2019. (Schedule HC for 2019).
10. Appellants' AGI was over 300% of the Federal Poverty Level, and Appellants therefore would not have qualified for subsidized health insurance through the Health Connector. (Schedule HC for 2019).
11. Appellants claimed that they should be granted a waiver based on the grounds that paying for health insurance would have caused a serious deprivation of food, shelter, clothing and other necessities during 2019. (Testimony of Appellants, Exhibit 3).
12. Appellants did not incur significant and unexpected increases in essential expenses as a result of domestic violence; due to the death of a spouse, family member, or partner who shared household expenses; the sudden responsibility for providing full care for an aging parent or other family member; or fire, flood, or other natural or man-made disaster in 2019 (Exhibit 3).
13. Appellants were not homeless, were not thirty days or more behind in rent in 2019, and Appellants did not receive a shut-off notice for basic utilities. (Appellant's Testimony, Exhibit 3).

ANALYSIS AND CONCLUSIONS OF LAW

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

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

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

Private insurance was affordable for the Appellants during 2019. According to Tables 3 and 4 of the HC Schedule for 2019, Appellants, with an adjusted gross income of \$87,607.00 were deemed to have been able to afford health insurance on the private market. According to Table 3, Appellants could have afforded to pay \$584.00 per month; according to Table 4, Appellants, who were 30 and 29 years old in 2019, from Middlesex County, and filed the 2019 Massachusetts taxes as married filing jointly with a family size of 2, would have had to pay \$514.00 for coverage per month for insurance on the private market. See CMR 6.05 (1)(2), Schedule HC Tables 3 and 4, and Exhibit 2.

With regard to the hardship waiver of the penalty, Appellants claimed that paying for health insurance would have caused a serious deprivation of food, shelter and other necessities. Appellants' expenses for food, shelter, clothing, home repair, vehicle expenses, and other necessities used a significant part of the income. For these reasons, the waiver of the penalty is approved.

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

PENALTY ASSESSED

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

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

NOTIFICATION OF YOUR RIGHT TO APPEAL TO COURT

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

Hearing Officer

Cc: Connector Appeals Unit

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

Massachusetts Health Connector Appeals Unit

FINAL APPEAL DECISION: PA19-437

Appeal Decision Appeal Approved.

Hearing Issue: Appeal of the 2019 Tax Year Penalty

Hearing Date: August 18, 2020

Decision Date: October 2, 2020

AUTHORITY

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

JURISDICTION

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

HEARING RECORD

Appellant appeared at the hearing, which was held by telephone, on August 18, 2020. The hearing record consists of the Appellant's testimony, and the following documents which were admitted into evidence without objection by Appellant:

- Exhibit 1: Notices of Hearing (7-16-20) (2 pages);
- Exhibit 2: Information from Schedule HC TY 2019 (1 page); and
- Exhibit 3: Statement of Grounds for Appeal (4-2-20) (with letter) (4 pages).

FINDINGS OF FACT

The record shows, and I so find:

1. Appellant, age 29 during 2019, from Bristol County, filed single on the tax return with a family size of 1. (Exhibit 2).
2. Appellant did have health insurance January through March of 2019, but did not have health insurance for the remaining months of 2019. (Appellant's testimony, Exhibits 2, and 3).
3. Appellant's Federal Adjusted Gross Income for 2019 was \$43,888.00 (Exhibit 2).
4. Appellant became unemployed in April and was unemployed until October 2019, and initially had health insurance through MassHealth, but was then deemed ineligible based on income. (Appellant's testimony, Exhibit 3).

5. Appellant's income was higher during the months that Appellant had health insurance (January through March), but then unemployment was a lower amount. Unemployment was approximately \$1,872.00 per month. (Appellant's Testimony, Exhibit 3).
6. Appellant's expenses for food, shelter, clothing, and other necessities, used all of the income when Appellant was unemployed (Appellant's Testimony). The monthly expenses for food, shelter, clothing, home repairs, vehicle expenses, and other necessities, totaled approximately \$2,154.00 per month averaged out, or \$25,848.00 for the year. (Appellant's Testimony, Exhibit 3).
7. I take administrative notice of the financial information set forth in Tables 1 through 6 in the DOR 2019 Massachusetts Schedule HC Health Care Instructions and Worksheets. Tables 3 and 4 incorporate affordability and premium schedules adopted by the Board of Directors for the Commonwealth Health Insurance Connector Authority for 2019. Table 2 sets forth income at 300% of the Federal poverty level and Tables 5 and 6 set forth tax penalties in effect for 2019.
8. Appellant could afford health insurance based on the tables in Schedule HC. According to Table 4, the health insurance would cost \$257.00 for individual coverage. According to Table 3, Appellant was deemed to afford \$277.00.
9. Private insurance was affordable for the Appellant in 2019. (Schedule HC for 2019).
10. Appellant's AGI was over 300% of the Federal Poverty Level, and Appellant therefore would not have qualified for subsidized health insurance through the Health Connector. (Schedule HC for 2019).
11. Appellant claimed that they should be granted a waiver based on the grounds that they that paying for health insurance would have caused a serious deprivation of food, shelter, clothing and other necessities during 2019. (Testimony of Appellants, Exhibit 3).
12. Appellant did not incur significant and unexpected increases in essential expenses as a result of domestic violence; due to the death of a spouse, family member, or partner who shared household expenses; the sudden responsibility for providing full care for an aging parent or other family member; or fire, flood, or other natural or man-made disaster in 2019 (Exhibit 3).
13. Appellant was not homeless, was not thirty days or more behind in rent in 2019, and Appellant did not receive a shut-off notice for basic utilities. (Appellant's Testimony, Exhibit 3).

ANALYSIS AND CONCLUSIONS OF LAW

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

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

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

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

Private insurance was affordable for the Appellant during 2019. According to Tables 3 and 4 of the HC Schedule for 2019, Appellant, with an adjusted gross income of \$43,888.00 was deemed to have been able to afford health insurance on the private market. According to Table 3, Appellant could have afforded to pay \$277.00 per month; according to Table 4, Appellant, who was 29 years old in 2019, from Bristol County, and filed the 2019 Massachusetts taxes as single with a family size of 1, would have had to pay \$257.00 for individual coverage per month for insurance on the private market. See CMR 6.05 (1)(2), Schedule HC Tables 3 and 4, and Exhibit 2.

With regard to the hardship waiver of the penalty, Appellant claimed that paying for health insurance would have caused a serious deprivation of food, shelter and other necessities. Appellant's expenses for food, shelter, clothing, home repair, vehicle expenses, and other necessities used a significant amount of the income. For these reasons, the waiver of the penalty is approved.

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

PENALTY ASSESSED

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

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

NOTIFICATION OF YOUR RIGHT TO APPEAL TO COURT

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

Hearing Officer

Cc: Connector Appeals Unit

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

Massachusetts Health Connector Appeals Unit

FINAL APPEAL DECISION: PA19-438

Appeal Decision Appeal Approved.

Hearing Issue: Appeal of the 2019 Tax Year Penalty

Hearing Date: August 18, 2020

Decision Date: October 2, 2020

AUTHORITY

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

JURISDICTION

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

HEARING RECORD

One of the Appellants appeared at the hearing, which was held by telephone, on August 18, 2020. The hearing record consists of the Appellant's testimony, and the following documents which were admitted into evidence without objection by Appellant:

- Exhibit 1: Notices of Hearing (7-16-20) (2 pages);
- Exhibit 2: Information from Schedule HC TY 2019 (1 page); and
- Exhibit 3: Statement of Grounds for Appeal (4-8-20) (with letter and documents) (6 pages).

FINDINGS OF FACT

The record shows, and I so find:

1. Appellants, both age 55 during 2019, from Suffolk County, filed married filing jointly on the tax return with a family size of 2. (Exhibit 2).
2. One of Appellants had health insurance through the employer for all of 2019. The other Appellant did not come to Massachusetts (or the United States) until August of 2019, and had health insurance for October and November through the Health Connector, and then in December of 2019, had health insurance through the other Appellant's employer. Thus, there were only two months that either Appellant did not have health insurance. (Appellant's testimony, Exhibits 2, and 3).
3. Appellants' Federal Adjusted Gross Income for 2019 was \$33,583.00 (Exhibit 2).

4. I take administrative notice of the financial information set forth in Tables 1 through 6 in the DOR 2019 Massachusetts Schedule HC Health Care Instructions and Worksheets. Tables 3 and 4 incorporate affordability and premium schedules adopted by the Board of Directors for the Commonwealth Health Insurance Connector Authority for 2019. Table 2 sets forth income at 300% of the Federal poverty level and Tables 5 and 6 set forth tax penalties in effect for 2019.
5. Appellants could not afford health insurance based on the tables in Schedule HC. According to Table 4, the health insurance would cost \$836.00 for coverage for a married couple with no dependents. According to Table 3, Appellants were deemed to afford \$173.00.
6. Private insurance was not affordable for the Appellants in 2019. (Schedule HC for 2019).
7. Appellants' AGI was under 300% of the Federal Poverty Level, and Appellants therefore may have qualified for subsidized health insurance through the Health Connector. (Schedule HC for 2019).
8. Appellants claimed that they should be granted a waiver based on the grounds that one of them was insured for the entire year, and the other Appellant was uninsured for only two months while in Massachusetts, and the "grace period" is three months. (Testimony of Appellants, Exhibit 3).
9. Appellants did not incur significant and unexpected increases in essential expenses as a result of domestic violence; due to the death of a spouse, family member, or partner who shared household expenses; the sudden responsibility for providing full care for an aging parent or other family member; or fire, flood, or other natural or man-made disaster in 2019 (Exhibit 3).
10. Appellants were not homeless, were not thirty days or more behind in rent in 2019, and Appellants did not receive a shut-off notice for basic utilities. (Appellant's Testimony, Exhibit 3).

ANALYSIS AND CONCLUSIONS OF LAW

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

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

One of Appellants did have health insurance for all of 2019. The other Appellant was not in Massachusetts (or the United States) until August of 2019, and then had health insurance for October and November through the Health Connector, and in December through the other Appellant's employer. However, the Schedule HC does not reflect those facts. They have been assessed a tax penalty for zero months for one of them and six months for the other Appellant. Appellants appealed the assessment. See Exhibits 2 and 3. To determine if the penalty should be waived in whole or in part, we must consider

whether affordable insurance which met minimum creditable coverage standards was available to the Appellants through employment, through the private market, or through a government-sponsored program. If affordable insurance was available, we must determine if such insurance was, in fact, not affordable to the Appellants because they experienced a financial hardship as defined in 956 CMR 6.08. Private insurance was not affordable for the Appellants during 2019. According to Tables 3 and 4 of the HC Schedule for 2019, Appellants, with an adjusted gross income of \$33,583.00 were deemed to not have been able to afford health insurance on the private market. According to Table 3, Appellants could have afforded to pay \$173.00 per month; according to Table 4, Appellants, who were both 55 years old in 2019, from Suffolk County, and filed the 2019 Massachusetts taxes as married filing jointly with a family size of 2, would have had to pay \$836.00 for coverage per month for insurance on the private market. See CMR 6.05 (1)(2), Schedule HC Tables 3 and 4, and Exhibit 2.

With regard to the hardship waiver of the penalty, Appellants claimed that no penalty should have been assessed based on the fact that one of them had coverage for the entire year, and the other did not come to Massachusetts (or the United States) until August of 2019, and had coverage through the Health Connector for October and November of 2019, and then through the other Appellant's employer for December 2019. Thus, there was only two months that there was no coverage, which is within the three-month grace period. For these reasons, the waiver of the penalty is approved.

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

PENALTY ASSESSED

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

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

NOTIFICATION OF YOUR RIGHT TO APPEAL TO COURT

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

Hearing Officer

Cc: Connector Appeals Unit

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

Massachusetts Health Connector Appeals Unit

FINAL APPEAL DECISION: PA19-440

Appeal Decision Appeal Approved.

Hearing Issue: Appeal of the 2019 Tax Year Penalty

Hearing Date: August 18, 2020

Decision Date: October 2, 2020

AUTHORITY

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

JURISDICTION

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

HEARING RECORD

One of the Appellants appeared at the hearing, which was held by telephone, on August 18, 2020. The hearing record consists of the Appellant's testimony, and the following documents which were admitted into evidence without objection by Appellant:

- Exhibit 1: Notices of Hearing (7-16-20) (2 pages);
- Exhibit 2: Information from Schedule HC TY 2019 (1 page); and
- Exhibit 3: Statement of Grounds for Appeal (4-8-20) (with letter and documents) (7 pages).

FINDINGS OF FACT

The record shows, and I so find:

1. Appellants, ages 35 and 32 during 2019, filed married filing jointly on the tax return with a family size of 2. (Exhibit 2).
2. Appellants had health insurance through their employers for the months in 2019 that they were in Massachusetts. They left Massachusetts in September 2019 and were not in Massachusetts for the remaining months of 2019. (Appellant's testimony, Exhibits 2, and 3).
3. Appellants' Federal Adjusted Gross Income for 2019 was \$94,886.00 (Exhibit 2).
4. I take administrative notice of the financial information set forth in Tables 1 through 6 in the DOR 2019 Massachusetts Schedule HC Health Care Instructions and Worksheets. Tables 3 and 4 incorporate affordability and premium schedules adopted by the Board of Directors for the

Commonwealth Health Insurance Connector Authority for 2019. Table 2 sets forth income at 300% of the Federal poverty level and Tables 5 and 6 set forth tax penalties in effect for 2019.

5. Appellants could afford health insurance based on the tables in Schedule HC. According to Table 4, the health insurance would cost \$558.00 for coverage for a married couple with no dependents. According to Table 3, Appellants were deemed to afford \$632.00.
6. Private insurance was affordable for the Appellants in 2019. (Schedule HC for 2019).
7. Appellants' AGI was over 300% of the Federal Poverty Level, and Appellants therefore would not have qualified for subsidized health insurance through the Health Connector. (Schedule HC for 2019).
8. Appellants claimed that they should be granted a waiver based on the grounds that they were both insured during the months that they lived in Massachusetts. (Testimony of Appellant, Exhibit 3).
9. Appellants did not incur significant and unexpected increases in essential expenses as a result of domestic violence; due to the death of a spouse, family member, or partner who shared household expenses; the sudden responsibility for providing full care for an aging parent or other family member; or fire, flood, or other natural or man-made disaster in 2019 (Exhibit 3).
10. Appellants were not homeless, were not thirty days or more behind in rent in 2019, and Appellants did not receive a shut-off notice for basic utilities. (Appellant's Testimony, Exhibit 3).

ANALYSIS AND CONCLUSIONS OF LAW

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

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

Appellants did have health insurance for all of the months that they lived in Massachusetts during 2019. However, the Schedule HC does not reflect those facts. They have been assessed a tax penalty for zero months for one of them and four months for the other Appellant. Appellants appealed the assessment. See Exhibits 2 and 3. To determine if the penalty should be waived in whole or in part, we must consider whether affordable insurance which met minimum creditable coverage standards was available to the Appellants through employment, through the private market, or through a government-sponsored program. If affordable insurance was available, we must determine if such insurance was, in fact, not affordable to the Appellants because they experienced a financial hardship as defined in 956 CMR 6.08.

Private insurance was affordable for the Appellants during 2019. According to Tables 3 and 4 of the HC Schedule for 2019, Appellants, with an adjusted gross income of \$94,886.00 were deemed to have been able to afford health insurance on the private market. According to Table 3, Appellants could have afforded to pay \$632.00 per month; according to Table 4, Appellants, who were 35 and 32 years old in 2019, and filed the 2019 Massachusetts taxes as married filing jointly with a family size of 2, would have had to pay \$558.00 for coverage per month for insurance on the private market. See CMR 6.05 (1)(2), Schedule HC Tables 3 and 4, and Exhibit 2.

With regard to the hardship waiver of the penalty, Appellants claimed that no penalty should have been assessed based on the fact that they had coverage for the months of the year that they were residing in Massachusetts. For these reasons, the waiver of the penalty is approved.

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

PENALTY ASSESSED

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

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

NOTIFICATION OF YOUR RIGHT TO APPEAL TO COURT

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

Hearing Officer

Cc: Connector Appeals Unit

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

Massachusetts Health Connector Appeals Unit

FINAL APPEAL DECISION: PA19-492

Appeal Decision: Appeal Approved
Hearing Issue: Appeal of the 2019 Tax Year Penalty
Hearing Date: September 8, 2020
Decision Date: October 8, 2020

AUTHORITY

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

JURISDICTION

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

HEARING RECORD

The Appellants appeared at the hearing, which was held by telephone, on September 8, 2020. The procedures to be followed during the hearing were reviewed with Appellants. Appellants were sworn in. Exhibits were marked and admitted in evidence with no objection from Appellants. Appellants testified.

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

Exhibit 1: Notice of Hearing sent to Appellant dated August 3, 2020
Exhibit 2: Appeal Case Information Sheet from Schedule HC 2019
Exhibit 3: Notice of Appeal, dated August 3, 2020
Exhibit 4: Documents in support of Appeal

FINDINGS OF FACT

The record shows, and I so find:

1. Appellants were 45 and 47 years old in 2019 and filed a 2019 Massachusetts tax return as Married Filing Jointly with no dependents claimed (Exhibit 2).
2. Appellants lived in Franklin County, MA in 2019 (Exhibit 2).
3. Appellants Adjusted Gross Income for 2019 was \$102,241 (Exhibit 2).
4. During 2019, employer sponsored health insurance was available to Appellants at a cost of \$900 per month.
5. Appellants did not sign up for the employer sponsored insurance due to the cost (Testimony of Appellants).
6. During 2019, Appellants cared for and contributed financially to the care of three of their parents, who suffered many medical issues and needed assistance with their care (Exhibit 4 and Testimony of Appellants).
7. Appellants purchased groceries for their parents, paid for gasoline to visit and take them to appointments, and missed work days to care for their parents (Testimony of Appellant)
8. Appellants struggled to pay their basic expenses in 2019 (Testimony of Appellant).

9. Appellants fell behind in their rent and received a Notice to Quit in September 2019 (Exhibit 4 and Testimony of Appellant).
10. Appellants did not have health insurance for all of 2019 (Exhibit 2 and Testimony of Appellant).
11. Appellants were each assessed a penalty for twelve months for 2019 (Exhibit 2).
12. Appellants filed a hardship appeal on April 30, 2020, claiming that Appellants were more than thirty days in arrears in rent (Exhibit 3).
13. I take administrative notice of the financial information set forth in Tables 1 through 6 in the DOR 2019 Massachusetts Schedule HC Health Care Instructions and Worksheets. Tables 3 and 4 incorporate affordability and premium schedules adopted by the Board of Directors for the Commonwealth Health Insurance Connector Authority for 2019. Table 2 sets forth income at 300% of the Federal poverty level and Tables 5 and 6 set forth tax penalties in effect for 2019.
14. According to Table 3 of Schedule HC for 2019 a couple filing as married filing jointly with a Federal Adjusted Gross Income of \$102,241 could afford to pay \$682 per month for health insurance. According to Table 4, Appellants, ages 45 and 47 and living in Franklin County, could have purchased private insurance for \$627 per month.
15. Private insurance was considered affordable for Appellants in 2019 (Schedule HC for 2019).
16. The employer sponsored health insurance that was available in 2019, at a cost of \$900 per month, was not affordable for Appellants (Schedule HC for 2019).
17. According to Table 2 of Schedule HC for 2019, Appellants, earning more than \$49,380 would not have met the income eligibility guidelines for government subsidized insurance.
18. The employer of one of the Appellants will begin offering employer sponsored health insurance in October 2020 and Appellants plan to obtain coverage (Testimony of Appellants)

ANALYSIS AND CONCLUSIONS OF LAW

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

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

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

During 2019, Appellants were not considered to be able to afford the employer sponsored health insurance that was offered. Appellants were considered to be able to afford private health insurance. See Schedule HC for Healthcare, Tables 3 and 4 and Testimony of Appellants, which I find to be credible. Since Appellants potentially had access to affordable insurance, we need to consider whether Appellants experienced a financial hardship as defined by 956 CMR 6.08.

During 2019, Appellants were caring for three elderly parents. Appellants' parents required physical and financial assistance from Appellants. I find that Appellants fell behind in their rent and their basic expenses so that health insurance was not affordable to them. See 956 CMR 6.08 (1) (a).

I find that the penalties assessed against Appellants for 2019 should be waived in their entirety.

PENALTY ASSESSED

Number of Months Appealed: 12/12

Number of Months Assessed: 0/0

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

OR

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

NOTIFICATION OF YOUR RIGHT TO APPEAL TO COURT

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

ADDENDUM

Appellants should note that this decision is based upon the facts as I have found them for 2019 and that such a decision may not be made in the future if Appellants fail to have health insurance. Appellants are encouraged to obtain health insurance otherwise a full penalty may be imposed in the future.

Massachusetts Health Connector Appeals Unit

FINAL APPEAL DECISION: PA19-496

Appeal Decision: Penalty Overturned in Full
Hearing Issue: Appeal of the 2019 Tax Year Penalty
Hearing Date: September 8, 2020
Decision Date: October 16, 2020

AUTHORITY

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

JURISDICTION

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

HEARING RECORD

Appellant appeared at the hearing, which was held by telephone, on September 8, 2020. The procedures to be followed during the hearing were reviewed with Appellant. Appellant was sworn in. Exhibits were marked and admitted in evidence with no objection from Appellant. Appellant testified.

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

- Exhibit 1: Correspondence from the Health Connector, dated April 5, 2020
- Exhibit 2: Appeal Case Information from Schedule HC 2019
- Exhibit 3: Notice of Appeal, dated April 3, 2020
- Exhibit 4: Statement in support of Appeal

FINDINGS OF FACT

The record shows, and I so find:

1. Appellant was 38 years old in 2019. Appellant filed a Massachusetts 2019 tax return as single with no dependents claimed (Exhibit 2).
2. Appellant resided in Worcester County, MA in 2019 (Exhibit 2).
3. Appellant had an Adjusted Gross Income of \$27,319.00 in 2019 (Exhibit 2).
4. Appellant had been covered by government subsidized health insurance in 2018 (Testimony of Appellant).
5. Appellant thought that Appellant was covered in 2019 (Testimony of Appellant).
6. Appellant was hospitalized in 2019 and was not informed that the insurance was not in effect (Testimony of Appellant).
7. When Appellant was notified in 2020 that the insurance had lapsed, Appellant contacted the Health Connector and began coverage again (Testimony of Appellant).
8. I take administrative notice of the financial information set forth in Tables 1 through 6 in the DOR 2019 Massachusetts Schedule HC Health Care Instructions and Worksheets. Tables 3 and 4 incorporate affordability and premium schedules adopted by the Board of Directors for the Commonwealth Health Insurance Connector

Authority for 2019. Table 2 sets forth income at 300% of the Federal poverty level and Tables 5 and 6 set forth tax penalties in effect for 2019.

9. Appellant, earning less than \$36,420 would have been income eligible for government subsidized health insurance (Schedule HC for 2019).
10. Appellant did not have health insurance for twelve months in 2019 (Testimony of Appellant and Exhibit 2).
11. Appellant has been assessed a penalty for twelve months for 2019 (Exhibit 2).
12. Appellant filed a hardship appeal on April 5, 2020 (Exhibit 3).
13. Appellant was enrolled in health insurance in March 2020 and was enrolled at the time of the hearing (Testimony of Appellant).

ANALYSIS AND CONCLUSIONS OF LAW

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

Appellant has been assessed a tax penalty for twelve months. Appellant was income eligible for government subsidized health insurance. Appellant believed that Appellant’s coverage was in effect. Appellant was hospitalized in 2019, and was not informed that there was a problem with the insurance. When Appellant learned in March 2020 that the insurance was not in effect, Appellant took steps to reinstate the coverage. See Exhibits 2, 3, 4 and Testimony of Appellant, which I find to be credible.

Given these circumstances, I find that the penalty assessed for 2019 should be waived in its entirety.

PENALTY ASSESSED

Number of Months Appealed: 12

Number of Months Assessed: 0

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

OR

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

NOTIFICATION OF YOUR RIGHT TO APPEAL TO COURT

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

Massachusetts Health Connector Appeals Unit

FINAL APPEAL DECISION: PA19-505

Appeal Decision: The penalty is overturned in part.

Hearing Issue: Appeal of the 2019 Tax Year Penalty

Hearing Date: September 10, 2020

Decision Date: October 9, 2020

AUTHORITY

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

JURISDICTION

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

HEARING RECORD

The Appellant appeared at the hearing, which was held by telephone on September 10, 2020. 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. Appellant testified.

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

- Exhibit 1: Appeal Case Information from Schedule HC. (1 page).
- Exhibit 2: Statement of Grounds for Appeal 2019 Signed by Appellant on 4/4/2020. (2 PP).
- Exhibit 2(a) Appellant's Supporting Correspondence submitted with the Appeal (2 PP).
- Exhibit 3: Health Connector's Notice of Hearing dated 8/3/2020 (2 PP).

The record was left open until October 2, 2020 for the Appellant to submit proof of Utility or Termination notices. The Appellant submitted the following to the Health Connector on 9/16/2020.

- Exhibit 4: Emails to the Appellant's Fiancée from Eversource, without an address reference: Final Disconnect Notices dated 5/22/2019(separate account no), 5/28/2019(different account no.), 10/4/2018, 10/11/2018.

FINDINGS OF FACT

The record shows, and I so find:

1. Appellant, who filed a 2019 Massachusetts tax return reported he was single, was age 38 in 2019, lived in Bristol County, and had no dependents. (Exhibit 1, Testimony of Appellant).

2. Appellant worked in three (3) full time jobs in 2019 all of whom offered Employer Sponsored Insurance(“ESI”). (Testimony of Appellant).
3. Appellant previously had ESI with one of the employers who offered him health insurance in 2019 and was paying approximately \$300/month. (Testimony of Appellant).
4. Appellant testified he was getting ready to obtain ESI with his last employer in 2019 but was let go before he could enroll. (Testimony of Appellant).
5. Appellant testified that he was the sole source of income as his fiancée with whom he lived was unable to find full time work until July 2019 and they were unable to keep up with the bills (Exhibit 2(a), Appellant Testimony).
6. Appellant testified they were behind on their rent, but the landlord did not pursue legal action because they had been good tenants and paid their rent on time in the past, and that they had since caught up and now making their payments on time. (Exhibit 2(b), Appellant Testimony).
7. Appellant has been unemployed in 2020 due to Covid and does not have health insurance in 2020. (Testimony of Appellant).
8. Appellant testified that in his last full-time employment he was compensated at \$30/hour and his net pay was approximately \$950 a week. (Testimony of Appellant).
9. Appellant’s Federal Adjusted Gross Income for 2019 was \$60,643(Exhibit 1).
10. Appellant has been assessed a tax penalty for twelve (12) months in 2019. The Appellant has appealed this assessment (Exhibits 1, 2).
11. Appellant had the following monthly expenses for basic necessities in 2019: Rent \$650/month, Utilities \$200, Cell Phone \$180, Car Insurance \$ 166, totaling: \$1,196. (Testimony of Appellant).
12. According to Table 3 Appellant could have afforded \$404.29 per month for health insurance in 2019. According to Table 4 Appellant could have purchased insurance for \$286.00 per month.
13. In addition to the foregoing, I take administrative notice of the 2019 Schedule HC Instructions and Worksheets, available at <http://www.mass.gov.dor/docs/dor/health-care/2019>, and in particular, Tables 1-6 which, as discussed below, include the Affordability Schedule and other financial information used in making 2019 individual mandate tax penalty determinations.

ANALYSIS AND CONCLUSIONS OF LAW

The issue on appeal is whether the tax penalty assessed by the Massachusetts Department of Revenue for 2019 should be waived, either in whole or in part. Appellant has been assessed a tax penalty for twelve (12) months in 2019. Appellant has appealed the penalty. (See Exhibits 1 and 2).

The Appellant submitted a statement of grounds for appeal (Ex. 2), claiming that the individual mandate did not apply to him during 2019 because 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 and that during 2019, he received a shut-off notice for utilities. See 956 CMR 6.08.

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

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

The evidence provided by the appellant established that his income for 2019, \$60,643.00, was greater than 300% of the federal poverty level, which for 2019 was \$36,420.00 for a single person. According to Table 3 of Schedule HC for 2019, the Appellant had an adjusted gross income of \$60,643 in 2019 and could have afforded \$404.29 per month. According to Table 4, Appellant, age 38 and living in Bristol County during the time he was being penalized for not having insurance, could have purchased insurance for \$286.00 per month. Individual coverage was affordable through the individual market for the appellant in 2019 (Schedule HC for 2019).

The next issue to consider is whether the appellant had access to affordable employer health insurance once he became eligible to enroll in 2019. The Appellant testified that he was eligible throughout the year and the cost of an individual plan was approximately \$300 per month with one of the employers and \$200 with the last employer who let him go before he could purchase insurance. 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 2019 is considered to be affordable if the employee’s contribution for an individual plan is 9.86 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, the monthly cost for an individual plan through the appellant's employer was \$300. That cost is less than 9.86 percent of the appellant's projected household MAGI for 2019 (i.e.—9.86 percent of \$60,643.00 is \$5,979.31/12 or \$498.28 /month). Hence, since the cost of employer insurance is less than \$498.28/month, and the affordability Table 3 from Schedule HC, he is considered to have had access to qualifying employer health insurance. See 956 CMR 12.05 and 45 CFR section 155.305 (f)(1)(ii)(B).

Where the Appellant had access to affordable insurance through the individual market and through employer sponsored coverage, we need to determine if the Appellant experienced a financial hardship such the coverage would have been unaffordable for him. See 956 CMR 6.08. et. seq. The Appellant may not be subject to a penalty for failing to get health insurance for the months in question if he can show that he experienced a hardship during 2019. Examples of hardships include being homeless or overdue in rent or mortgage payments, receiving a shut-off notice for utilities, or incurring unexpected increases in basic living expenses due to domestic violence, death of a family member, sudden responsibility for providing care for a family member or fire, flood or natural disaster. In addition, the Appellants' tax penalty for 2019 could be waived if he experienced financial circumstances such that the expense of purchasing health insurance would have caused him to experience a serious deprivation of food, shelter, clothing or other necessities. See 956 CMR 6.08

The Appellant credibly testified that he had the following monthly expenses for basic necessities in 2019. Rent \$650/month, Utilities \$200, Cell Phone \$180, Car Insurance \$ 166, totaling: \$1,196.

The evidence presented by the Appellant in this case is insufficient to establish that he experienced a financial hardship as defined by law so as to waive his penalty for the months in question. Given the Appellant's Annual Adjusted Gross Income ("AGI" of \$60,643) and that health insurance was available to him through the employment and the private market, the Appellant failed to demonstrate that the cost of purchasing private insurance for \$404.29 per month would have caused the Appellant to experience a serious deprivation of food, shelter clothing, or other necessities. (Exhibit 2, Appellant Testimony). Appellant testified he had shutoff notices but did substantiate his testimony by providing documentation.

Based upon the facts summarized above, I determine that the cost of purchasing health insurance would not have caused the Appellant to experience a serious deprivation of basic necessities. Pursuant to 956 CMR 6.08(1)(e) and 956 CMR 6.08(3), it is concluded that the Appellant did not establish through substantial and credible evidence that he could not afford \$ 404.29 per month or the cost of an employer plan of \$ 300 per month. did not experience a financial hardship within the meaning of 956 CMR 6.08(1)(b)(e), and (3) which allows consideration of financial issues raised by the appellant on appeal. The Appellant did not send in specific termination notices with specific addresses, account holder to corroborate shut off notices.

Notwithstanding this, the Appellant's also adduced testimony and documentation that he was supporting his finance and was behind on his rent. Accordingly, the penalty will be reduced to six (6) months in order to mitigate the harshness of a full twelve-month assessment.

Appellant should note that any waiver granted here is for 2019 only and is based upon the specific facts I have found to be true and should not assume that the same determination will be made should Appellant be assessed a penalty in the future.

PENALTY ASSESSED

Number of Months Appealed: 12 Number of Months Assessed: 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 2019.

NOTIFICATION OF YOUR RIGHT TO APPEAL TO COURT

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

Cc: Connector Appeals Unit

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: PA19-518

Appeal Decision Appeal Approved.

Hearing Issue: Appeal of the 2019 Tax Year Penalty

Hearing Date: September 9, 2020

Decision Date: October 30, 2020

AUTHORITY

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

JURISDICTION

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

HEARING RECORD

Appellant appeared at the hearing, which was held by telephone, on September 9, 2020. The hearing record consists of the Appellant's testimony, and the following documents which were admitted into evidence without objection by Appellant:

- Exhibit 1: Notices of Hearing (8-3-20) (2 pages);
- Exhibit 2: Information from Schedule HC TY 2019 (1 page); and
- Exhibit 3: Statement of Grounds for Appeal (4-21-20) (with letter and documents) (6 pages).

FINDINGS OF FACT

The record shows, and I so find:

1. Appellant, age 32 during 2019, from Suffolk County, filed single on the tax return with a family size of 1. (Exhibit 2).
2. Appellant did not have health insurance during 2019. (Appellant's testimony, Exhibits 2, and 3).
3. Appellant's Federal Adjusted Gross Income for 2019 was \$36,471.00 (Exhibit 2).
4. Appellant did have health insurance available through the employer, but did not believe it was affordable. Appellant had a hospital stay during 2019, and has a debt from that and testified that a penalty in addition to that, as well as other expenses, would be very difficult. (Appellant's testimony, Exhibit 3).
5. Appellant now has health insurance through MassHealth. (Appellant's Testimony).

6. Appellants' expenses for food, shelter, clothing, child support, and other necessities, used all of the income (Appellant's Testimony). The monthly expenses for food, shelter, clothing, home repairs, vehicle expenses, and other necessities, totaled approximately \$4,500.00 per month averaged out, or \$54,000.00 for the year. (Appellant's Testimony, Exhibit 3).
7. I take administrative notice of the financial information set forth in Tables 1 through 6 in the DOR 2019 Massachusetts Schedule HC Health Care Instructions and Worksheets. Tables 3 and 4 incorporate affordability and premium schedules adopted by the Board of Directors for the Commonwealth Health Insurance Connector Authority for 2019. Table 2 sets forth income at 300% of the Federal poverty level and Tables 5 and 6 set forth tax penalties in effect for 2019.
8. Appellant could not afford health insurance based on the tables in Schedule HC. According to Table 4, the health insurance would cost \$279.00 for coverage for an individual. According to Table 3, Appellant was deemed to afford \$226.00.
9. Private insurance was not affordable for the Appellant in 2019. (Schedule HC for 2019).
10. Appellant's AGI was over 300% of the Federal Poverty Level, and Appellant therefore would not have qualified for subsidized health insurance through the Health Connector. (Schedule HC for 2019).
11. Appellant claimed that they should be granted a waiver based on the grounds that paying for health insurance would have caused a serious deprivation of food, shelter, clothing and other necessities during 2019. (Testimony of Appellant, Exhibit 3).
12. Appellant did not incur significant and unexpected increases in essential expenses as a result of domestic violence; due to the death of a spouse, family member, or partner who shared household expenses; the sudden responsibility for providing full care for an aging parent or other family member; or fire, flood, or other natural or man-made disaster in 2019 (Exhibit 3).
13. Appellant was not homeless, was not thirty days or more behind in rent in 2019, and Appellant did not receive a shut-off notice for basic utilities. (Appellant's Testimony, Exhibit 3).

ANALYSIS AND CONCLUSIONS OF LAW

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

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

Appellant did not have health insurance for 2019. They have been assessed a tax penalty for twelve months. Appellant appealed the assessment. See Exhibits 2 and 3. To determine if the penalty should

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

Private insurance was not affordable for the Appellant during 2019. According to Tables 3 and 4 of the HC Schedule for 2019, Appellant, with an adjusted gross income of \$36,471.00 was deemed to not have been able to afford health insurance on the private market. According to Table 3, Appellant could have afforded to pay \$226.00 per month; according to Table 4, Appellant, who was 32 years old in 2019, from Suffolk County, and filed the 2019 Massachusetts taxes as single with a family size of 1, would have had to pay \$279.00 for coverage per month for insurance on the private market. See CMR 6.05 (1)(2), Schedule HC Tables 3 and 4, and Exhibit 2.

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

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

PENALTY ASSESSED

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

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

NOTIFICATION OF YOUR RIGHT TO APPEAL TO COURT

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

Hearing Officer

Cc: Connector Appeals Unit

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

Massachusetts Health Connector Appeals Unit

FINAL APPEAL DECISION: PA19-521

Appeal Decision Appeal Approved.

Hearing Issue: Appeal of the 2019 Tax Year Penalty

Hearing Date: September 9, 2020

Decision Date: October 30, 2020

AUTHORITY

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

JURISDICTION

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

HEARING RECORD

Appellant appeared at the hearing, which was held by telephone, on September 9, 2020. The hearing record consists of the Appellant's testimony, and the following documents which were admitted into evidence without objection by Appellant:

- Exhibit 1: Notices of Hearing (8-3-20) (2 pages);
- Exhibit 2: Information from Schedule HC TY 2019 (1 page); and
- Exhibit 3: Statement of Grounds for Appeal (4-15-20) (with documents) (10 pages).

FINDINGS OF FACT

The record shows, and I so find:

1. Appellant, age 27 during 2019, from Hampden County, filed single on the tax return with a family size of 1. (Exhibit 2).
2. Appellant did not have health insurance that met minimum creditable coverage during 2019. (Appellant's testimony, Exhibits 2, and 3).
3. Appellant's Federal Adjusted Gross Income for 2019 was \$24,399.00 (Exhibit 2).
4. Appellant did have health insurance through the employer, but did not realize that it did not meet Massachusetts standards until after 2019. (Appellant's testimony, Exhibit 3).
5. Appellant now has health insurance through MassHealth. (Appellant's Testimony).

6. I take administrative notice of the financial information set forth in Tables 1 through 6 in the DOR 2019 Massachusetts Schedule HC Health Care Instructions and Worksheets. Tables 3 and 4 incorporate affordability and premium schedules adopted by the Board of Directors for the Commonwealth Health Insurance Connector Authority for 2019. Table 2 sets forth income at 300% of the Federal poverty level and Tables 5 and 6 set forth tax penalties in effect for 2019.
7. Appellant could not afford health insurance based on the tables in Schedule HC. According to Table 4, the health insurance would cost \$257.00 for coverage for an individual. According to Table 3, Appellant was deemed to afford \$85.00.
8. Private insurance was not affordable for the Appellant in 2019. (Schedule HC for 2019).
9. Appellant's AGI was under 300% of the Federal Poverty Level, and Appellant therefore may have qualified for subsidized health insurance through the Health Connector. (Schedule HC for 2019).
10. Appellant claimed that they should be granted a waiver based on the grounds that they had health insurance through the employer but that it did not meet Massachusetts requirements. (Testimony of Appellant, Exhibit 3).
11. Appellant did not incur significant and unexpected increases in essential expenses as a result of domestic violence; due to the death of a spouse, family member, or partner who shared household expenses; the sudden responsibility for providing full care for an aging parent or other family member; or fire, flood, or other natural or man-made disaster in 2019 (Exhibit 3).
12. Appellant was not homeless, was not thirty days or more behind in rent in 2019, and Appellant did not receive a shut-off notice for basic utilities. (Appellant's Testimony, Exhibit 3).

ANALYSIS AND CONCLUSIONS OF LAW

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

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

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

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

Private insurance was not affordable for the Appellant during 2019. According to Tables 3 and 4 of the HC Schedule for 2019, Appellant, with an adjusted gross income of \$24,399.00 was deemed to not have been able to afford health insurance on the private market. According to Table 3, Appellant could have afforded to pay \$85.00 per month; according to Table 4, Appellant, who was 27 years old in 2019, from Hampden County, and filed the 2019 Massachusetts taxes as single with a family size of 1, would have had to pay \$257.00 for coverage per month for insurance on the private market. See CMR 6.05 (1)(2), Schedule HC Tables 3 and 4, and Exhibit 2.

With regard to the hardship waiver of the penalty, Appellant claimed that she did not realize that the health insurance through the employer did not meet Massachusetts requirements. Appellant now has health insurance through MassHealth. For these reasons, the waiver of the penalty is approved.

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

PENALTY ASSESSED

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

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

NOTIFICATION OF YOUR RIGHT TO APPEAL TO COURT

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

Hearing Officer

Cc: Connector Appeals Unit

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

Massachusetts Health Connector Appeals Unit

FINAL APPEAL DECISION: PA19-540

Appeal Decision: Penalty Overturned in Full
Hearing Issue: Appeal of the 2019 Tax Year Penalty
Hearing Date: September 15, 2020
Decision Date: October 16, 2020

AUTHORITY

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

JURISDICTION

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

HEARING RECORD

Appellant appeared at the hearing, which was held by telephone, on September 15, 2020. The procedures to be followed during the hearing were reviewed with Appellant. Appellant was sworn in. Exhibits were marked and admitted in evidence with no objection from Appellant. Appellant testified.

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

- Exhibit 1: Correspondence from the Health Connector, dated August 8, 2020
- Exhibit 2: Appeal Case Information from Schedule HC 2019
- Exhibit 3: Notice of Appeal

FINDINGS OF FACT

The record shows, and I so find:

1. Appellant was 21 years old in 2019. Appellant filed a Massachusetts 2019 tax return as single with no dependents claimed (Exhibit 2).
2. Appellant resided in Bristol County, MA in 2019 (Exhibit 2).
3. Appellant had an Adjusted Gross Income for 2019 of \$21,037 (Exhibit 2).
4. Appellant moved to Massachusetts in late 2018 (Testimony of Appellant).
5. Appellant began a new job in early 2019 (Testimony of Appellant).
6. Appellant's hours of work changed several times and Appellant's income was inconsistent (Testimony of Appellant).
7. Appellant often was scheduled to work for only twenty hours (Testimony of Appellant).
8. Employer sponsored health insurance was not available to Appellant since Appellant was not a full time employee (Testimony of Appellant).
9. During 2019, Appellant had the following expenses for basic necessities: rent \$75.00; food \$867; clothing \$200; car payment \$440; car insurance \$200; gasoline \$50. Appellant's expenses for necessities were \$1,832.
10. I take administrative notice of the financial information set forth in Tables 1 through 6 in the DOR 2019 Massachusetts Schedule HC Health Care Instructions and Worksheets. Tables 3 and 4 incorporate affordability

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

11. According to Table 3 of Schedule HC for 2019 a person filing as single with no dependents with an adjusted gross income of \$21,037 could afford to pay \$51 per month for private insurance. According to Table 4, Appellant, aged 21 and living in Bristol County could have purchased private insurance for \$257 per month.
12. Private insurance was not considered to be affordable for Appellant in 2019 (Schedule HC for 2019).
13. Appellant, earning less than \$36,420 would have been eligible for government subsidized health insurance (Schedule HC for 2019).
14. Appellant did not have health insurance for the entire year of 2019 (Testimony of Appellant and Exhibit 2).
15. Appellant has been assessed a penalty for twelve months for 2019 (Exhibit 2).
16. Appellant filed a hardship appeal on April 13, 2020 (Exhibit 3).
17. Appellant started a new job in 2020 and began coverage under employer sponsored health insurance (Testimony of Appellant).

ANALYSIS AND CONCLUSIONS OF LAW

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

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

Appellant did not have access to employer sponsored health insurance in 2019. Appellant, earning less than \$36,420 would have been income eligible for government subsidized health insurance. Since Appellant potentially had access to affordable insurance, we need to consider whether Appellant experienced a financial hardship as defined by 956 CMR 6.08.

During 2019, Appellant’s monthly expenses were \$1,832. Appellant’s monthly income before taxes was \$1,753. Since Appellant’s expenses were more than income, I find that the purchase of health insurance would have caused Appellant to experience a serious deprivation of food, shelter, clothing or other necessities. See Testimony of Appellant, which I find to be credible and 956 CMR 6.08 (1) (e).

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

PENALTY ASSESSED

Number of Months Appealed: 12

Number of Months Assessed: 0

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

OR

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

NOTIFICATION OF YOUR RIGHT TO APPEAL TO COURT

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

Massachusetts Health Connector Appeals Unit

FINAL APPEAL DECISION: PA19-541

Appeal Decision: Penalty Overturned in Full
Hearing Issue: Appeal of the 2019 Tax Year Penalty
Hearing Date: September 15, 2020
Decision Date: October 26, 2020

AUTHORITY

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

JURISDICTION

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

HEARING RECORD

Appellant appeared at the hearing, which was held by telephone, on September 15, 2020. The procedures to be followed during the hearing were reviewed with Appellant. Appellant was sworn in. Exhibits were marked and admitted in evidence with no objection from Appellant. Appellant testified.

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

- Exhibit 1: Correspondence from the Health Connector, dated August 8, 2020
- Exhibit 2: Appeal Case Information from Schedule HC 2019
- Exhibit 3: Notice of Appeal, dated April 16, 2020
- Exhibit 4: Statement in Support of Appeal

FINDINGS OF FACT

The record shows, and I so find:

1. Appellant was 27 years old in 2019. Appellant filed a Massachusetts 2019 tax return as single with no dependents claimed (Exhibit 2).
2. Appellant resided in Essex County, MA in 2019 (Exhibit 2).
3. Appellant had an Adjusted Gross Income for 2019 of \$48,762 (Exhibit 2).
4. Employer sponsored health insurance was not available to Appellant in 2019 (Testimony of Appellant).
5. Appellant had been covered by a Health Connector Plan in 2018 at a cost of \$280 per month (Testimony of Appellant).
6. Appellant did not renew the Health Connector Plan for 2019, because Appellant could no longer afford the premium (Testimony of Appellant).
7. Appellant lived with an unmarried partner in 2018 and 2019 (Testimony of Appellant).
8. Appellant's partner shared living expenses with Appellant (Testimony of Appellant).
9. Appellant's partner was pregnant in 2018 and 2019 (Testimony of Appellant).
10. Appellant's partner had pregnancy complications and required hospitalization (Testimony of Appellant).

11. Appellant's partner could no longer work and no longer contribute to household expenses (Testimony of Appellant).
12. Appellant's child was born in April 2019 (Testimony of Appellant).
13. Appellant was the only one working in 2019 and supported Appellant's partner and the child (Testimony of Appellant).
14. Appellant struggled financially while trying to provide for a partner and a child (Testimony of Appellant).
15. Appellant fell behind in several bills and had trouble affording food for the family (Testimony of Appellant).
16. I take administrative notice of the financial information set forth in Tables 1 through 6 in the DOR 2019 Massachusetts Schedule HC Health Care Instructions and Worksheets. Tables 3 and 4 incorporate affordability and premium schedules adopted by the Board of Directors for the Commonwealth Health Insurance Connector Authority for 2019. Table 2 sets forth income at 300% of the Federal poverty level and Tables 5 and 6 set forth tax penalties in effect for 2019.
17. According to Table 3 of Schedule HC for 2019 a person filing as single with no dependents with an adjusted gross income of \$48,762.00 could afford to pay \$325 per month for private insurance. According to Table 4, Appellant, aged 27 and living in Essex County could have purchased private insurance for \$257 per month.
18. Private insurance was considered to be affordable for Appellant in 2019 (Schedule HC for 2019).
19. Appellant, earning more than \$36,420 would not have been eligible for government subsidized health insurance (Schedule HC for 2019).
20. Appellant did not have health insurance for the entire year of 2019 (Testimony of Appellant and Exhibit 2).
21. Appellant has been assessed a penalty for twelve months for 2019 (Exhibit 2).
22. Appellant filed an Appeal on April 16, 2020 stating that the expense of purchasing health insurance would have caused a serious deprivation of food, shelter, clothing or other necessities (Exhibits 3 and 4).
23. Appellant began coverage through the Health Connector in April 2020 and was insured at the time of the hearing (Testimony of Appellant).

ANALYSIS AND CONCLUSIONS OF LAW

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

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

Appellant was not eligible for employer sponsored health insurance. Appellant had been insured by a Health Connector plan in 2018, but did not renew the plan due to the cost. According to Tables 2, 3 and 4 of Massachusetts Schedule HC 2019, private health insurance was affordable for Appellant. Since Appellant

potentially had access to affordable insurance, we need to consider whether Appellant experienced a financial hardship as defined by 956 CMR 6.08.

Appellant's partner was pregnant and had complications so that the partner could not work in 2019. Appellant helped support the partner and their child, born in April 2019. Appellant struggled to pay the monthly bills and food for the family during 2019. Purchasing health insurance would have caused a serious deprivation of food, shelter clothing or other necessities. See Testimony of Appellant, which I find to be credible and 956 CMR 6.08 (1) (e).

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

PENALTY ASSESSED

Number of Months Appealed: 12

Number of Months Assessed: 0

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

OR

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

NOTIFICATION OF YOUR RIGHT TO APPEAL TO COURT

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

Massachusetts Health Connector Appeals Unit

FINAL APPEAL DECISION: PA19-542

Appeal Decision: Penalty Overturned in Part
Hearing Issue: Appeal of the 2019 Tax Year Penalty
Hearing Date: September 15, 2020
Decision Date: October 27, 2020

AUTHORITY

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

JURISDICTION

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

HEARING RECORD

Appellant appeared at the hearing, which was held by telephone, on September 15, 2020. The procedures to be followed during the hearing were reviewed with Appellant. Appellant was sworn in. Exhibits were marked and admitted in evidence with no objection from Appellant. Appellant testified. The hearing record consists of the testimony of Appellant, and the following documents which were admitted in evidence:

- Exhibit 1: Correspondence from the Health Connector, dated August 10, 2020
- Exhibit 2: Appeal Case Information from Schedule HC 2019
- Exhibit 3: Notice of Appeal, dated April 20, 2020
- Exhibit 4: Statement in support of Appeal

FINDINGS OF FACT

The record shows, and I so find:

1. Appellant was 47 years old in 2019. Appellant filed a Massachusetts 2019 tax return as single with no dependents claimed (Exhibit 2).
2. Appellant resided in Norfolk County, MA in 2019 (Exhibit 2).
3. Appellant had an Adjusted Gross Income of \$29,791 in 2019 (Exhibit 2).
4. Employer sponsored health insurance was available to Appellant in 2019 at a cost of \$148 per week (Testimony of Appellant).
5. Appellant did not sign up for the employer sponsored health insurance due to the cost (Testimony of Appellant).
6. Appellant struggled to pay for necessary expenses during 2019 (Testimony of Appellant).
7. Appellant had the following expenses for basic necessities: rent \$800; telephone \$75; food \$400; clothing \$50; car payment \$273; car insurance \$136; gasoline \$300; car maintenance \$50; hearing aids \$292. Appellant's expenses for necessities were \$2,376.
8. I take administrative notice of the financial information set forth in Tables 1 through 6 in the DOR 2019 Massachusetts Schedule HC Health Care Instructions and Worksheets. Tables 3 and 4 incorporate affordability and premium schedules adopted by the Board of Directors for the Commonwealth Health Insurance Connector

Authority for 2019. Table 2 sets forth income at 300% of the Federal poverty level and Tables 5 and 6 set forth tax penalties in effect for 2019.

9. According to Table 3 of Schedule HC for 2019 a person filing as single with no dependents with an adjusted gross income of \$29,791 could afford to pay \$104 per month for private insurance. According to Table 4, Appellant, aged 47 and living in Norfolk County could have purchased private insurance for \$350 per month.
10. Neither private insurance nor the employer sponsored health insurance was considered to be affordable for Appellant in 2019 (Schedule HC for 2019).
11. Appellant, earning less than \$36,420 would have been income eligible for government subsidized health insurance (Schedule HC for 2019).
12. Appellant did not have health insurance for twelve months in 2019 (Testimony of Appellant and Exhibit 2).
13. Appellant has been assessed a penalty for twelve months for 2019 (Exhibit 2).
14. Appellant filed a hardship appeal on April 20, 2020 (Exhibit 3).
15. Appellant moved out of state in 2020 (Testimony of Appellant).

ANALYSIS AND CONCLUSIONS OF LAW

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

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

Neither private nor employer sponsored health insurance was considered affordable to Appellant. Appellant was income eligible for government subsidized health insurance. Since the cost of employer sponsored health insurance was more than 9.86% of Appellant’s income, Appellant would not have been blocked from obtaining subsidized health insurance. See Schedule HC for 2019 Tables 2, 3, 4 and Worksheet for line 11 and 45CFR 155.305 (f)(1)(ii)(B), 26CFR 1-36B-2(c)(3)(v). Also see Exhibits 2, 3 and 4 and Testimony of Appellant, which I find to be credible.

Appellant struggled to pay for necessary expenses during 2019. Appellant’s monthly expenses were \$2,376 and Appellant’s pre-tax monthly income was \$2,482.00. I find that the cost of purchasing health insurance would have caused a serious deprivation of food, shelter clothing or other necessities.

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

PENALTY ASSESSED

Number of Months Appealed: 12

Number of Months Assessed: 0

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

OR

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

NOTIFICATION OF YOUR RIGHT TO APPEAL TO COURT

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

Massachusetts Health Connector Appeals Unit

FINAL APPEAL DECISION: PA19-545

Appeal Decision: Penalty Overturned in Full
Hearing Issue: Appeal of the 2019 Tax Year Penalty
Hearing Date: September 15, 2020
Decision Date: October 21, 2020

AUTHORITY

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

JURISDICTION

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

HEARING RECORD

Appellant appeared at the hearing, which was held by telephone, on September 15, 2020. The procedures to be followed during the hearing were reviewed with Appellant. Appellant was sworn in. Exhibits were marked and admitted in evidence with no objection from Appellant. Appellant testified.

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

- Exhibit 1: Correspondence from the Health Connector, dated August 10, 2020
- Exhibit 2: Appeal Case Information from Schedule HC 2019
- Exhibit 3: Notice of Appeal, dated April 18, 2020

FINDINGS OF FACT

The record shows, and I so find:

1. Appellant was 61 years old in 2019. Appellant filed a Massachusetts 2019 tax return as single with no dependents claimed (Exhibit 2).
2. Appellant resided in Middlesex County, MA in 2019 (Exhibit 2).
3. Appellant had an Adjusted Gross Income of \$33,319 in 2019 (Exhibit 2).
4. Appellant was laid off of a job in December 2018 and was unemployed until May 2019 (Exhibit 4 and Testimony of Appellant).
5. Employer sponsored health insurance was available to Appellant beginning in May 2019 at a cost of \$500 per month (Testimony of Appellant).
6. Appellant struggled to pay bills for basic expenses during January through May, when Appellant was unemployed (Testimony of Appellant).
7. Appellant fell behind on some bills and struggled to catch up on the bills after Appellant returned to work (Testimony of Appellant).
8. During 2019, Appellant had the following expenses for basic necessities: rent \$1,000; utilities \$300; food \$650; supplies \$100; clothing \$100; glasses \$42. Appellant's expenses for necessities were \$2,192.00.

9. I take administrative notice of the financial information set forth in Tables 1 through 6 in the DOR 2019 Massachusetts Schedule HC Health Care Instructions and Worksheets. Tables 3 and 4 incorporate affordability and premium schedules adopted by the Board of Directors for the Commonwealth Health Insurance Connector Authority for 2019. Table 2 sets forth income at 300% of the Federal poverty level and Tables 5 and 6 set forth tax penalties in effect for 2019.
10. According to Table 3 of Schedule HC for 2019 a person filing as single with no dependents with an adjusted gross income of \$33,319.00 could afford to pay \$139.00 per month for private insurance. According to Table 4, Appellant, aged 61 and living in Middlesex County could have purchased private insurance for \$418 per month.
11. Private insurance was not considered to be affordable for Appellant in 2019 (Schedule HC for 2019).
12. Employer sponsored health insurance at a cost of \$500 per month was not affordable for Appellant (Schedule HC for 2019).
13. Appellant, earning less than \$36,420 would have been income eligible for government subsidized health insurance (Schedule HC for 2019).
14. Appellant would not have been blocked from purchasing government subsidized insurance since the cost of the employer sponsored health insurance for a single plan for Appellant was \$500 per month, which was more than 9.56% of Appellant's Modified Adjusted Gross Income See Schedule HC Health Care Table 2 and Worksheet for Line 11.
15. Appellant did not have health insurance for twelve months in 2019 (Testimony of Appellant and Exhibit 2).
16. Appellant has been assessed a penalty for twelve months for 2019 (Exhibit 2).
17. Appellant filed a hardship appeal on April 18, 2020 (Exhibit 3).
18. Appellant obtained government subsidized health insurance in 2020 (Testimony of Appellant).

ANALYSIS AND CONCLUSIONS OF LAW

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

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

Appellant was income eligible for government subsidized health insurance and was not blocked by the availability of employer sponsored health insurance due to the cost of the employer sponsored health insurance. Since Appellant potentially had access to affordable insurance for 2019, we need to consider whether Appellant experienced a financial hardship as defined by 956 CMR 6.08.

Appellant was unemployed from December 2018 through May 2019. Appellant struggled to pay for basic expenses during the time of unemployment. After Appellant began working in May, Appellant struggled to catch

up on old bills. Purchasing health insurance would have caused a serious deprivation of food, shelter clothing or other necessities during 2019. See Testimony of Appellant, which I find to be credible and 956 CMR 6.08 (1) (e).

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

PENALTY ASSESSED

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

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

OR

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

NOTIFICATION OF YOUR RIGHT TO APPEAL TO COURT

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

Massachusetts Health Connector Appeals Unit

FINAL APPEAL DECISION: PA19-547

Appeal Decision Appeal Approved.

Hearing Issue: Appeal of the 2019 Tax Year Penalty

Hearing Date: September 16, 2020

Decision Date: October 30, 2020

AUTHORITY

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

JURISDICTION

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

HEARING RECORD

Appellant appeared at the hearing, which was held by telephone, on September 16, 2020. The hearing record consists of the Appellant's testimony, and the following documents which were admitted into evidence without objection by Appellant:

- Exhibit 1: Notices of Hearing (8-10-20) (2 pages);
- Exhibit 2: Information from Schedule HC TY 2019 (1 page); and
- Exhibit 3: Statement of Grounds for Appeal (4-2-20) (with documents) (10 pages).

FINDINGS OF FACT

The record shows, and I so find:

1. Appellant, age 24 during 2019, from Middlesex County, filed single on the tax return with a family size of 1. (Exhibit 2).
2. Appellant did have health insurance for January and for July through December of 2019, but did not have health insurance for the remaining months of 2019. (Appellant's testimony, Exhibits 2, and 3).
3. Appellant's Federal Adjusted Gross Income for 2019 was \$49,659.00 (Exhibit 2).
4. Appellant did have health insurance through the employer for January 2019, and then quit the job and did not have health insurance for February through April. Appellant moved to Washington, DC in May of 2019, and then moved back to Massachusetts in July and had health

insurance through the employer for the remaining months of 2019. Therefore, the Appellant did not have health insurance while in Massachusetts for three months, which is the grace period. (Appellant's testimony, Exhibit 3).

5. I take administrative notice of the financial information set forth in Tables 1 through 6 in the DOR 2019 Massachusetts Schedule HC Health Care Instructions and Worksheets. Tables 3 and 4 incorporate affordability and premium schedules adopted by the Board of Directors for the Commonwealth Health Insurance Connector Authority for 2019. Table 2 sets forth income at 300% of the Federal poverty level and Tables 5 and 6 set forth tax penalties in effect for 2019.
6. Appellant could afford health insurance based on the tables in Schedule HC. According to Table 4, the health insurance would cost \$257.00 for coverage for an individual. According to Table 3, Appellant was deemed to afford \$331.00.
7. Private insurance was affordable for the Appellant in 2019. (Schedule HC for 2019).
8. Appellant's AGI was over 300% of the Federal Poverty Level, and Appellant therefore would not have qualified for subsidized health insurance through the Health Connector. (Schedule HC for 2019).
9. Appellant claimed that they should be granted a waiver based on the grounds that there should not have been a penalty assessed based on only having been without insurance while in Massachusetts for three months. The other two months that Appellant did not have health insurance, Appellant was not residing in Massachusetts. (Testimony of Appellant, Exhibit 3).
10. Appellant did not incur significant and unexpected increases in essential expenses as a result of domestic violence; due to the death of a spouse, family member, or partner who shared household expenses; the sudden responsibility for providing full care for an aging parent or other family member; or fire, flood, or other natural or man-made disaster in 2019 (Exhibit 3).
11. Appellant was not homeless, was not thirty days or more behind in rent in 2019, and Appellant did not receive a shut-off notice for basic utilities. (Appellant's Testimony, Exhibit 3).

ANALYSIS AND CONCLUSIONS OF LAW

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

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

Appellant did have health insurance for January, and for July through December of 2019. Appellant did not have health insurance for February through June of 2019, but did not reside in Massachusetts for

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

Private insurance was affordable for the Appellant during 2019. According to Tables 3 and 4 of the HC Schedule for 2019, Appellant, with an adjusted gross income of \$49,659.00 was deemed to have been able to afford health insurance on the private market. According to Table 3, Appellant could have afforded to pay \$331.00 per month; according to Table 4, Appellant, who was 24 years old in 2019, from Middlesex County, and filed the 2019 Massachusetts taxes as single with a family size of 1, would have had to pay \$257.00 for coverage per month for insurance on the private market. See CMR 6.05 (1)(2), Schedule HC Tables 3 and 4, and Exhibit 2.

With regard to the hardship waiver of the penalty, Appellant claimed that Appellant should not have been assessed a penalty in that Appellant did not reside in Massachusetts for two of the five months that Appellant was without insurance. Appellant moved out of Massachusetts in May of 2019, and returned in July of 2019 and had insurance through the employer from July through December of 2019. For these reasons, the waiver of the penalty is approved.

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

PENALTY ASSESSED

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

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

NOTIFICATION OF YOUR RIGHT TO APPEAL TO COURT

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

Hearing Officer

Cc: Connector Appeals Unit

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

Massachusetts Health Connector Appeals Unit

FINAL APPEAL DECISION: PA19-558

Appeal Decision: Appeal Granted

Hearing Issue: Appeal of the 2019 Tax Year Penalty

Hearing Date: September 18, 2020

Decision Date: October 8, 2020

AUTHORITY

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

JURISDICTION

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

HEARING RECORD

The Appellant appeared at the hearing, which was held by telephone, on September 18, 2020. The Appellant offered testimony under oath or affirmation. At the end of the hearing, the record was closed.

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

- Exhibit 1: Appeal Case Information from 2019 Schedule HC (1 page)
- Exhibit 2: 3/25/20 Appeal (3 pages)
- Exhibit 3: 8/20/20 Hearing Notice (2 pages)

FINDINGS OF FACT

The record shows, and I so find:

1. The Appellant's filing status for 2019 was Head of Household with one dependent and a family size of two. The Appellant's federal AGI in 2019 was \$41,644. The Appellant turned twenty-three years old in 2019 and resided in Hampden County. (Exhibit 1)
2. The Appellant appealed from the assessment of a twelve-month penalty on his 2019 income tax return, checking off "Other circumstances," as the basis for his appeal. By "Other," (Exhibit 1)
3. The Appellant had no health insurance coverage during 2019. (Appellant's testimony)
4. The Appellant was employed by a tree service company throughout 2019. He had started working for the company on September 18, 2018. The Appellant had MassHealth coverage prior to taking this job. His employer offered health insurance coverage after a 90-day waiting period. (Appellant's testimony)
5. At the start of his employment, the Appellant received information about the employer-sponsored coverage in the mail. Three different plans were offered. The Appellant does not recall the cost of the plans and never followed up after the 90-day waiting period. (Appellant's testimony)
6. The Appellant's dependent daughter turned three-years old in 2019. (Appellant's testimony)

7. The Appellant’s expenses for basic necessities in 2019 included: rent, \$925; utilities, \$60; car/truck payments, \$351; insurance, \$600; gas, \$450; maintenance/repair, \$75; phone, \$150; food, \$500; clothing, \$50; credit cards minimum payment, \$20; diapers/medicine for daughter, \$60; and, pet food/care, \$75, for a total of \$3,316 monthly and \$39,792 for the year. (Appellant’s testimony)
8. According to Table 2 of the 2019 Schedule HC Guidelines, the Appellant qualified for government-subsidized health insurance coverage, since his income was less than \$49,380 for a family size of two.
9. According to Table 3, Affordability, of the Schedule HC 2019, based on his 2019 AGI and Head of Household with one dependent tax filing status, the Appellant could have afforded to pay up to \$255 for health insurance coverage in 2019.
10. According to Table 4, Premiums, the Appellant could have purchased health insurance in the private market in 2019 for a monthly premium of \$257, based on his age and county of residence in 2019.

ANALYSIS AND CONCLUSIONS OF LAW

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

I find credible the Appellant’s testimony that he could not afford health insurance coverage in 2019. While the cost of the health insurance coverage offered by the Appellant’s employer in 2019 is unknown, it is very unlikely that it would have been less than the \$257 premium available to the Appellant in the private market to a twenty-three year old in 2019 or less than the \$255 maximum the Appellant could have afforded to pay in 2019. In any case, the Appellant’s expenses for basic necessities in 2019 consumed nearly all of his income for the year

Therefore, I conclude that affordable health insurance coverage was unavailable to the Appellant in 2019 because he experienced financial circumstances such that the expense of purchasing coverage would have caused him to experience a serious deprivation of food, shelter, clothing or other necessities, under 956 CMR 6.08(1)(e).

Accordingly, the Appellant’s twelve-month penalty for 2019 shall be waived in full.

PENALTY ASSESSED

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

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

OR

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

NOTIFICATION OF YOUR RIGHT TO APPEAL TO COURT

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

Hearing Officer

Cc: Connector Appeals Unit

Massachusetts Health Connector Appeals Unit

FINAL APPEAL DECISION: PA19-559

Appeal Decision: Appeal Granted

Hearing Issue: Appeal of the 2019 Tax Year Penalty

Hearing Date: September 18, 2020

Decision Date: October 22, 2020

AUTHORITY

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

JURISDICTION

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

HEARING RECORD

The Appellant appeared at the hearing, which was held by telephone, on September 18, 2020. The Appellant offered testimony under oath or affirmation. At the end of the hearing, the record was left open until October 2, 2020, for the Health Connector to submit additional evidence. No additional evidence was submitted, and the record was closed on October 2, 2020.

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

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

FINDINGS OF FACT

The record shows, and I so find:

1. The Appellant's filing status for 2019 was Single with a family size of one. The Appellant's federal AGI in 2019 was \$57,144. The Appellant turned twenty-eight years old in 2019 and resided in Bristol County. (Exhibit 1)
2. The Appellant appealed from the assessment of an eight-month penalty on his 2019 income tax return, checking off the box, "During 2019, purchased health insurance that didn't meet minimum creditable coverage standards because that is what your employer offered, and you felt that your circumstances prevented you from buying other insurance that met the requirements." as the basis for his appeal. At hearing, the Appellant stated that he had checked this box because he thought that it was the right box to show that he had health insurance coverage during the last month of 2019. (Exhibit 2; Appellant's testimony)

3. The Appellant had no health insurance coverage during the first eleven months of 2019. (Appellant's testimony)
4. The Appellant had health insurance coverage through his parents' coverage until he was eighteen years old. (Appellant's testimony)
5. The Appellant had health insurance coverage through the Health Connector during all of 2018. (Appellant's testimony)
6. The Appellant did not re-enroll in coverage through the Health Connector during the open enrollment period for 2019 coverage. (Appellant's testimony)
7. The Appellant testified that he did not re-enroll in coverage in 2019 because he did not know that he had to re-enroll each calendar year and that he had assumed that his current coverage would continue in 2019; and, that it was not until he had to go to a hospital for treatment in 2019 that he learned that he no longer had health insurance coverage. (Appellant's testimony)
8. The Appellant worked for the same employer throughout 2019. His employer did not offer health insurance coverage to employees until late 2019. The Appellant signed up for the coverage as soon as it became available. The coverage went into effect on December 1, 2019. (Appellant's testimony)
9. According to Table 2 of the 2019 Schedule HC Guidelines, the Appellant did not qualify for government-subsidized health insurance coverage in 2019, since his income was more than \$36,420 for a family size of one.
10. According to Table 3, Affordability, of the Schedule HC 2019, based on his 2019 AGI and Single with no dependents tax filing status, the Appellant could have afforded to pay up to \$380/monthly for health insurance coverage in 2019.
11. According to Table 4, Premiums, the Appellant could have purchased health insurance in the private market in 2019 for a monthly premium of \$257, based on his age and county of residence in 2019.
12. The Appellant could have afforded to pay \$257/monthly for health insurance coverage in 2019. (Appellant's testimony)

ANALYSIS AND CONCLUSIONS OF LAW

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

As the Appellant had a three-month grace period to obtain new health insurance after his coverage terminated at the end of 2018, at issue here are the eight months from April through November 2019, when the Appellant failed to have health insurance coverage.

I am not persuaded by the Appellant's testimony that he was unaware that he had to re-enroll each year in order to continue his health insurance coverage and that he could not recall whether he had insurance coverage through the Health Connector prior to 2018. The Appellant had been responsible for obtaining his own health insurance coverage for nearly ten years, after his parents stopped covering him on their own insurance policy, so the annual renewal process was not new to him. In addition, as the Appellant's 2018 coverage was through the Health Connector, he would have received notice from the Health Connector about Open Enrollment for 2019 coverage and what he needed to do to re-enroll for 2019. Also, the Appellant would have stopped receiving monthly premium bills, beginning in December 2018 for his January 2019 coverage. Under these circumstances, I find that the Appellant was aware of his responsibility to re-enroll in health insurance coverage annually. Moreover, affordable health insurance coverage through the private market was available to the Appellant in 2019, as an alternative, had he made any attempt to obtain coverage.

As affordable health insurance coverage was available to the Appellant from April 2019 to November 2019, through either the Health Connector or the private market, and the Appellant failed to obtain any coverage during this period, the Appellant's appeal is denied.

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

PENALTY ASSESSED

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

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

OR

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

NOTIFICATION OF YOUR RIGHT TO APPEAL TO COURT

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

Hearing Officer

Cc: Connector Appeals Unit

Massachusetts Health Connector Appeals Unit

FINAL APPEAL DECISION: PA19573

Appeal Decision: The penalty is waived in part.

Hearing Issue: Appeal of the 2019 Tax Year Penalty

Hearing Date: September 15, 2020

Decision Date: October 19, 2020

AUTHORITY

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

JURISDICTION

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

HEARING RECORD

Both of the appellants appeared at the hearing which was held by telephone on September 15, 2020. The procedures to be followed during the hearing were reviewed with Appellants who were then sworn in. Exhibits were marked and admitted in evidence with no objection from the appellants. Appellants testified.

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

- Exhibit 1: Statement of Grounds for Appeal 2019 signed and dated by Appellant on April 22, 2019 with letter in support attached
- Exhibit 2: Appeal Case Information from Schedule HC 2019
- Exhibit 3: Notice of Hearing sent to Appellant dated August 12, 2019 for September 15, 2019 hearing

FINDINGS OF FACT

The record shows, and I so find:

1. Appellants, who filed a 2019 Massachusetts tax return jointly as a married couple with no dependent claimed, were 48 and 41 years old in 2019. One of the appellants had two children, ages 18 and 20 from a previous marriage (Exhibit 2, Testimony of Appellant).
2. The appellants lived in Bristol County in 2019. They had a Federal adjusted gross income of \$212,577 (Exhibit 2, Testimony of Appellant).
3. One of the appellants was employed and had health insurance through employment all year. This appellant paid \$200 biweekly for the coverage (Testimony of Appellant, Exhibit 2).
4. The other appellant had a job during January that he had had in 2018. He had health insurance through this job that met the Commonwealth's minimum creditable standards. In addition, the employer gave the appellant \$400 a month towards coverage for the appellant's two children. Appellant started a new job in February. He was not offered health insurance as a benefit, though he was offered up to 50% of the cost of any coverage the appellant obtained. The premium reimbursement offer was not effective until Appellant had been on the job for 90 days (Testimony of Appellant, Exhibit 2).

5. Appellant's spouse could have added Appellant to her plan through work. She chose not to because the deductible and out-of-pocket limits would have been higher (Testimony of Appellant).
6. Appellant obtained health insurance through the Connector as of January 1, 2020 and still had coverage as of the date of this hearing (Testimony of Appellant)
7. Appellant has appealed this assessment, claiming that the cost of purchasing health insurance would have caused a serious deprivation of basic necessities (Exhibits 1, 2, and Testimony of Appellant).
8. I take administrative notice of the financial information set forth in Tables 1 through 6 in the DOR 2019 Massachusetts Schedule HC Health Care Instructions and Worksheets. Tables 3 and 4 incorporate affordability and premium schedules adopted by the Board of Directors for the Commonwealth Health Insurance Connector Authority for 2019. Table 2 sets forth income at 300% of the Federal poverty level and Tables 5 and 6 set forth tax penalties in effect for 2019.
9. According to Table 3 of Schedule HC for 2019, the appellants who filed a Massachusetts taxes jointly with no dependents claimed with a Federal adjusted gross income of \$212,577 could afford to pay \$1,417 per month for health insurance. According to Table 4, Appellants, 48 and 41 years old and living in Bristol County, could have purchased insurance for \$699 per month for a plan for a couple, and \$350 for a plan for an individual if only the uninsured appellant wanted coverage. Insurance on the individual market was affordable to the uninsured appellant even taking into account that the other appellant was paying \$400 a month for coverage (Schedule HC for 2019, Tables 3 and 4, Exhibit 2; Testimony of Appellant).
11. Appellant would have not been eligible for ConnectorCare coverage based upon the income limit, less than \$48,720 for a household of two (Testimony of Appellant, Exhibit 2, Schedule HC-2019 Table 2).
12. Appellants did not incur significant and unexpected increases in essential expenses as a result of domestic violence; the death of a spouse, family member, or partner who shared household expenses; the sudden responsibility for providing full care for an aging parent or other family member; or fire, flood, or other natural or man-made disaster in 2019 (Testimony of Appellant).
13. Appellants did not fall more than thirty days behind in mortgage payments in 2019 (Testimony of Appellant).
14. Appellants did not have any shut-off notices or terminations of utilities in 2019 (Testimony of Appellant).
15. Appellants had the following monthly expenses for basic necessities: mortgage, including property tax and home owner's insurance-\$1,960; water and sewer- \$110; electricity-\$175; heat-\$170; telephone and internet-\$200; car payment-\$375; car insurance-\$150; gas-\$300; food and household supplies-\$900; clothing-\$300; loan payments (for heating system)-\$229; and credit card debt-\$250 (Testimony Appellant)
16. The appellants paid \$400 a month for health insurance for the uninsured appellant's children. They also paid \$80 a month for car insurance for the children, put \$400 a month into a 529 college account, and spent \$1,500 for college expenses for the older child during the year (Testimony of Appellant, Exhibit 1 attachment).
17. The appellants spent \$11,000 on a new roof and \$5,500 for new windows for their house in 2019 (Testimony of Appellant).
18. The appellants spent \$22,000 on veterinarian bills for the care of their dog which was attacked by another dog in 2019 (Testimony of Appellant).

ANALYSIS AND CONCLUSIONS OF LAW

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

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

One of the appellants has not been assessed a penalty. The other was uninsured February through December; he has been assessed a penalty for eight months, May through December. The appellant who has been assessed a penalty had coverage which met the Commonwealth’s minimum creditable coverage standards in January and has been given a grace period of three months after losing the coverage. See Massachusetts General Laws, Chapter 111M, Section 2. See Exhibits 1, 2 and the testimony of the appellant which I find to be credible.

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

According to Table 3 of Schedule HC for 2019, the appellants who filed a Massachusetts taxes jointly with no dependents claimed with a Federal adjusted gross income of \$212,577 could afford to pay \$1,417 per month for health insurance. According to Table 4, Appellants, 48 and 41 years old and living in Bristol County, could have purchased insurance for \$699 per month for a plan for a couple, and \$350 for a plan for an individual if only the uninsured appellant wanted coverage. Insurance on the individual market was affordable to the uninsured appellant even taking into account that the other appellant was paying \$400 a month for coverage. See Schedule HC for 2019, Tables 3 and 4, Exhibit 2, and the testimony of Appellant which I find to be credible, and Exhibit 1, attachment.

Appellant also had the option of being added to his spouse’s plan. The spouse testified that the reason the appellant was not added to the plan was because of the increase in the deductible and the out-of-pocket limit. See the testimony of the appellants which I find to be credible. According to Table 3 of Schedule HC, the couple could have afforded to spend \$1,417 a month on premiums. Though there is no evidence in the record as to the monthly cost for a family plan, we do know that the spouse was paying \$400 a month for the premium. It is likely that the monthly premium would have been affordable.

Since affordable health insurance was available to the appellant through the individual market, we need to determine if Appellant had a financial hardship such that the cost of purchasing health insurance would have caused Appellant to experience a serious deprivation of basic necessities or some other financial hardship as defined in 956 CMR 6.08 (a), (b), (d), and or (e), and 6.08(3). We do not need to consider whether affordable health insurance was available through a government-sponsored program.

Appellants had the following monthly expenses for basic necessities: mortgage, including property tax and home owner's insurance-\$1,960; water and sewer- \$110; electricity-\$175; heat-\$170; telephone and internet-\$200; car payment-\$375; car insurance-\$150; gas-\$300; food and household supplies-\$900; clothing-\$300; loan payments (for heating system)-\$229; and credit card debt-\$250.

The appellants paid \$400 a month for health insurance for the uninsured appellant's children. and \$400 a month for the health insurance premium for the insured appellant. They also paid \$80 a month for car insurance for the children, put \$400 a month into a 529 college account , and spent \$1,500 for college expenses for the older child during all of 2019. The appellants spent \$11,000 on a new roof and \$5,500 for new windows for their house in 2019, and spent \$22,000 on veterinarian bills for the care of their dog. See the testimony of the appellants which I find to be credible.

Appellant's monthly expenses for basic necessities came to approximately \$5,000. If we include all the other expenses testified to by the appellants, many of which were not for basic necessities, their monthly expenses amounted to about \$9,700. Their adjusted gross income came to over \$17,000. Looking at these facts in a way most favorable to the appellants pursuant to 956 CMR 6.08 (3), (for example, considering their expenses for veterinarian bills), the appellants still had over \$7,000 a month out of which they could have purchase health insurance for the uninsured appellant. According to Table 4 of Schedule HC for 2019, Appellant could have purchased a plan which met the Commonwealth's standards for as little as \$350 per month. I also note that Appellant's new employer offered to reimburse the appellant 50% of the cost of any premium after the appellant had been on the job for 90 days.

Based upon the facts summarized above, I determine that the cost of purchasing health insurance would not have caused the appellants to experience a serious deprivation of basic necessities (See 956 CMR 6.08(1)(e)).

In addition, Appellants did not incur significant and unexpected increases in essential expenses as a result of domestic violence; the death of a spouse, family member, or partner who shared household expenses; the sudden responsibility for providing full care for an aging parent or other family member; or fire, flood, or other natural or man-made disaster in 2019. They did not fall more than thirty days behind in mortgage payments, and they did not receive any termination notices for basic utilities or have any utility shut off in 2019. See the testimony of the appellants which I find to be credible and 956 CMR 6.08 (1)(a) and (b).

I do note that Appellant obtained coverage as of January 1, 2020 and still had coverage as of the date of this hearing. Given that, pursuant to Massachusetts General Laws Chapter 111M, Section 2, Appellant's penalty for October through December is waived since he is be eligible for a three-month grace period.

Appellants' penalty is waived in part. Coverage was available and affordable. Appellant did not suffer any financial hardship as defined in 956 CMR 6.08, but he was entitled to a grace period.

PENALTY ASSESSED

Number of Months Appealed: 8 Number of Months Assessed: 5

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

NOTIFICATION OF YOUR RIGHT TO APPEAL TO COURT

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

Hearing Officer

Cc: Connector Appeals Unit

Massachusetts Health Connector Appeals Unit

FINAL APPEAL DECISION: PA19-589

Appeal Decision Appeal Allowed

Hearing Issue: Appeal of the 2019 Tax Year Penalty

Hearing Date: September 18, 2020

Decision Date: October 29, 2020

AUTHORITY

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

JURISDICTION

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

HEARING RECORD

The Appellant appeared at the hearing, which was held by telephone, on September 18, 2020. The procedures to be followed during the hearing were reviewed with the Appellant who was then sworn in. Exhibits were marked and admitted into evidence with no objection from the Appellant. The record was left open until October 18, 2020 for the Appellant to provide proof of health insurance in 2019.

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

- Exhibit 1: Notice of Hearing dated August 12, 2020
- Exhibit 2: Appeal Case Information from form Schedule HC
- Exhibit 3: Statement of Grounds for Appeal dated April 25, 2020

FINDINGS OF FACT

The record shows, and I so find:

1. The appellant is forty-four years old and is single. She lives in Berkshire County, Massachusetts. Appellant works in a retail business.
2. Appellant could not afford health insurance in 2019. The company she works for does offer health insurance but it was too expensive for the Appellant. Appellant would like health insurance but couldn't find a way to pay for it.
3. Appellant did not know of the health penalty because her ex-husband did not tell her until after they filed taxes.
4. Appellant did not provide any open record documents regarding her having health insurance in 2019.
5. Appellant does have health insurance in 2020.
6. The Appellant's monthly expenses totaled \$2,448.00, consisting of mortgage \$1,100.00, internet & cable \$260.00 cell phone \$200.00, food \$100.00, car payment \$263.00 car insurance \$45.00, car gas \$40.00, clothing \$50.00, entertainment \$30.00, child care \$400.00.
7. The Appellant did not submit a Statement of Grounds for Appeal-2019 but should have appealed under "During 2019, the expense of purchasing health insurance would have caused a serious deprivation of food, shelter, clothing or other necessities". I will hear her appeal under these grounds.
8. I take administrative notice of the information set forth in tables 1 through 6 in the Department of Revenue Schedule HC Health Care Instructions and Worksheets (Schedule HC Instructions). Tables 3 & 4 incorporate the affordability schedules adopted by the board of directors of the Commonwealth Health Insurance Connector Authority for 2019. Table 1 sets forth the income eligibility standards for various family sizes at 150% of the federal poverty level and Table 2 sets forth the income eligibility standards for various family sizes at 300 per cent of the federal poverty level, which is the income eligibility standard for the government-subsidized health insurance program. See Mass. G.L. c. 118H, s.3(a)(1). Tables 5 and 6 set forth the tax penalties for 2019.
9. 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 \$24,735.00 was less than \$36,420.00. The monthly premium for health insurance available on the private market in Berkshire County for a 43 year old single person was \$275.00. The tables reflect that Appellant could afford \$59.77. 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 thought she was covered for health insurance in 2019. She did not know of a penalty until after her ex-husband filed their taxes and informed her.

The Appellant did not submit a Statement of Grounds for Appeal-2019 but should have appealed under “During 2019, the expense of purchasing health insurance would have caused a serious deprivation of food, shelter, clothing or other necessities” . I will hear her appeal under these 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 2019, 150 percent of the FPL was \$18,210.00 for a single person . *Id.* In addition, a lapse in coverage of 63 days or less is not subject to the section 2(b) penalty. See Administrative Bulletin 03-10 (Dec. 7, 2010), available at <https://www.mahealthconnector.org/portal/binary/com.epicentric.contentmanagement.servlet.ContentDeliveryServlet/Health%2520Care%2520Reform/Regulations/documents/Administrative%20Information%20Bulletin%2003-10.pdf>; see also 830 Mass. Code Regs. 111M.2.1(5)(c) (2008). Thus, no penalty is imposed for lapses in coverage consisting of three or fewer consecutive calendar months. *Id.*

Since Appellant’s 2019 income was more than 150 percent of the FPL, making 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 2019. In determining affordability, consideration is given first to the amount Appellant is deemed able to afford for health insurance premiums under the Affordability Schedule and second to the cost of health insurance that was available through employer-sponsored plans, government-subsidized programs or on the private insurance market. See 2019 Schedule HC Instructions and Worksheets, *supra*.

Appellant reported a federal AGI of \$24,735.00 in 2019, and Appellant’s filing status was single . EX 2. According to the Affordability Schedule established by the Connector’s board and included in the Instructions and Worksheets of the 2019 Massachusetts Schedule HC, Appellant could afford to pay \$59.77 monthly for health insurance. See 2019 Schedule HC Instructions and Worksheets, *supra* at Table 3. Private insurance would have been available to her from the Premium Tables, at a cost of \$275.00 monthly for coverage. *Id.* at Table 4.

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

Appellant is deemed to afford \$59.77 for health insurance coverage because of her income. Private insurance in the market place was \$275.00 per month, which is more than she could afford. She thought she had health insurance in 2019. On these facts, I find that Appellant has shown that she was precluded from purchasing affordable health insurance during 2018. 956 Mass. Code Regs. 6.08(3) (2008). Accordingly, I conclude that she is exempt from a tax penalty for her non-compliance with the individual mandate.

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

PENALTY ASSESSED

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

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

OR

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

NOTIFICATION OF YOUR RIGHT TO APPEAL TO COURT

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

Hearing Officer

Cc: Connector Appeals Unit

Massachusetts Health Connector Appeals Unit

FINAL APPEAL DECISION: PA19-591

Appeal Decision Appeal Allowed

Hearing Issue: Appeal of the 2019 Tax Year Penalty

Hearing Date: September 18, 2020

Decision Date: October 23, 2020

AUTHORITY

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

JURISDICTION

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

HEARING RECORD

The Appellant appeared at the hearing, which was held by telephone, on September 18, 2020.

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

- Exhibit 1: Notice of Hearing dated August 12, 2020
- Exhibit 2: Appeal Case Information from form Schedule HC
- Exhibit 3: Statement of Grounds for Appeal Dated April 11, 2020
- Exhibit 4: Open Record Documents

FINDINGS OF FACT

The record shows, and I so find:

1. The appellant is twenty-five years old and is single. He lives in Suffolk County, Massachusetts.
2. Appellant was going to school in Connecticut from January through May 2019 and had health insurance through July 2019. (Open record Exhibit 4)
3. Appellant moved back home to Texas in June 2019 and only moved to Boston in September 2019. (Exhibit 4 and Appellant's testimony)
4. Appellant has health insurance in 2020.
5. The Appellant did submit a Statement of Grounds for Appeal-2019 "Other. During 2019, you received a shut off notice; were shut off; or were refused delivery of essential utilities (gas, electric, heating oil, water, primary telephone) but also should have applied under " Other. During 2019 other circumstance, such as applying the Affordability Tables in Schedule HC is inequitable or that you didn't reside in Massachusetts during your period of uninsurance."
6. I take administrative notice of the information set forth in tables 1 through 6 in the Department of Revenue Schedule HC Health Care Instructions and Worksheets (Schedule HC Instructions). Tables 3 & 4 incorporate the affordability schedules adopted by the board of directors of the Commonwealth Health Insurance Connector Authority for 2019. Table 1 sets forth the income eligibility standards for various family sizes at 150% of the federal poverty level and Table 2 sets forth the income eligibility standards for various family sizes at 300 per cent of the federal poverty level, which is the income eligibility standard for the government-subsidized health insurance program. See Mass. G.L. c. 118H, s.3(a)(1). Tables 5 and 6 set forth the tax penalties for 2019.

ANALYSIS AND CONCLUSIONS OF LAW

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

The Appellant did submit a Statement of Grounds for Appeal-2019 "Other. During 2019, you received a shut off notice; were shut off; or were refused delivery of essential utilities (gas, electric, heating oil, water, primary telephone) but also should have applied under " Other. During 2019 other circumstance, such as applying the Affordability Tables in Schedule HC is inequitable or that you didn't reside in Massachusetts during your period of uninsurance."

Appellant was going to school in Connecticut from January through May 2019 and had health insurance through July 2019. Appellant moved back home to Texas in June 2019 and only moved to Boston in September 2019.

Appellant quit his job in April 2019 but maintained health insurance through June 2019. Appellant applied for health insurance through the health Connector but was unable to obtain health insurance. Appellant was out of the country from April 2020 through October 2020. I credit Appellant's testimony in that regard.

The Health Care Reform Act of 2006 requires every adult resident of Massachusetts to obtain and maintain creditable insurance coverage "so long as it is deemed affordable" under the schedule established by the board of the Connector. Mass. Gen. Laws ch. 111M, § 2(a). Massachusetts residents who fail to indicate on their state tax returns that they obtained the mandated creditable coverage are subject to a tax penalty for each month in which that the individual did not have creditable health insurance. *Id.* at § 2(b). However, individuals with incomes up to 150 percent of the Federal Poverty Level ("FPL") are not subject to any penalty for non-compliance with the individual mandate. See Massachusetts Department of Revenue Technical Information Release ("TIR") 13-1, available at <http://www.mass.gov/dor/businesses/help-and-resources/legal-library/tirs/tirs-by-years/2013-releases/tir-13-1.html>. For 2019, 150 percent of the FPL was \$18,210.00 for a single person. *Id.* In addition, a lapse in coverage of 63 days or less is not subject to the section 2(b) penalty. See Administrative Bulletin 03-10 (Dec. 7, 2010), available at <https://www.mahealthconnector.org/portal/binary/com.epicentric.contentmanagement.servlet.ContentDeliveryServlet/Health%2520Care%2520Reform/Regulations/documents/Administrative%20Information%20Bulletin%2003-10.pdf>; see also 830 Mass. Code Regs. 111M.2.1(5)(c) (2008). Thus, no penalty is imposed for lapses in coverage consisting of three or fewer consecutive calendar months. *Id.*

Since Appellant's 2019 income was more than 150 percent of the FPL, making him potentially subject to an individual mandate penalty, the threshold issue to be addressed is whether creditable health insurance coverage was affordable to him in 2019. In determining affordability, consideration is given first to the amount Appellant is deemed able to afford for health insurance premiums under the Affordability Schedule and second to the cost of health insurance that was available through employer-sponsored plans, government-subsidized programs or on the private insurance market. See 2019 Schedule HC Instructions and Worksheets, *supra*.

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

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

PENALTY ASSESSED

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

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

OR

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

NOTIFICATION OF YOUR RIGHT TO APPEAL TO COURT

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

Hearing Officer

Cc: Connector Appeals Unit

Massachusetts Health Connector Appeals Unit

FINAL APPEAL DECISION: PA19-599

Appeal Decision: Penalty Overturned in Full

Hearing Issue: Appeal of the 2019 Tax Year Penalty

Hearing Date: September 21, 2020

Decision Date: October 7, 2020

AUTHORITY

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

JURISDICTION

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

HEARING RECORD

The appellant and her father appeared at the hearing which was held by telephone on September 21, 2020, and testified under oath.¹ The hearing record consists of their testimony and the following documents which were admitted into evidence without objection:

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

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

- Ex. 4—2019 Form MA 1099-HC

FINDINGS OF FACT

The record shows, and I so find:

1. The appellant is 34-years-old, is single, and does not have children. She had minimum creditable coverage (MCC) health insurance from August through December, 2019. (Testimony, Ex. 4)
2. In 2019, the appellant resided in Rhode Island from January through July. During that period of time, she had employer health insurance. (Testimony, Ex. 1)

¹ The appellant briefly appeared at the hearing and authorized her father to represent her, after which she exited.

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

3. The appellant moved to Massachusetts at the end of July, 2019 and resided in the state for the remainder of the year. She commenced employment in August and had MCC employer health insurance which continued through December. (Testimony, Exs. 2,4)
4. The appellant mistakenly indicated on her 2019 Schedule HC that she did not have MCC health insurance for the months during which she resided in Massachusetts. (Testimony, Ex. 2)

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), but did not check off a specific ground for the appeal. She also submitted several documents with her statement which indicated that she had health insurance during 2019 from two different employers—one insurance plan from January through August while she resided in Rhode Island and a second plan from August through December while she resided in Massachusetts.

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 2018, Administrative Bulletin 03-10: Guidance Regarding M.G.L. c. 111M and M.G.L. c. 176Q, as implemented by 956 CMR 6.00, interprets the 63-day gap in coverage to be three months. As a result, gaps of three months are not subject to penalty. Although the appellant had MCC insurance in Massachusetts from August through December, she was assessed and is appealing a penalty of three months based on the information she provided on her Schedule HC indicating that she was a part-year resident for those months.

The appellant’s father testified credibly that the appellant moved to Massachusetts in July and resided in the state for the remainder of the year. He further testified that the appellant began employment in August and had MCC health insurance from August through December.

The appellant’s father’s testimony was corroborated by a Form MA 1099-HC which indicated that she had MCC insurance for the months of August through December. Accordingly, she is not subject to a penalty.

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 waiver is with respect to 2019, only and is based upon the extent of information submitted by her in this appeal.

PENALTY ASSESSED

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

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

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

NOTIFICATION OF YOUR RIGHT TO APPEAL TO COURT

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

Hearing Officer

Cc: Connector Appeals Unit

Massachusetts Health Connector Appeals Unit

FINAL APPEAL DECISION: PA19-648

Appeal Decision: Appeal Denied

Hearing Issue: Appeal of the 2019 Tax Year Penalty

Hearing Date: September 25, 2020

Decision Date: October 30, 2020

AUTHORITY

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

JURISDICTION

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

HEARING RECORD

The Appellant appeared at the hearing, which was held by telephone, on September 25, 2020. The Appellant offered testimony under oath or affirmation. At the end of the hearing, the record was left open until October 9, 2020, for the Health Connector to submit additional evidence. The Health Connector submitted additional evidence on October 1, 2020, and the record was closed.

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

- Exhibit 1: Appeal Case Information from 2019 Schedule HC (1 page)
- Exhibit 2: 5/2/20 Appeal (4 pages)
- Exhibit 3: 8/17/20 Hearing Notice (2 pages)
- Exhibit 4: Health Connector's 10/1/20 Statement that no application received for 2019 coverage (1 page)

FINDINGS OF FACT

The record shows, and I so find:

1. The Appellant's filing status for 2019 was Single with a family size of one. The Appellant's federal AGI in 2019 was \$25,624. The Appellant turned forty-four years old in 2019 and resided in Plymouth County. (Exhibit 1)
2. The Appellant appealed from the assessment of the twelve-month penalty on her 2019 income tax return, checking off the box, "During 2019, the expense of purchasing health insurance would have caused a serious deprivation of food, shelter, clothing or other necessities," as the basis for her appeal. (Exhibit 2)
3. The Appellant lost her apartment in 2018 for financial reasons and moved in with her parents. The Appellant had to put furniture into storage, until she was able to get a new apartment. She lived with her parents throughout 2019. (Appellant's testimony)

4. The Appellant worked full time for the same employer from January 2019 to August 2019. The employer informed all full-time employees at the start of 2019 that they could enroll in health insurance coverage for 2019, but that, due to a system glitch, it would become effective retroactively when the glitch was resolved. The employer told employees that the health insurance coverage for individuals would cost a monthly premium of \$30. (Appellant's testimony)
5. During the first three months of 2019, the Appellant applied for MassHealth coverage. She was told that she did not qualify because she made too much money. (Exhibit 2; Appellant's testimony)
6. In July 2019, the employer informed full-time employees that the problem was resolved and that their coverage would be effective in August 2019 and retroactive to the start of 2019. (Appellant's testimony)
7. In August 2019, the company announced that it was closing its business and that all employees would be laid off at the end of September 2019. (Exhibit 2; Appellant's testimony)
8. From September to late October 2019, the Appellant was unemployed. During this time, the Appellant applied for health insurance coverage through MassHealth. More than once, MassHealth requested her to submit additional information to complete her application. The Appellant never received a determination on her MassHealth application. (Appellant's testimony)
9. In late October 2019, she started working full time for a new employer. Her employer offered health insurance coverage to full-time employees, after a waiting period of six months. (Appellant's testimony)
10. The Appellant's monthly expenses for basic necessities in 2019 included: rent, \$600; utilities, \$350; car insurance, \$56; gas, \$220; food, \$750; phone, \$40; and, storage, \$220, for a total of \$2,236/monthly and \$26,832 for the year. (Appellant's testimony)
11. According to Table 2 of the 2019 Schedule HC Guidelines, the Appellant qualified for government-subsidized health insurance coverage in 2019, since her income was less than \$36,420 for a family size of one.
12. According to Table 3, Affordability, of the Schedule HC 2019, based on her 2019 AGI and Single with no dependents tax filing status, the Appellant could have afforded to pay up to \$89/monthly for health insurance coverage in 2019.
13. According to Table 4, Premiums, the Appellant could have purchased health insurance in the private market in 2019 for a monthly premium of \$306, based on her age and county of residence in 2019.

ANALYSIS AND CONCLUSIONS OF LAW

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

At issue here is the Appellant's failure to have health insurance coverage throughout 2019. The Appellant contends that she understood that her employer during most of the year would be providing health insurance coverage and that she had tried, unsuccessfully, to get coverage through the MassHealth in the meantime. I credit the Appellant's testimony that her employer strung her and her co-workers along for most of 2019 to think that they were going to get employer-sponsored health insurance soon, for a monthly premium of \$30, and that the coverage would be retroactive to the start of 2019. Moreover, as the Appellant's costs for basic necessities in 2019 exceeded her 2019 AGI, the Appellant could not have afforded to pay even a monthly premium of \$30 for health insurance coverage in 2019.

Therefore, I conclude that the Appellant has established that health insurance that provided minimum creditable coverage was not affordable for her in 2019, under 956 CMR 6.08(1)(e).

Accordingly, the Appellant's twelve-month penalty for 2019 shall be waived in full.

PENALTY ASSESSED

Number of Months Appealed: 12

Number of Months Assessed: 0

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

OR

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

NOTIFICATION OF YOUR RIGHT TO APPEAL TO COURT

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

Hearing Officer

Cc: Connector Appeals Unit

Massachusetts Health Connector Appeals Unit

FINAL APPEAL DECISION: PA19-649

Appeal Decision: Appeal Granted

Hearing Issue: Appeal of the 2019 Tax Year Penalty

Hearing Date: September 25, 2020

Decision Date: October 27, 2020

AUTHORITY

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

JURISDICTION

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

HEARING RECORD

The Appellants appeared at the hearing, which was held by telephone, on September 25, 2020. The Appellants offered testimony under oath or affirmation. At the end of the hearing, the record was closed.

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

- Exhibit 1: Appeal Case Information from 2019 Schedule HC (1 page)
- Exhibit 2: 5/7/20 Appeal (10 pages)
- Exhibit 3: 8/17/20 Hearing Notice (2 pages)

FINDINGS OF FACT

The record shows, and I so find:

1. The Appellants' filing status for 2019 was Married Filing Joint with no dependents and a family size of two. The Appellants' federal AGI in 2019 was \$102,695. The Appellants turned thirty-three years old and thirty-two years old in 2019 and resided in Norfolk County. (Exhibit 1)
2. The Appellants appealed from the assessment of two four-month penalties on their 2019 income tax return, checking off "During 2019, the expense of purchasing health insurance would have caused a serious deprivation of food, shelter, clothing or other necessities," as the basis for their appeal. (Exhibit 1)
3. The Appellants had employer-sponsored health insurance coverage during the first five months of 2019. (Exhibit 1; Appellants' testimony)
4. The Appellants resided in Tennessee at the beginning of 2019. They moved to Massachusetts in May 2019 for the Appellant/wife to take a job with a small start-up company based there. The Appellant/wife took a significant pay cut in taking the job, from \$68K to \$52K annually. (Exhibit 1; Appellants' testimony)
5. The Appellant/wife's new employer did not offer health insurance coverage. (Appellants' testimony)

6. The Appellant/husband has worked several years for a small magazine based in Tennessee. He has been able to keep this job by working remotely for this employer after he and his wife moved to Massachusetts. His employer has never offered health insurance coverage to its employees. (Appellants' testimony)
7. On May 16, 2019, the Appellants closed on their new house in Massachusetts. The closing price was \$380,000, and the Appellants paid \$37,263.42 for the down payment and closing costs. The Appellants exhausted most of their savings in purchasing the house. As the roof of the house was twenty-five years old and needed to be replaced, the Appellants began saving money for a new roof immediately. (Exhibit 2; Appellants' testimony)
8. The Appellants had the new roof installed in October 2019 at a cost of \$6,850. (Exhibit 2)
9. The Appellants did not become aware of the Massachusetts mandate to have health insurance coverage until after closing on their house. The Appellants looked for health insurance coverage in Massachusetts over the following three months. They checked for coverage through the Health Connector and the private market. The lowest cost plans that they found had monthly premiums in the range of \$550 to \$600. (Appellants' testimony)
10. The Appellants' monthly expenses for basic necessities from May 2019 through December 2019 included: mortgage payment, \$2,229; utilities, \$362; phones, \$202; Internet, \$40; car insurance, \$204; gas, \$50; tolls, \$10; food, \$550; clothing, \$50; chronic Lyme disease treatment, \$240; and, pet food (two dogs and a cat), \$150, for a total of \$4,087 monthly. Additional one-time expenses for necessities in 2019 included moving expenses, \$281; a Lyme disease treatment, \$902; veterinary surgery, \$2,000; and, the new roof, \$6,850, for a total of \$10,033. (Appellants' testimony; Exhibit 2)
11. The Appellant/wife was diagnosed with chronic Lyme disease in May 2016. She receives monthly treatment for her condition through a naturopathic doctor. Such treatments are not covered by health insurance coverage. (Appellants' testimony)
12. According to Table 2 of the 2019 Schedule HC Guidelines, the Appellants did not qualify for government-subsidized health insurance coverage in 2019, since their income was more than \$49,380 for a family size of two.
13. According to Table 3, Affordability, of the Schedule HC 2019, based on their 2019 AGI and Married Filing Joint with no dependents tax filing status, the Appellants could have afforded to pay up to \$684/monthly for health insurance coverage in 2019.
14. According to Table 4, Premiums, the Appellants could have purchased health insurance in the private market in 2019 for a monthly premium of \$558, based on their ages and county of residence in 2019.

ANALYSIS AND CONCLUSIONS OF LAW

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

As the Appellants did not begin residing in Massachusetts until late May 2019, they had a three-month grace period, through the end of August 2019, to obtain health insurance coverage. At issue here is the Appellants' failure to have health insurance coverage during the last four months of 2019.

I am not persuaded by the Appellants' argument that they could not have afforded to pay for health insurance coverage during the last four months of 2019. The Appellants acknowledged that they had learned about the individual mandate in Massachusetts soon after moving from Tennessee and closing on their new house in May 2019. They looked for coverage and found plans with a monthly premium cost in the range of \$550 to \$600, well below the \$684/monthly premium that they could have afforded to pay under the Affordability Table, based on

their 2019 AGI. Moreover, as they had a three-month grace period to obtain coverage, the Appellants were required to purchase coverage for only the last four months of 2019. Had the Appellants purchased the coverage available to them in the private market for \$558/monthly, their total cost for coverage during the last four months of 2019 would have been \$2,232. Even assuming that their \$4,087 monthly expenses for basic necessities while living in Massachusetts were the same during the months the Appellants lived in Tennessee in 2019, these annualized expenses plus one-time expenses of \$10,033 for other basic necessities in 2019 add up to \$59,007. With a 2019 AGI of \$102,695, the Appellants' could have afforded to pay a total of \$2,232 for health insurance coverage during the last four months of 2019.

Therefore, I conclude that the Appellants have not established that affordable health insurance coverage was unavailable to the Appellants in 2019 because they experienced financial circumstances such that the expense of purchasing coverage would have caused them to experience a serious deprivation of food, shelter, clothing or other necessities, under 956 CMR 6.08(1)(e).

Accordingly, the Appellants' two four-month penalties for 2019 shall not be waived or reduced

PENALTY ASSESSED

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

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

OR

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

NOTIFICATION OF YOUR RIGHT TO APPEAL TO COURT

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

Hearing Officer

Cc: Connector Appeals Unit

Massachusetts Health Connector Appeals Unit

FINAL APPEAL DECISION: PA19-652

Appeal Decision: Appeal Denied

Hearing Issue: Appeal of the 2019 Tax Year Penalty

Hearing Date: September 25, 2020

Decision Date: October 30, 2020

AUTHORITY

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

JURISDICTION

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

HEARING RECORD

The Appellant/wife appeared at the hearing, which was held by telephone, on September 25, 2020. The Appellant offered testimony under oath or affirmation. At the end of the hearing, the record was left open until October 9, 2020, for the Health Connector to submit additional evidence. On October 1, 2020, the Health Connector submitted additional evidence.

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

- Exhibit 1: Appeal Case Information from 2019 Schedule HC (1 page)
- Exhibit 2: 4/15/19 Appeal (3 pages)
- Exhibit 3: 8/8/19 Hearing Notice (2 pages)
- Exhibit 4: 3/2/19 Eligibility Approval Notice for 2019 Health Connector coverage
- Exhibit 5: 10/1/20 Health Connector Response to Request for Info (1 page)

FINDINGS OF FACT

The record shows, and I so find:

1. The Appellants appealed from the assessment of two five-month penalties against the Appellants on their 2019 income tax return. (Exhibit 1)
2. The Appellants' federal AGI in 2019 was \$50,717. The Appellants' filing status for 2019 was Married Filing Jointly with three dependents. The Appellants resided in Worcester County in 2019. The Appellants turned thirty-seven and thirty-eight years old in 2019. (Exhibit 1)
3. The Appellants had health insurance coverage through MassHealth during the first four months of 2019. (Appellant/wife's testimony; Exhibit 1)
4. The Appellant maintained the same mailing address throughout 2019. (Appellant/wife's testimony)

5. By letter dated March 2, 2019, in response to the Appellants' application for health insurance coverage, the Health Connector notified the Appellants that they were eligible for ConnectorCare Plan Type 2B with an Advance Premium Tax Credit of \$426 each month for 2019. The letter stated that the Appellants had a special enrollment period until May 1, 2019, to enroll, and that they could enroll in a Health Connector plan starting as early as April 1, 2019. (Exhibit 5)
6. The 2019 monthly premium for the lowest cost ConnectorCare Plan Type 2B was \$44. (2019 ConnectorCare Shopping Guide)
7. The Appellants never enrolled in a Health Connector plan in 2019. (Exhibit 5; Appellants' testimony)
8. The Appellants did not have health insurance coverage during the last eight months of 2019. (Exhibit 1; Appellant's testimony)
9. The Appellants' 2019 expenses for basic necessities included: home insurance, \$140; rent/town taxes, \$800; electricity, \$100; heat/hw, \$150; phones, \$180; car (gas, ins, m/r), \$455; food, \$800; clothing, \$125; credit cards, \$150; and, home-schooling supplies, \$25, for a total of \$2,925/monthly and \$35,100 for the year. (Appellant's testimony)

ANALYSIS AND CONCLUSIONS OF LAW

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

The Appellants had insurance coverage through MassHealth during first four months of 2019. The Appellants contend that they did not learn that their MassHealth coverage had terminated at the end of April 2019, until they started receiving 2019 tax-related info in early 2020; and, that, since they never needed to use the coverage throughout 2019, they had no reason to believe that their MassHealth coverage had ended in April. However, I do not find this testimony credible, since the Appellants had applied for Health Connector coverage at the beginning of March 2019 and would have received the Health Connector's notice of approval of their application by mail soon thereafter.

Moreover, the Appellants' have failed to establish that the ConnectorCare coverage offered them was unaffordable. To the contrary, while the lowest cost ConnectorCare Plan Type 2B had a monthly premium of \$44, the Appellants had 2019 income that significantly exceeded their 2019 expenses for basic necessities, as well as a \$426 monthly tax credit.

Therefore, I conclude that the Appellants could have afforded health insurance coverage throughout 2019.

Accordingly, the Appellants' two five-month penalties for 2019 shall not be waived or reduced.

PENALTY ASSESSED

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

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

OR

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

NOTIFICATION OF YOUR RIGHT TO APPEAL TO COURT

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

Hearing Officer

Cc: Connector Appeals Unit

Massachusetts Health Connector Appeals Unit

FINAL APPEAL DECISION: PA19-666

Appeal Decision Appeal Approved.

Hearing Issue: Appeal of the 2019 Tax Year Penalty

Hearing Date: October 7, 2020

Decision Date: October 30, 2020

AUTHORITY

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

JURISDICTION

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

HEARING RECORD

Appellant appeared at the hearing, which was held by telephone, on October 7, 2020. The hearing record consists of the Appellant's testimony, and the following documents which were admitted into evidence without objection by Appellant:

- Exhibit 1: Notices of Hearing (9-2-20) (2 pages);
- Exhibit 2: Information from Schedule HC TY 2019 (1 page); and
- Exhibit 3: Statement of Grounds for Appeal (5-8-20) (with documents) (9 pages).

FINDINGS OF FACT

The record shows, and I so find:

1. Appellant, age 54 during 2019, from Worcester County, filed single on the tax return with a family size of 1. (Exhibit 2).
2. Appellant did not have health insurance during 2019. (Appellant's testimony, Exhibits 2, and 3).
3. Appellant's Federal Adjusted Gross Income for 2019 was \$36,996.00 (Exhibit 2).
4. Appellant did have health insurance available through the employer, but did not believe it was affordable. Appellant had significant debt, from child support arrears, house debts, and also college expenses for Appellant's child. (Appellant's testimony, Exhibit 3).
5. Appellant's expenses for food, shelter, clothing, child support, and other necessities, used most of the income (Appellant's Testimony). The monthly expenses for food, shelter, clothing, home

repairs, vehicle expenses, child support and other necessities, totaled approximately \$2,682.00 per month averaged out, or \$32,184.00 for the year. (Appellant's Testimony, Exhibit 3).

6. I take administrative notice of the financial information set forth in Tables 1 through 6 in the DOR 2019 Massachusetts Schedule HC Health Care Instructions and Worksheets. Tables 3 and 4 incorporate affordability and premium schedules adopted by the Board of Directors for the Commonwealth Health Insurance Connector Authority for 2019. Table 2 sets forth income at 300% of the Federal poverty level and Tables 5 and 6 set forth tax penalties in effect for 2019.
7. Appellant could not afford health insurance based on the tables in Schedule HC. According to Table 4, the health insurance would cost \$406.00 for coverage for an individual. According to Table 3, Appellant was deemed to afford \$230.00.
8. Private insurance was not affordable for the Appellant in 2019. (Schedule HC for 2019).
9. Appellant's AGI was over 300% of the Federal Poverty Level, and Appellant therefore would not have qualified for subsidized health insurance through the Health Connector. (Schedule HC for 2019).
10. Appellant claimed that they should be granted a waiver based on the grounds that paying for health insurance would have caused a serious deprivation of food, shelter, clothing and other necessities during 2019. (Testimony of Appellant, Exhibit 3).
11. Appellant did not incur significant and unexpected increases in essential expenses as a result of domestic violence; due to the death of a spouse, family member, or partner who shared household expenses; the sudden responsibility for providing full care for an aging parent or other family member; or fire, flood, or other natural or man-made disaster in 2019 (Exhibit 3).
12. Appellant was not homeless, was not thirty days or more behind in rent in 2019, and Appellant did not receive a shut-off notice for basic utilities. (Appellant's Testimony, Exhibit 3).

ANALYSIS AND CONCLUSIONS OF LAW

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

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

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

market, or through a government-sponsored program. If affordable insurance was available, we must determine if such insurance was, in fact, not affordable to the Appellant because they experienced a financial hardship as defined in 956 CMR 6.08.

Private insurance was not affordable for the Appellant during 2019. According to Tables 3 and 4 of the HC Schedule for 2019, Appellant, with an adjusted gross income of \$36,996.00 was deemed to not have been able to afford health insurance on the private market. According to Table 3, Appellant could have afforded to pay \$230.00 per month; according to Table 4, Appellant, who was 54 years old in 2019, from Worcester County, and filed the 2019 Massachusetts taxes as single with a family size of 1, would have had to pay \$406.00 for coverage per month for insurance on the private market. See CMR 6.05 (1)(2), Schedule HC Tables 3 and 4, and Exhibit 2.

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

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

PENALTY ASSESSED

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

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

NOTIFICATION OF YOUR RIGHT TO APPEAL TO COURT

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

Hearing Officer

Cc: Connector Appeals Unit

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

Massachusetts Health Connector Appeals Unit

FINAL APPEAL DECISION: PA19-667

Appeal Decision Appeal Approved.

Hearing Issue: Appeal of the 2019 Tax Year Penalty

Hearing Date: October 7, 2020

Decision Date: October 30, 2020

AUTHORITY

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

JURISDICTION

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

HEARING RECORD

Appellant appeared at the hearing, which was held by telephone, on October 7, 2020. The hearing record consists of the Appellant's testimony, and the following documents which were admitted into evidence without objection by Appellant:

- Exhibit 1: Notices of Hearing (9-2-20) (2 pages);
- Exhibit 2: Information from Schedule HC TY 2019 (1 page); and
- Exhibit 3: Statement of Grounds for Appeal (5-13-20) (with letter and documents) (8 pages).

FINDINGS OF FACT

The record shows, and I so find:

1. Appellant, age 45 during 2019, from Norfolk County, filed single on the tax return with a family size of 1. (Exhibit 2).
2. Appellant did not have health insurance during 2019. (Appellant's testimony, Exhibits 2, and 3).
3. Appellant's Federal Adjusted Gross Income for 2019 was \$23,537.00 (Exhibit 2).
4. Appellant had applied for health insurance but had been denied, and he was not sure why. (Appellant's testimony, Exhibit 3).
5. Appellant's expenses for food, shelter, clothing, child support, and other necessities, used all of the income (Appellant's Testimony). The monthly expenses for food, shelter, clothing, home

repairs, vehicle expenses, child support and other necessities, totaled approximately \$2,591.00 per month averaged out, or \$31,092.00 for the year. (Appellant's Testimony, Exhibit 3).

6. I take administrative notice of the financial information set forth in Tables 1 through 6 in the DOR 2019 Massachusetts Schedule HC Health Care Instructions and Worksheets. Tables 3 and 4 incorporate affordability and premium schedules adopted by the Board of Directors for the Commonwealth Health Insurance Connector Authority for 2019. Table 2 sets forth income at 300% of the Federal poverty level and Tables 5 and 6 set forth tax penalties in effect for 2019.
7. Appellant could not afford health insurance based on the tables in Schedule HC. According to Table 4, the health insurance would cost \$350.00 for coverage for an individual. According to Table 3, Appellant was deemed to afford \$57.00.
8. Private insurance was not affordable for the Appellant in 2019. (Schedule HC for 2019).
9. Appellant's AGI was under 300% of the Federal Poverty Level, and Appellant therefore may have qualified for subsidized health insurance through the Health Connector. (Schedule HC for 2019).
10. Appellant claimed that they should be granted a waiver based on the grounds that paying for health insurance would have caused a serious deprivation of food, shelter, clothing and other necessities during 2019. (Testimony of Appellant, Exhibit 3).
11. Appellant did not incur significant and unexpected increases in essential expenses as a result of domestic violence; due to the death of a spouse, family member, or partner who shared household expenses; the sudden responsibility for providing full care for an aging parent or other family member; or fire, flood, or other natural or man-made disaster in 2019 (Exhibit 3).
12. Appellant was not homeless, was not thirty days or more behind in rent in 2019, and Appellant did not receive a shut-off notice for basic utilities. (Appellant's Testimony, Exhibit 3).

ANALYSIS AND CONCLUSIONS OF LAW

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

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

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

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

Private insurance was not affordable for the Appellant during 2019. According to Tables 3 and 4 of the HC Schedule for 2019, Appellant, with an adjusted gross income of \$23,537.00 was deemed to not have been able to afford health insurance on the private market. According to Table 3, Appellant could have afforded to pay \$57.00 per month; according to Table 4, Appellant, who was 45 years old in 2019, from Norfolk County, and filed the 2019 Massachusetts taxes as single with a family size of 1, would have had to pay \$350.00 for coverage per month for insurance on the private market. See CMR 6.05 (1)(2), Schedule HC Tables 3 and 4, and Exhibit 2.

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

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

PENALTY ASSESSED

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

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

NOTIFICATION OF YOUR RIGHT TO APPEAL TO COURT

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

Hearing Officer

Cc: Connector Appeals Unit

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

Massachusetts Health Connector Appeals Unit

FINAL APPEAL DECISION: PA19-671

Appeal Decision Appeal Approved.

Hearing Issue: Appeal of the 2019 Tax Year Penalty

Hearing Date: October 7, 2020

Decision Date: October 30, 2020

AUTHORITY

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

JURISDICTION

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

HEARING RECORD

Appellant appeared at the hearing, which was held by telephone, on October 7, 2020. The hearing record consists of the Appellant's testimony, and the following documents which were admitted into evidence without objection by Appellant:

- Exhibit 1: Notices of Hearing (9-2-20) (2 pages);
- Exhibit 2: Information from Schedule HC TY 2019 (1 page); and
- Exhibit 3: Statement of Grounds for Appeal (5-18-20) (3 pages).

FINDINGS OF FACT

The record shows, and I so find:

1. Appellant, age 51 during 2019, from Bristol County, filed single on the tax return with a family size of 1. (Exhibit 2).
2. Appellant did have health insurance for January through April of 2019, but did not have health insurance for the remaining months of 2019. (Appellant's testimony, Exhibits 2, and 3).
3. Appellant's Federal Adjusted Gross Income for 2019 was \$26,775.00 (Exhibit 2). Appellant's income during the months that Appellant had health insurance was higher than the remaining months when Appellant was receiving unemployment and did not have health insurance. (Appellant's Testimony).

4. Appellant health insurance through the employer for January through April, but was laid off and did not have health insurance for the remaining months of 2019. (Appellant's testimony, Exhibit 3).
5. Appellant now has health insurance through the employer. (Appellant's testimony).
6. Appellant's expenses for food, shelter, clothing, supporting the Appellant's mother, and other necessities, used most of the income during the period of time when Appellant was unemployed and did not have health insurance (Appellant's Testimony). The monthly expenses for food, shelter, clothing, home repairs, vehicle expenses, caregiver for mother and other necessities, totaled approximately \$1,300.00 per month averaged out, or \$15,600.00 for the year. (Appellant's Testimony, Exhibit 3).
7. I take administrative notice of the financial information set forth in Tables 1 through 6 in the DOR 2019 Massachusetts Schedule HC Health Care Instructions and Worksheets. Tables 3 and 4 incorporate affordability and premium schedules adopted by the Board of Directors for the Commonwealth Health Insurance Connector Authority for 2019. Table 2 sets forth income at 300% of the Federal poverty level and Tables 5 and 6 set forth tax penalties in effect for 2019.
8. Appellant could not afford health insurance based on the tables in Schedule HC. According to Table 4, the health insurance would cost \$406.00 for coverage for an individual. According to Table 3, Appellant was deemed to afford \$94.00.
9. Private insurance was not affordable for the Appellant in 2019. (Schedule HC for 2019).
10. Appellant's AGI was under 300% of the Federal Poverty Level, and Appellant therefore may have qualified for subsidized health insurance through the Health Connector. (Schedule HC for 2019).
11. Appellant claimed that they should be granted a waiver based on the grounds that paying for health insurance would have caused a serious deprivation of food, shelter, clothing and other necessities during 2019. (Testimony of Appellant, Exhibit 3).
12. Appellant did not incur significant and unexpected increases in essential expenses as a result of domestic violence; due to the death of a spouse, family member, or partner who shared household expenses; the sudden responsibility for providing full care for an aging parent or other family member; or fire, flood, or other natural or man-made disaster in 2019 (Exhibit 3).
13. Appellant was not homeless, was not thirty days or more behind in rent in 2019, and Appellant did not receive a shut-off notice for basic utilities. (Appellant's Testimony, Exhibit 3).

ANALYSIS AND CONCLUSIONS OF LAW

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

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

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

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

Private insurance was not affordable for the Appellant during 2019. According to Tables 3 and 4 of the HC Schedule for 2019, Appellant, with an adjusted gross income of \$26,775.00 was deemed to not have been able to afford health insurance on the private market. According to Table 3, Appellant could have afforded to pay \$94.00 per month; according to Table 4, Appellant, who was 51 years old in 2019, from Bristol County, and filed the 2019 Massachusetts taxes as single with a family size of 1, would have had to pay \$406.00 for coverage per month for insurance on the private market. See CMR 6.05 (1)(2), Schedule HC Tables 3 and 4, and Exhibit 2.

With regard to the hardship waiver of the penalty, Appellant claimed that paying for health insurance would have caused a serious deprivation of food, shelter and other necessities. Appellant's expenses for food, shelter, clothing, caregiver for mother, vehicle expenses, and other necessities used most of the income. For these reasons, the waiver of the penalty is approved.

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

PENALTY ASSESSED

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

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

NOTIFICATION OF YOUR RIGHT TO APPEAL TO COURT

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

Hearing Officer

Cc: Connector Appeals Unit

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

Appeal Decision: The penalty is overturned in full.

Hearing Issue: Appeal of the 2019 Tax Year Penalty

Hearing Date: October 8, 2020

Decision Date: October 16, 2020

AUTHORITY

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

JURISDICTION

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

HEARING RECORD

The Appellant appeared at the hearing, which was held by telephone on October 8, 2020. 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. Appellant testified.

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

- Exhibit 1: Appeal Case Information from Schedule HC. (1 page).
- Exhibit 2: Statement of Grounds for Appeal 2019 Signed by Appellant on 5/18/2020. (2 PP).
- Exhibit 2(a) Appellant's Supporting Documentation to Health Connector 2020 (1 P).
- Exhibit 2(b) Appellant's Supporting Documentation: Form 1098, Bank Statement (2 PP).
- Exhibit 3: Health Connector's Notice of Hearing dated 9/2/2020 (2 PP).

FINDINGS OF FACT

The record shows, and I so find:

1. Appellant, who filed a 2019 Massachusetts tax return reported he was single, was age 38 in 2019, lived in Middlesex County, and had filed taxes as single with a family size of 1. (Exhibit 1, Testimony of Appellant).
2. Appellant worked full time at a restaurant in 2019 and was paid \$14.50 per hour. (Testimony of Appellant).
3. Appellant testified that his full time Employer offer health insurance at approximately \$80/week, but he could not afford it. (Testimony of Appellant).

4. Appellant looked into obtaining insurance through the Connector but could not afford the \$82/month premium. (Testimony of Appellant).
5. Appellant was paying for school with a credit card where he was taking 2 classes a semester with tuition at \$5,000 a year. (Testimony of Appellant).
6. Appellant's Federal Adjusted Gross Income for 2019 was \$29,950 (Exhibit 1).
7. Appellant has been assessed a tax penalty for twelve (12) months in 2019. The Appellant has appealed this assessment (Exhibits 1, 2).
8. Appellant had the following monthly expenses for basic necessities in 2019: Rent: \$1,200.00, Cell Phone \$65, Food \$100, Credit Cards used to pay for School: \$ 300, totaling \$ 1,665. (Appellant Testimony).
9. Appellant testified his weekly net take home pay was averaged approximately \$450 a week. (Appellant Testimony).
10. Appellant he was laid off in 2020 due to the pandemic, recently returned to work but his hours are reduced because of the lack of customers at the restaurant. (Appellant Testimony).
11. According to Table 3 Appellant could have afforded \$102.38 per month for health insurance in 2019. According to Table 4 Appellant could have purchased insurance for \$286.00 per month.
12. In addition to the foregoing, I take administrative notice of the 2019 Schedule HC Instructions and Worksheets, available at <http://www.mass.gov.dor/docs/dor/health-care/2019>, and in particular, Tables 1-6 which, as discussed below, include the Affordability Schedule and other financial information used in making 2019 individual mandate tax penalty determinations.

ANALYSIS AND CONCLUSIONS OF LAW

The issue on appeal is whether the tax penalty assessed by the Massachusetts Department of Revenue for 2019 should be waived, either in whole or in part. Appellant has been assessed a tax penalty for twelve (12) months in 2019. Appellant has appealed the penalty. (See Exhibits 1 and 2).

The Appellant submit grounds with his appeal that during 2019 that the expense of purchasing health insurance would have caused a serious deprivation of food, shelter, clothing or other necessities. (Exhibit 2).

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

M.G.L. c. 111M and M.G.L. c. 176Q, as implemented by 956 CMR 6.00, which interprets the 63-day gap in coverage to be three months. The Connector's regulations provide for a waiver of the tax penalty in the case of a financial hardship. See 956 CMR 6.08.

To determine if 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 2019, \$29,950.00, was less than 300% of the federal poverty level, which for 2019 was \$36,420 for an individual with a family size of one (1). According to Table 3 of Schedule HC for 2019, the Appellant had an adjusted gross income of \$29,950 in 2019 and could have afforded \$102.38 per month. According to Table 4, Appellant, age 38 and living in Middlesex County during the time he was being penalized for not having insurance, could have purchased insurance for \$286.00 per month. Individual coverage was not affordable through the individual market for the Appellant in 2019 (Schedule HC for 2019).

The next issue to consider is whether the appellant had access to affordable employer health insurance ("ESI"). The Appellant credibly testified that health insurance was offered through his employer, but he could not afford the \$80 per week, or \$ 344 monthly premium. See 956 CMR 12.05 and 45 CFR section 155.305 (f)(1)(ii)(B). Pursuant to 26 IRC section 36B and 45 CFR section 155.305(f), applicants are eligible for an Advanced Premium Tax Credit (APTC) if they meet qualifying income levels and other eligibility requirements. Massachusetts residents may also be eligible for additional state premium assistance through the Health Connector's ConnectorCare program if: a) their household income does not exceed 300 percent of the Federal Poverty Level (FPL) and b) they are eligible for an APTC. 956 CMR 12.09(1). An applicant who has access to other qualifying health insurance, including insurance through an employer, will be blocked from eligibility for an APTC if the coverage is affordable and meets minimum value standards, as those terms are defined by the law. See 26 CFR section 1.36B-2(c)(3). Coverage for plan year 2019 is considered to be affordable if the employee's contribution for an individual plan is 9.86 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, the monthly cost for a plan through the appellant's employer was \$344. That cost is more than 9.86 percent of the appellant's projected household MAGI for 2019 (i.e.—9.86 percent of \$29,950.00 is \$2,953.07/12 or \$246/month). Hence, since the cost of employer insurance is more than \$246/month, he is considered to not have had access to qualifying employer health insurance. See 956 CMR 12.05 and 45 CFR section 155.305 (f)(1)(ii)(B). Moreover, the ESI cost of \$344 is greater than the amount he could have afforded under Table 3 of the Schedule HC (\$102.38), and as a result ESI was not affordable under Table 3.

Where the Appellant did not have access to affordable insurance through the individual market or through employer sponsored coverage, he did have access to the Health Connector. Accordingly, where the Appellant had access to insurance through the ConnectorCare program, we need to determine if the Appellant experienced a financial hardship such the coverage would have been unaffordable for him. See

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

Th Appellant testified credibly that he had the following monthly expenses for basic necessities in 2019: Rent: \$1,200.00, Cell Phone \$65, Food \$100, Credit Cards used to pay for School: \$ 300, totaling \$ 1,665.

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. The Appellant credibly testified that he could not afford \$102.38 per month as well as the cost of employer sponsored insurance of \$344/month. I find that his basic monthly expenses of \$1,665 were subsumed in his annual gross adjusted earnings of \$29,250. 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), (e), and (3) which allows consideration of financial issues raised by the Appellant on appeal.

The Appellant's penalty is, therefore, waived.

Appellant should note that any waiver granted here is for 2019 only and is based upon the specific facts I have found to be true and should not assume that the same determination will be made should Appellant be assessed a penalty in the future.

PENALTY ASSESSED

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

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

NOTIFICATION OF YOUR RIGHT TO APPEAL TO COURT

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

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: PA19-679

Appeal Decision: Penalty Overturned in Full

Hearing Issue: Appeal of the 2019 Tax Year Penalty

Hearing Date: October 9, 2020

Decision Date: October 14, 2020

AUTHORITY

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

JURISDICTION

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

HEARING RECORD

The appellants, husband and wife, appeared at the hearing which was held by telephone on October 9, 2020, and testified under oath. The hearing record consists of their testimony and the following documents which were admitted into evidence without their objection:

Ex. 1—Statement of Grounds for Appeal—2019

Ex. 2—Appeal Case Information from Schedule HC ¹

Ex.3--Notice of Hearing

FINDINGS OF FACT

The record shows, and I so find:

1. The appellant husband is 56-years-old, the wife is 61-years old, and they have two boys. In 2019, they had health insurance for the entire year. (Testimony, Ex. 1)
2. The appellants began employment in August, 2018, with a company that was acquired by an out-of-state business shortly prior to or at the beginning of 2019. They enrolled in employer health insurance for 2019 which they understood was identical or substantially similar to what they had enrolled in for 2018. In August, 2019, the employer advised the appellants, along with approximately 20 other employees in the office, that the health insurance plans it offered complied with federal minimum essential coverage (MEC) requirements, but did not comply with Massachusetts minimum creditable coverage (MCC) standards. The employer further advised its employees that as an out-of-state employer, it was unfamiliar with state requirements and believed that it was only obligated to offer insurance which met MEC requirements.

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

This was the first notice the appellants received that there was a compliance issue with their health insurance. (Testimony, Ex. 1)

3. In subsequent discussions with the employer, the appellants learned that the health insurance plans did not meet MCC requirements because there were no maternity benefits for dependents. Since the appellants had two boys, they did not believe that the lack of maternity benefits was relevant to their situation. (Testimony)
4. Towards the end of 2019, the employer advised the appellants and other employees that the health insurance plans offered for 2020 were determined to be MCC-compliant based on coverage that had been added for maternity benefits for dependents. (Testimony, Ex. 1)
5. The appellants' employer health insurance plans offered the following benefits in 2019: physician and specialty care services; preventive care; diagnostic tests; imaging; inpatient and outpatient hospital services; emergency and urgent care services; pregnancy and childbirth services; home health care and rehabilitation services; mental health and substance abuse services; and prescription drug coverage with 20% co-insurance for generic, preferred brand drugs, and non-preferred brand drugs. With the exception of preventive care for which there was no charge for in-network services, all of the foregoing in-network services required 20% co-insurance. The plan had an overall deductible of \$3,000.00 per individual, and \$6,000.00 per family for in-network providers, and \$6,000.00 per individual and \$12,000.00 per family for out-of-network providers. The out-of-pocket limits on expenses for in-network providers was \$6,450.00 per person and \$12,900.00 per family, and \$12,900.00/person and \$25,800.00/family for out-of-network providers. (Ex.1)
6. Massachusetts MCC-compliant plans must provide the following coverage: 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. Annual deductibles cannot exceed \$2000.00 for an individual and \$4000.00 for a family for in-network services. Out-of-pocket spending for in-network covered services cannot exceed \$5000.00 for an individual and \$10,000.00 for a family. Prescription drug deductibles cannot exceed \$250.00 for an individual and \$500.00 for a family, and there can be no limits on prescription drug benefits and for the amount paid for a particular illness in a single year. See 956 CMR 5.03.
<http://www.mass.gov/dor/tax-professionals/current-year-tax-information/health-care-faqs-for-insurance-carriers/general-questions.html>
7. The appellants re-enrolled in employer health insurance for 2020. (Testimony)

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

ANALYSIS AND CONCLUSIONS OF LAW

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

The appellants submitted a statement of grounds for appeal (Ex. 1), claiming that the individual mandate did not apply to them during 2019 since they purchased health insurance that didn't meet minimum creditable coverage standards because that is what their employer offered, and they felt that their circumstances prevented them from buying other insurance that met the requirements. They also submitted a letter with their statement in which they stated in part that the difference between their employer coverage and that mandated by MCC requirements was the absence of maternity benefits for dependents, something that they did not need in their family. They further stated that the cost of their employer insurance was very reasonable, and having to purchase additional coverage which complied with state standards would have been a costly expense for such an unnecessary and small benefit.

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

The appellants testified credibly that the company for whom they worked was acquired by an out-of-state business at the end of 2018 or the beginning of 2019. They testified that they enrolled in employer health insurance for 2019 and were not aware of any issues until the employer advised employees in August, 2019, that the health insurance plans it offered did not meet state MCC standards. They testified that they subsequently learned that the reason the plans were deficient was due to the absence of maternity benefits for dependents, an item which they did not need because they had two boys. Finally, they testified that the employer notified employees in December that the insurance plans it offered for 2020 were determined to be MCC-compliant based on the addition of maternity benefits for dependents.

A review of the appellants' plan indicates that in addition to the maternity care issue, the plan deviates from MCC standards in other ways as well. The individual and family deductibles for both in-network and out-of-network services is higher than that permitted by state law. Similarly, the out-of-pocket spending limits under their plan is higher than state requirements. See 956 CMR 5.03. These are not insignificant matters. While it is true that the appellants' plan complies with MEC standards of coverage required by the Affordable Care Act, the fact that a plan meets ACA standards is not by any means a guarantee that it also meets Massachusetts standards. Nonetheless, considering the totality of services offered by the appellants' plan, it is concluded that the coverage was comprehensive and covered a broad range of medical benefits as defined in 956 CMR 5.03. Furthermore, it was the only employer-sponsored insurance available to the appellants in 2019, and by the time they were made aware of the non-compliance issue in August, 2019, it was too late to remedy the situation for the remainder of the year.

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

PENALTY ASSESSED

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

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

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

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

NOTIFICATION OF YOUR RIGHT TO APPEAL TO COURT

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

Hearing Officer

Cc: Connector Appeals Unit

Massachusetts Health Connector Appeals Unit

FINAL APPEAL DECISION: PA19-680

Appeal Decision: Penalty Overturned in Full

Hearing Issue: Appeal of the 2019 Tax Year Penalty

Hearing Date: October 9, 2020

Decision Date: October 15, 2020

AUTHORITY

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

JURISDICTION

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

HEARING RECORD

The appellant appeared at the hearing which was held by telephone on October 9, 2020, and testified under oath. The hearing record consists of the appellant's testimony and the following documents which were admitted into evidence without her objection:

Ex. 1—Statement of Grounds for Appeal—2019

Ex. 2—Appeal Case Information from Schedule HC ¹

Ex.3—Notice of Hearing

FINDINGS OF FACT

The record shows, and I so find:

1. The appellant is 29-years-old and is married. In 2019, she had health insurance for the entire year. (Testimony, Ex. 1)
2. The appellant was employed by a company that was acquired by an out-of-state business shortly prior to or at the beginning of 2019. She enrolled in employer health insurance for 2019 which she understood was identical or substantially similar to what she had enrolled in for 2018. In August, 2019, the employer advised the appellant, along with approximately 20 other employees in the office, that the two health insurance plans it offered did not comply with Massachusetts minimum creditable coverage (MCC) standards. The employer further advised its employees that it would reimburse them for any penalties they were assessed for non-conforming health insurance if they filed an appeal with their tax returns

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

which was denied. This was the first notice the appellant received that there was a compliance issue with her health insurance. (Testimony, Ex. 1)

3. In subsequent discussions with the employer, the appellant learned that the health insurance plans did not meet MCC requirements because there were no maternity benefits for dependents. (Testimony)
4. In an email dated December 6, 2019, the employer advised the appellant and other employees that the health insurance plans offered for 2020 were determined to be MCC-compliant based on coverage that had been added for maternity benefits for dependents. (Testimony, Ex. 1)
5. The appellant received a MA Form 1099-HC in January, 2020 which indicated that she did not have MCC health insurance for any month in 2019. (Testimony, Ex. 1)
6. Massachusetts MCC-compliant plans must provide the following coverage: 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. Annual deductibles cannot exceed \$2000.00 for an individual and \$4000.00 for a family for in-network services. Out-of-pocket spending for in-network covered services cannot exceed \$5000.00 for an individual and \$10,000.00 for a family. Prescription drug deductibles cannot exceed \$250.00 for an individual and \$500.00 for a family, and there can be no limits on prescription drug benefits and for the amount paid for a particular illness in a single year. See 956 CMR 5.03.
<http://www.mass.gov/dor/tax-professionals/current-year-tax-information/health-care-faqs-for-insurance-carriers/general-questions.html>
7. The appellant was laid off from her position with the employer in 2020. (Testimony)

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

ANALYSIS AND CONCLUSIONS OF LAW

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

The appellant submitted a statement of grounds for appeal (Ex. 1), claiming that the individual mandate did not apply to her during 2019 since she purchased health insurance that didn't meet minimum creditable coverage standards because that is what her employer offered, and she felt that her circumstances prevented her from buying other insurance that met the requirements. She also added that employees were not notified until August, 2019, that the employer's insurance plans did not comply with MCC requirements.

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

three months are not subject to penalty. Since the appellant is considered to have been uninsured for the entire year due to the MCC issue, she was assessed and is appealing a penalty of twelve months.

The appellant testified credibly that the company for whom she worked was acquired by an out-of-state business at the end of 2018 or the beginning of 2019. She testified that she enrolled in employer health insurance for 2019 and was not aware of any issues until the employer advised employees in August, 2019, that the two health insurance plans it offered did not meet state MCC standards. She testified that the employer indicated that it would reimburse employees if they were assessed a penalty for non-compliant insurance. She testified that she subsequently learned that the reason the plans were deficient was due to the absence of maternity benefits for dependents. Finally, she testified that the employer notified employees in December that the insurance plans it offered for 2020 were determined to be MCC-compliant based on the addition of maternity benefits for dependents.

The appellant did not submit a summary of benefits offered by her 2019 health insurance, and no Open Record Request was made because the appellant is no longer employed by the same employer. Notwithstanding the fact that no side-by-side comparison could be performed between her plan and Massachusetts standards, since the appellant had no knowledge of MCC issues with her insurance until August, 2019, it was too late in the year to remedy the matter.

Based on the totality of the evidence, it is concluded that the appellant was unaware of MCC problems until August, 2019 when there was insufficient time to do anything to cure the issue for the rest of the year. Accordingly, her request for a waiver of the penalty is **granted** for the months in question. The determination that she is eligible for a waiver is with respect to 2019, only and is based upon the extent of information submitted by her in this appeal.

PENALTY ASSESSED

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

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

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

NOTIFICATION OF YOUR RIGHT TO APPEAL TO COURT

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

Hearing Officer

Cc: Connector Appeals Unit

Massachusetts Health Connector Appeals Unit

FINAL APPEAL DECISION: PA19-724

Appeal Decision: Appeal Denied.

Hearing Issue: Appeal of the 2019 Tax Year Penalty

Hearing Date: October 16, 2020

Decision Date: October 21, 2020

AUTHORITY

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

JURISDICTION

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

HEARING RECORD

The Appellant appeared at the hearing, which was held by telephone, on October 16, 2020. The 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 September 17, 2020.
- Exhibit 2: Appeal Case Information from Schedule HC 2019.
- Exhibit 3: Statement of Grounds for Appeal signed by the Appellant on May 27, 2020.
- Exhibit 4: Appellant's letter in support of this appeal, with attachments.

FINDINGS OF FACT

The record shows, and I so find:

1. The Appellant turned 32 years old in October 2019. The Appellant filed their Federal Income Tax return as a single person with no dependents claimed (Exhibit 2).
2. The Appellant lived in Middlesex County, MA in 2019 (Exhibit 2).
3. The Appellant's Federal Adjusted Gross Income for 2019 was \$52,530 (Exhibit 2).
4. The Appellant did not have health insurance for any months in tax year 2019 (Exhibit 2).
5. The Appellant has been assessed a twelve-month tax penalty for 2019. The Appellant filed an appeal of the assessment in May 2020 (Exhibits 2, 3, 4).
6. I take administrative notice of the financial information set forth in Tables 1 through 6 in the DOR 2019 Massachusetts Schedule HC Health Care Instructions and Worksheets. Tables 3 and 4

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

7. In accordance with Table 3 of Schedule HC for 2019, the Appellant filing the Federal tax return as a single person, with no dependents claimed, with an annual adjusted gross income of \$52,530 could afford to pay \$350 per month for health insurance. In accordance with Table 4, the Appellant, age 32, living in Middlesex County, could have purchased private insurance for \$279 per month for a single plan (Schedule HC for 2019). Private insurance was affordable for the Appellant.
8. The Appellant testified that their employer offered health insurance at a cost of \$50 bi-weekly. The monthly cost of \$106.30 is less than the \$350 deemed affordable to the Appellant in accordance with Table 3 of Schedule HC for 2019.
9. The Appellant's income was greater than 300% of the federal poverty level, which was \$36,420 in 2019. The Appellant's income and access to affordable employer sponsored health insurance rendered the Appellant ineligible for ConnectorCare in tax year 2019 (See Table 2 of Schedule HC-2019 and 956 CMR 12.04).
10. The Appellant filed an appeal in May 2020 alleging that purchasing health insurance would have caused them to experience a deprivation of food, clothing, shelter and/or other necessities. The Appellant wrote that their income was lower in tax years 2017 and 2018. The Appellant submitted income tax documentation for tax year 2018 with their appeal request (Exhibits 3, 4).
11. The Appellant lives in a shared housing arrangement. The Appellant's 2019 monthly living expenses of \$2,983 included: rent, heat, and electricity-\$1,300; car loan-\$200; car insurance-\$150; food-\$200; a loan payment-\$700 and gasoline-\$433. The Appellant testified that they travel for work and therefore their gasoline use is high. The Appellant is under someone else's phone plan and does not have telephone expenses. The Appellant said that because they had lower income in tax years 2017 and 2018, they were trying to catch up. The Appellant said that in 2019 they were 32 years old, relatively healthy and preferred to have the extra \$100 in their pocket rather than sign up for their employer sponsored health insurance (Exhibit 4 and Appellant Testimony).
12. The Appellant did not fall behind in their rent or utility payments and did not incur any unexpected expenses due to a family emergency or other unexpected natural or human caused disaster (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 did not have health insurance for any months in tax year 2019 and has consequently been assessed a twelve-month penalty. The Appellant submitted a statement of grounds for this appeal on the basis of financial hardship.

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

In accordance with Table 3 of Schedule HC for 2019, the Appellant filing the Federal tax return as a single person with no dependents claimed, with an adjusted gross income of \$52,530 could afford to pay \$350 per month for health insurance. In accordance with Table 4, the Appellant, age 32, living in Middlesex County, could have purchased private insurance for \$279 per month for a plan (Schedule HC for 2019). Private insurance was affordable for the Appellant in 2019.

The Appellant also had access to employer sponsored health insurance at a cost of \$50-bi-weekly. The monthly cost of \$106.30 is less than the \$350 deemed affordable to the Appellant in accordance with Table 3 of Schedule HC for 2019. Affordable health insurance was available to the Appellant through their employer in tax year 2019.

The Appellant's income of \$52,530 was greater than 300% of the federal poverty level, which was \$36,420 in 2019, Due to this income and the fact that the Appellant had access to affordable employer sponsored health insurance, the Appellant was not eligible for ConnectorCare in tax year 2019 (See Table 2 of Schedule HC-2018 and 956 CMR 12.04). Since affordable insurance was available to the Appellant in 2019, it must be determined whether the Appellant experienced a financial hardship pursuant to 956 CMR 6.08 (1).

The Appellant testified that their income was substantially lower in tax years 2017 and 2018. The Appellant said that in tax year 2019 they were trying to catch up. The Appellant explained that as a 32-year-old relatively healthy person, health insurance was not a priority and they preferred to have the extra \$100 in their pocket rather than pay for the employer sponsored health insurance.

The Appellant testified to monthly living expenses of \$2,983 which included a \$700 loan payment. The Appellant lived in a shared housing arrangement. The Appellant did not face eviction, receive utility shut off notices or experience a family or other emergency that resulted in unexpected expenses in tax year 2019. Given the Appellant's income of \$52,530 and the fact that the Appellant had access to employer sponsored health insurance at a cost of \$106.30 per month, the Appellant has failed to demonstrate that the cost of purchasing health insurance for 2019 would have caused the Appellant to experience a serious financial hardship. See 956 CMR 6.08. The Appellant's twelve-month penalty is upheld.

PENALTY ASSESSED

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

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

NOTIFICATION OF YOUR RIGHT TO APPEAL TO COURT

If you disagree with this decision, you have the right to appeal to Court in accordance with 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: PA19-725

Appeal Decision: Appeal Approved in Part and Denied in Part.

Hearing Issue: Appeal of the 2019 Tax Year Penalty

Hearing Date: October 16, 2020

Decision Date: October 21, 2020

AUTHORITY

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

JURISDICTION

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

HEARING RECORD

The Appellant appeared at the hearing, which was held by telephone, on October 16, 2020. The 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 September 17, 2020.
- Exhibit 2: Appeal Case Information from Schedule HC 2019.
- Exhibit 3: Statement of Grounds for Appeal signed by the Appellant on May 23, 2020.
- Exhibit 4: Appellant's letter in support of this appeal, with attachments.

FINDINGS OF FACT

The record shows, and I so find:

1. The Appellant turned 38 years old in May 2019. The Appellant filed their Federal Income Tax return as a single person with no dependents claimed (Exhibit 2).
2. The Appellant lived in Suffolk County, MA in 2019 (Exhibit 2).
3. The Appellant's Federal Adjusted Gross Income for 2019 was \$52,614 (Exhibit 2).
4. According to the information on the Schedule HC 2019, the Appellant did not have health insurance for the months of January through August in tax year 2019 (Exhibit 2).
5. The Appellant has been assessed a five-month tax penalty for 2019. The Appellant filed an appeal of the assessment in May 2020 (Exhibits 2, 3, 4).

6. I take administrative notice of the financial information set forth in Tables 1 through 6 in the DOR 2019 Massachusetts Schedule HC Health Care Instructions and Worksheets. Tables 3 and 4 incorporate affordability and premium schedules adopted by the Board of Directors for the Commonwealth Health Insurance Connector Authority for 2019. Table 2 sets forth income at 300% of the Federal poverty level and Tables 5 and 6 set forth tax penalties in effect for 2019.
7. In accordance with Table 3 of Schedule HC for 2019, the Appellant filing the Federal tax return as a single person, with no dependents claimed, with an annual adjusted gross income of \$52,614 could afford to pay \$351 per month for health insurance. In accordance with Table 4, the Appellant, age 38, living in Suffolk County, could have purchased private insurance for \$286 per month for a single plan (Schedule HC for 2019). Private insurance was affordable for the Appellant.
8. The Appellant testified that for the months of January through July they were working out of state and did not have access to employer sponsored health insurance. The Appellant's income was greater than 300% of the federal poverty level, which was \$36,420 in 2019. The Appellant was not financially eligible for ConnectorCare in tax year 2019 (See Table 2 of Schedule HC-2019 and 956 CMR 12.04).
9. The Appellant testified that they had health insurance from two sources in tax year 2019. The Appellant explained that they used the TurboTax program to file their tax return, but the program would only allow them to enter one 1099-HC form. The Appellant indicated that they received treatment at a hospital and the hospital helped them apply for MassHealth. The Appellant had MassHealth for the months of August through November. The Appellant said that they had insurance through their in-state employer for the months of September through December. The Appellant's credible testimony is supported by the Form 1095B for 2019 submitted by the Appellant with their appeal and their Schedule HC-2019 (Exhibits 2, 3, 4).
10. The Appellant had health insurance for the five-month period of August through December in tax year 2019 (Exhibits 2, 4 and Appellant Testimony)
11. The Appellant's 2019 monthly living expenses of \$1,512 included: rent-\$300; heat and electricity-\$100; car insurance-\$180; gasoline-\$130; telephone-\$102 and food-\$700. The Appellant testified that in addition to these expenses, they send \$400 per month to help support two children living out of state (Appellant Testimony).
12. The Appellant did not fall behind in their rent or utility payments and did not incur any unexpected expenses due to a family emergency or other unexpected natural or human caused disaster (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.

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

In accordance with Table 3 of Schedule HC for 2019, the Appellant filing the Federal tax return as a single person with no dependents claimed, with an adjusted gross income of \$52,614 could afford to pay \$351 per month for health insurance. In accordance with Table 4, the Appellant, age 38, living in Suffolk County, could have purchased private insurance for \$286 per month for a plan (Schedule HC for 2019). Private insurance was affordable for the Appellant in 2019.

The Appellant did not have access to employer sponsored health insurance for the period of January through July in tax year 2019. The Appellant’s income of \$52,614 was greater than 300% of the federal poverty level, which was \$36,420 in 2019, The Appellant was not eligible for ConnectorCare in tax year 2019 (See Table 2 of Schedule HC-2018 and 956 CMR 12.04). Since affordable insurance was available to the Appellant in 2019, it must be determined whether the Appellant experienced a financial hardship pursuant to 956 CMR 6.08 (1).

The Appellant testified to monthly living expenses of \$1,512. The Appellant also mentioned that they send \$400 monthly to help support two of their children who live out of state. The Appellant did not face eviction, receive utility shut off notices or experience a family or other emergency that resulted in unexpected expenses in tax year 2019. Given the Appellant’s income of \$52,614 and the fact that private insurance was available at a monthly cost of \$286, the Appellant has failed to demonstrate that the cost of purchasing health insurance for the period of January through July 2019 would have caused the Appellant to experience a serious financial hardship. See 956 CMR 6.08.

According to the information in the Appellant’s Schedule HC 2019, the Appellant had health insurance for the four-month period of September through December only in tax year 2019 and has consequently been assessed a five-month penalty. The Appellant submitted a statement of grounds for this appeal and a Form 1095B verifying that the Appellant had MassHealth Coverage for the four-month period of August through November in tax year 2019. These documents verify that the Appellant had health insurance for the five-month period of August through December in tax year 2019. Since the Appellant did not have health insurance for the period of January through July and did not demonstrate significant financial hardship in tax year 2019, the Appellant is subject to a four-month penalty.

PENALTY ASSESSED

Number of Months Appealed: 5 Number of Months Assessed: 4

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

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: PA19-732

Appeal Decision Appeal Allowed

Hearing Issue: Appeal of the 2019 Tax Year Penalty

Hearing Date: October 19, 2020

Decision Date: October 30, 2020

AUTHORITY

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

JURISDICTION

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

HEARING RECORD

The Appellant appeared at the hearing, which was held by telephone, on October 19, 2020. The procedures to be followed during the hearing were reviewed with the Appellant who was then sworn in. Exhibits were marked and admitted into evidence with no objection from the Appellant. The record was left open for Appellant to provide documents reflecting health insurance during part of 2019.

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

- Exhibit 1: Notice of Hearing dated September 24, 2020
- Exhibit 2: Appeal Case Information from form Schedule HC
- Exhibit 3: Statement of Grounds for Appeal dated May 25, 2020
- Exhibit 4: Open Record Documents

FINDINGS OF FACT

The record shows, and I so find:

1. The appellant is fifty-three years old and is single. She lives in Norfolk County, Massachusetts. Appellant works in a medical business.
2. Appellant had health insurance for part of the time in 2019. She provided documents that showed she had coverage in January through April and December of 2019.
3. Appellant was suddenly laid off in April 2019. Her employer contested her unemployment, so Appellant did not start receiving benefits until June of 2019. She had no income during those months.
4. Appellant does have health insurance in 2020.
5. The Appellant did submit a Statement of Grounds for Appeal-2019 “During 2019, the expense of purchasing health insurance would have caused a serious deprivation of food, shelter, clothing or other necessities”.
6. I take administrative notice of the information set forth in tables 1 through 6 in the Department of Revenue Schedule HC Health Care Instructions and Worksheets (Schedule HC Instructions). Tables 3 & 4 incorporate the affordability schedules adopted by the board of directors of the Commonwealth Health Insurance Connector Authority for 2019. Table 1 sets forth the income eligibility standards for various family sizes at 150% of the federal poverty level and Table 2 sets forth the income eligibility standards for various family sizes at 300 per cent of the federal poverty level, which is the income eligibility standard for the government-subsidized health insurance program. See Mass. G.L. c. 118H, s.3(a)(1). Tables 5 and 6 set forth the tax penalties for 2019.
7. Based on the appellant’s federal adjusted gross income and the above referenced tables, I find the appellant would not have been eligible for subsidized health insurance, since Appellant’s income of \$69,095.00 was more than \$36,420.00. The monthly premium for health insurance available on the private market in Norfolk County for a 51 year old single person was \$406.00. The tables reflect that Appellant could afford \$460.63 This is less than what the appellant is deemed to afford. (Tables 2, 3 & 4 of the Schedule HC Instructions)

ANALYSIS AND CONCLUSIONS OF LAW

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

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

Appellant had health insurance in 2019 for the months January through April and December 2019. She was laid off in April 2019 but her employer contested her unemployment, so she did not receive any benefits until June 2019.

The Health Care Reform Act of 2006 requires every adult resident of Massachusetts to obtain and maintain creditable insurance coverage “so long as it is deemed affordable” under the schedule established by the board of the Connector. Mass. Gen. Laws ch. 111M, § 2(a). Massachusetts residents who fail to indicate on their state tax returns that they obtained the mandated creditable coverage are subject to a tax penalty for each month in which that the individual did not have creditable health insurance. *Id.* at § 2(b). However, individuals with incomes up to 150 percent of the Federal Poverty Level (“FPL”) are not subject to any penalty for non-compliance with the individual mandate. See Massachusetts Department of Revenue Technical Information Release (“TIR”) 13-1, available at <http://www.mass.gov/dor/businesses/help-and-resources/legal-library/tirs/tirs-by-years/2013-releases/tir-13-1.html>. For 2019, 150 percent of the FPL was \$18,210.00 for a single person. *Id.* In addition, a lapse in coverage of 63 days or less is not subject to the section 2(b) penalty. See Administrative Bulletin 03-10 (Dec. 7, 2010), available at <https://www.mahealthconnector.org/portal/binary/com.epicentric.contentmanagement.servlet.ContentDeliveryServlet/Health%2520Care%2520Reform/Regulations/documents/Administrative%20Information%20Bulletin%2003-10.pdf>; see also 830 Mass. Code Regs. 111M.2.1(5)(c) (2008). Thus, no penalty is imposed for lapses in coverage consisting of three or fewer consecutive calendar months. *Id.*

Since Appellant’s 2019 income was more than 150 percent of the FPL, making 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 2019. In determining affordability, consideration is given first to the amount Appellant is deemed able to afford for health insurance premiums under the Affordability Schedule and second to the cost of health insurance that was available through employer-sponsored plans, government-subsidized programs or on the private insurance market. See 2019 Schedule HC Instructions and Worksheets, *supra*.

Appellant reported a federal AGI of \$69,095.00 in 2019, and Appellant’s filing status was single. EX 2. According to the Affordability Schedule established by the Connector’s board and included in the Instructions and Worksheets of the 2019 Massachusetts Schedule HC, Appellant could afford to pay \$460.63 monthly for health insurance. See 2019 Schedule HC Instructions and Worksheets, *supra* at Table 3. Private insurance would have been available to her from the Premium Tables, at a cost of \$406.00 monthly for coverage. *Id.* at Table 4.

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

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

Appellant is deemed to afford \$460.63 for health insurance coverage because of her income. Private insurance in the market place was \$406.00 per month, which is less than she could afford. She had health insurance in 2019 for five months. In addition, her employer contested her unemployment and Appellant did not have any income for a few months. On these facts, I find that Appellant has shown that she was precluded from purchasing affordable health insurance during 2019. 956 Mass. Code Regs. 6.08(3) (2008). Accordingly, I conclude that she is exempt from a tax penalty for her non-compliance with the individual mandate.

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

PENALTY ASSESSED

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

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

OR

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

NOTIFICATION OF YOUR RIGHT TO APPEAL TO COURT

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

Hearing Officer

Cc: Connector Appeals Unit

Massachusetts Health Connector Appeals Unit

FINAL APPEAL DECISION: PA19-733

Appeal Decision Appeal Approved

Hearing Issue: Appeal of the 2019 Tax Year Penalty

Hearing Date: October 19, 2020

Decision Date: October 30, 2020

AUTHORITY

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

JURISDICTION

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

HEARING RECORD

The Appellants appeared at the hearing, which was held by telephone, on October 19, 2020.

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

Exhibit 1: Notice of Hearing dated September 24, 2020

Exhibit 2: Appeal Case Information from form Schedule HC

Exhibit 3: Statement of Grounds for Appeal dated May 26, 2019

FINDINGS OF FACT

The record shows, and I so find:

1. The appellant is thirty-two years old and her husband is thirty-one years old. They live in Middlesex County, Massachusetts.

2. Appellant stated that in 2019 the Appellants had health insurance for one month through the Health Connector but the cost of the premium went from \$269.00 up to \$550.00 and they could not afford the health insurance. The Appellant works in the legal field and her husband works in the construction field. Appellant has separated from her husband at this time.
3. In 2019 the electric was turned off twice but turned back on for failure to pay the bill.
4. Appellants do have health insurance in 2020.
5. The Appellants monthly expenses totaled \$6,258.00, consisting of mortgage \$1,600.00, electric \$200.00, oil \$220.00 internet & cable \$180.00, cell phone \$250.00, , car payments \$1,000.00, car insurance \$328.00, car gas \$480.00 food \$600.00, credit card \$500.00, entertainment \$600.00, clothing \$300.00.
6. The appellant did submit a Statement of Grounds for Appeal-2018 under the grounds for Appeal, “ During 2018, the expense of purchasing health insurance would have caused a serious deprivation of food, shelter, clothing or other necessities.” And “During 2019, you received a shut-off notice, were shut-off; or were refused delivery of essential utilities (gas, electric, heating oil, water, primary telephone)
7. I take administrative notice of the information set forth in tables 1 through 6 in the Department of Revenue Schedule HC Health Care Instructions and Worksheets (Schedule HC Instructions). Tables 3 & 4 incorporate the affordability schedules adopted by the board of directors of the Commonwealth Health Insurance Connector Authority for 2018. Table 1 sets forth the income eligibility standards for various family sizes at 150% of the federal poverty level and Table 2 sets forth the income eligibility standards for various family sizes at 300 per cent of the federal poverty level, which is the income eligibility standard for the government-subsidized health insurance program. See Mass. G.L. c. 118H, s.3(a)(1). Tables 5 and 6 set forth the tax penalties for 2018.
8. Based on the appellant’s federal adjusted gross income and the above referenced tables, I find the appellant would not have been eligible for subsidized health insurance, since Appellant’s income of \$110,034.00 was more than \$88,260.00. The monthly premium for health insurance available on the private market in Middlesex County for a 32 year old married person with three dependents was \$713.00. The tables reflect that Appellants could afford \$733.56. This is less than what the appellant is deemed to afford. (Tables 2, 3 & 4 of the Schedule HC Instructions)

ANALYSIS AND CONCLUSIONS OF LAW

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

The appellant did submit a Statement of Grounds for Appeal-2018 under the grounds for Appeal, “During 2018, the expense of purchasing health insurance would have caused a serious deprivation of food, shelter, clothing or other necessities.” And “During 2019, you received a shut-off notice, were shut-off; or were refused delivery of essential utilities (gas, electric, heating oil, water, primary telephone)

The Health Care Reform Act of 2006 requires every adult resident of Massachusetts to obtain and maintain creditable insurance coverage “so long as it is deemed affordable” under the schedule established by the board of the Connector. Mass. Gen. Laws ch. 111M, § 2(a). Massachusetts residents who fail to indicate on their state tax returns that they obtained the mandated creditable coverage are subject to a tax penalty for each month in which that the individual did not have creditable health insurance. *Id.* at § 2(b). However, individuals with incomes up to 150 percent of the Federal Poverty Level (“FPL”) are not subject to any penalty for non-compliance with the individual mandate. See Massachusetts Department of Revenue Technical Information Release (“TIR”) 13-1, available at <http://www.mass.gov/dor/businesses/help-and-resources/legal-library/tirs/tirs-by-years/2013-releases/tir-13-1.html>. For 2018, 150 percent of the FPL was \$44,130.00 for a married person with three dependents. *Id.* In addition, a lapse in coverage of 63 days or less is not subject to the section 2(b) penalty. See Administrative Bulletin 03-10 (Dec. 7, 2010), available at <https://www.mahealthconnector.org/portal/binary/com.epicentric.contentmanagement.servlet.ContentDeliveryServlet/Health%2520Care%2520Reform/Regulations/documents/Administrative%20Information%20Bulletin%2003-10.pdf>; see also 830 Mass. Code Regs. 111M.2.1(5)(c) (2008). Thus, no penalty is imposed for lapses in coverage consisting of three or fewer consecutive calendar months. *Id.*

Since Appellant’s 2018 income was more than 150 percent of the FPL, making them potentially subject to an individual mandate penalty, the threshold issue to be addressed is whether creditable health insurance coverage was affordable to them in 2018. 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 2018 Schedule HC Instructions and Worksheets, *supra*.

Appellant stated that in 2019 the cost of their health premium went up from \$269.00 to \$550.00. In addition, the electric company turned off the Appellants electricity twice in 2019.

Appellant reported a federal AGI of \$110,034.00 in 2019, and Appellant’s filing status was married. EX 2. According to the Affordability Schedule established by the Connector’s board and included in the Instructions and Worksheets of the 2018 Massachusetts Schedule HC, Appellant could afford to pay \$733.56 monthly for health insurance. See 2018 Schedule HC Instructions and Worksheets, *supra* at Table 3. Private insurance would have been available to them from the Premium Tables, at a cost of \$713.00 monthly for coverage. *Id.* at Table 4.

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

Appellant is deemed to afford 733.56 for health insurance coverage because of their income. Private insurance in the market place was \$713.00 per month, which is less than they could afford. Appellant’s health insurance increased from \$269.00 up to \$550.00 and they had their electricity turned off twice. On these facts, I find that Appellants have shown that they were precluded from purchasing affordable health insurance during 2018. 956 Mass. Code Regs. 6.08(3) (2008). Accordingly, I conclude that they are exempt from a tax penalty for their non-compliance with the individual mandate.

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

PENALTY ASSESSED

Number of Months Appealed: 16 Number of Months Assessed: 0

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

OR

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

NOTIFICATION OF YOUR RIGHT TO APPEAL TO COURT

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

Hearing Officer

Cc: Connector Appeals Unit

Massachusetts Health Connector Appeals Unit

FINAL APPEAL DECISION: PA19-734

Appeal Decision Appeal Allowed

Hearing Issue: Appeal of the 2019 Tax Year Penalty

Hearing Date: October 19, 2020

Decision Date: October 28, 2020

AUTHORITY

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

JURISDICTION

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

HEARING RECORD

The Appellant appeared at the hearing, which was held by telephone, on October 19, 2020. The procedures to be followed during the hearing were reviewed with the Appellant who was then sworn in. Exhibits were marked and admitted into evidence with no objection from the Appellant.

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

- Exhibit 1: Notice of Hearing dated September 24, 2020
- Exhibit 2: Appeal Case Information from form Schedule HC
- Exhibit 3: Statement of Grounds for Appeal dated May 22, 2020
- Exhibit 4: Written Statement of Appeal

FINDINGS OF FACT

The record shows, and I so find:

1. The appellant is sixty years old and is single. She lives in Worcester County, Massachusetts. Appellant works in a medical business.
2. Appellant had a job with health insurance in 2019. She was unexpectedly laid off in April 2019. Appellant worked to receive unemployment benefits. Appellant expected to be employed quickly but it did not happen. She became employed at two part-time jobs in August 2019 but neither job offered her benefits. Appellant was not aware that there was a penalty in Massachusetts for not obtaining health insurance. Appellant obtained a job in December 2019 and received health insurance in December 2019.
3. Appellant does have health insurance in 2020.
4. The Appellant's monthly expenses totaled \$1,789.00, consisting of taxes \$366.00, cell phone \$60.00, food \$300.00, car payment \$278.00 car insurance \$160.00, car gas \$50.00, credit card \$300.00, clothing \$25.00, entertainment \$200.00, toiletries \$25.00, life insurance \$25.00.
5. The Appellant did submit a Statement of Grounds for Appeal-2019 "Other. During 2019 other circumstances, such as applying the Affordability Tables in Schedule HC to you is inequitable." but should also have appealed under "During 2019, the expense of purchasing health insurance would have caused a serious deprivation of food, shelter, clothing or other necessities" . I will hear her appeal under both these grounds.
6. I take administrative notice of the information set forth in tables 1 through 6 in the Department of Revenue Schedule HC Health Care Instructions and Worksheets (Schedule HC Instructions). Tables 3 & 4 incorporate the affordability schedules adopted by the board of directors of the Commonwealth Health Insurance Connector Authority for 2019. Table 1 sets forth the income eligibility standards for various family sizes at 150% of the federal poverty level and Table 2 sets forth the income eligibility standards for various family sizes at 300 per cent of the federal poverty level, which is the income eligibility standard for the government-subsidized health insurance program. See Mass. G.L. c. 118H, s.3(a)(1). Tables 5 and 6 set forth the tax penalties for 2019.
7. Based on the appellant's federal adjusted gross income and the above referenced tables, I find the appellant may have been eligible for subsidized health insurance, since Appellant's income of \$32,609.00 was less than \$36,420.00. The monthly premium for health insurance available on the private market in Worcester County for a 59 year old single person was \$418.00. The tables reflect that Appellant could afford \$135.87 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 had health insurance in 2019 until she was laid off. She then obtained two part-time jobs that did not offer health insurance until she obtained another job which offered health insurance in December 2019.

The Appellant did submit a Statement of Grounds for Appeal-2019 “Other. During 2019 other circumstances, such as applying the Affordability Tables in Schedule HC to you is inequitable.” but should also have appealed under “During 2019, the expense of purchasing health insurance would have caused a serious deprivation of food, shelter, clothing or other necessities” . I will hear her appeal under both these 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 2019, 150 percent of the FPL was \$18,210.00 for a single person . *Id.* In addition, a lapse in coverage of 63 days or less is not subject to the section 2(b) penalty. See Administrative Bulletin 03-10 (Dec. 7, 2010), available at <https://www.mahealthconnector.org/portal/binary/com.epicentric.contentmanagement.servlet.ContentDeliveryServlet/Health%2520Care%2520Reform/Regulations/documents/Administrative%20Information%20Bulletin%2003-10.pdf>; see also 830 Mass. Code Regs. 111M.2.1(5)(c) (2008). Thus, no penalty is imposed for lapses in coverage consisting of three or fewer consecutive calendar months. *Id.*

Since Appellant’s 2019 income was more than 150 percent of the FPL, making 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 2019. In determining affordability, consideration is given first to the amount Appellant is deemed able to afford for health insurance premiums under the Affordability Schedule and second to the cost of health insurance that was available through employer-sponsored plans, government-subsidized programs or on the private insurance market. See 2019 Schedule HC Instructions and Worksheets, *supra*.

Appellant reported a federal AGI of \$32,609.00 in 2019, and Appellant’s filing status was single . EX 2. According to the Affordability Schedule established by the Connector’s board and included in the Instructions and Worksheets of the 2019 Massachusetts Schedule HC, Appellant could afford to pay \$135.87 monthly for health insurance. See 2019 Schedule HC Instructions and Worksheets, *supra* at

Table 3. Private insurance would have been available to her from the Premium Tables, at a cost of \$418.00 monthly for coverage. *Id.* at Table 4.

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

Appellant is deemed to afford \$135.87 for health insurance coverage because of her income. Private insurance in the market place was \$418.00 per month, which is more than she could afford. She had health insurance in 2019 until she was laid off in April 2019. On these facts, I find that Appellant has shown that she was precluded from purchasing affordable health insurance during 2019. 956 Mass. Code Regs. 6.08(3) (2008). Accordingly, I conclude that she is exempt from a tax penalty for her non-compliance with the individual mandate.

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

PENALTY ASSESSED

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

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

OR

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

NOTIFICATION OF YOUR RIGHT TO APPEAL TO COURT

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

Hearing Officer

Cc: Connector Appeals Unit

Massachusetts Health Connector Appeals Unit

FINAL APPEAL DECISION: PA19-735

Appeal Decision Appeal Allowed

Hearing Issue: Appeal of the 2019 Tax Year Penalty

Hearing Date: October 19, 2020

Decision Date: October 30, 2020

AUTHORITY

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

JURISDICTION

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

HEARING RECORD

The Appellant appeared at the hearing, which was held by telephone, on October 19, 2020. The procedures to be followed during the hearing were reviewed with the Appellant who was then sworn in. Exhibits were marked and admitted into evidence with no objection from the Appellant.

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

- Exhibit 1: Notice of Hearing dated September 24, 2020
- Exhibit 2: Appeal Case Information from form Schedule HC
- Exhibit 3: Statement of Grounds for Appeal dated May 29, 2020
- Exhibit 4: Written Statement of Appeal

FINDINGS OF FACT

The record shows, and I so find:

1. The appellant is thirty-one years old and is single. She lives in Norfolk County, Massachusetts. Appellant works in a retail business.
2. Appellant had health insurance in 2019. She was paying \$200.00 a month and did not find out until the end of 2019 that her health insurance did not qualify for coverage in Massachusetts. Her company that she worked for part-time did not offer her health insurance.
3. Appellant does have health insurance in 2020.
4. The Appellant's monthly expenses totaled \$2,226.00, consisting of rent \$650.00, heat & light \$100.00 cell phone \$100.00, food \$250.00, car payment \$224.00 car insurance \$170.00, car gas \$100.00, credit card \$400.00, clothing \$60.00, entertainment \$75.00, toiletries \$50.00.
5. The Appellant did not submit a Statement of Grounds for Appeal-2019 but should have under "Other. During 2019 other circumstances, such as applying the Affordability Tables in Schedule HC to you is inequitable." and should also have appealed under "During 2019, the expense of purchasing health insurance would have caused a serious deprivation of food, shelter, clothing or other necessities" . I will hear her appeal under both these grounds.
6. I take administrative notice of the information set forth in tables 1 through 6 in the Department of Revenue Schedule HC Health Care Instructions and Worksheets (Schedule HC Instructions). Tables 3 & 4 incorporate the affordability schedules adopted by the board of directors of the Commonwealth Health Insurance Connector Authority for 2019. Table 1 sets forth the income eligibility standards for various family sizes at 150% of the federal poverty level and Table 2 sets forth the income eligibility standards for various family sizes at 300 per cent of the federal poverty level, which is the income eligibility standard for the government-subsidized health insurance program. See Mass. G.L. c. 118H, s.3(a)(1). Tables 5 and 6 set forth the tax penalties for 2019.
7. Based on the appellant's federal adjusted gross income and the above referenced tables, I find the appellant would not have been eligible for subsidized health insurance, since Appellant's income of \$42,411.00 was more than \$36,420.00. The monthly premium for health insurance available on the private market in Norfolk County for a 30 year old single person was \$257.00. The tables reflect that Appellant could afford \$263.30 This is less than what the appellant is deemed to afford. (Tables 2, 3 & 4 of the Schedule HC Instructions)

ANALYSIS AND CONCLUSIONS OF LAW

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

The Appellant did not submit a Statement of Grounds for Appeal-2019 but should have under “Other. During 2019 other circumstances, such as applying the Affordability Tables in Schedule HC to you is inequitable.” and should also have appealed under “During 2019, the expense of purchasing health insurance would have caused a serious deprivation of food, shelter, clothing or other necessities” . I will hear her appeal under both these grounds.

Appellant had health insurance in 2019 but it did not meet Massachusetts health standards. Appellant did not find out that fact until the end of 2019.

The Health Care Reform Act of 2006 requires every adult resident of Massachusetts to obtain and maintain creditable insurance coverage “so long as it is deemed affordable” under the schedule established by the board of the Connector. Mass. Gen. Laws ch. 111M, § 2(a). Massachusetts residents who fail to indicate on their state tax returns that they obtained the mandated creditable coverage are subject to a tax penalty for each month in which that the individual did not have creditable health insurance. *Id.* at § 2(b). However, individuals with incomes up to 150 percent of the Federal Poverty Level (“FPL”) are not subject to any penalty for non-compliance with the individual mandate. See Massachusetts Department of Revenue Technical Information Release (“TIR”) 13-1, available at <http://www.mass.gov/dor/businesses/help-and-resources/legal-library/tirs/tirs-by-years/2013-releases/tir-13-1.html>. For 2019, 150 percent of the FPL was \$18,210.00 for a single person . *Id.* In addition, a lapse in coverage of 63 days or less is not subject to the section 2(b) penalty. See Administrative Bulletin 03-10 (Dec. 7, 2010), available at <https://www.mahealthconnector.org/portal/binary/com.epicentric.contentmanagement.servlet.ContentDeliveryServlet/Health%2520Care%2520Reform/Regulations/documents/Administrative%20Information%20Bulletin%2003-10.pdf>; see also 830 Mass. Code Regs. 111M.2.1(5)(c) (2008). Thus, no penalty is imposed for lapses in coverage consisting of three or fewer consecutive calendar months. *Id.*

Since Appellant’s 2019 income was more than 150 percent of the FPL, making 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 2019. In determining affordability, consideration is given first to the amount Appellant is deemed able to afford for health insurance premiums under the Affordability Schedule and second to the cost of health insurance that was available through employer-sponsored plans, government-subsidized programs or on the private insurance market. See 2019 Schedule HC Instructions and Worksheets, *supra*.

Appellant reported a federal AGI of \$42,411.00 in 2019, and Appellant’s filing status was single . EX 2. According to the Affordability Schedule established by the Connector’s board and included in the Instructions and Worksheets of the 2019 Massachusetts Schedule HC, Appellant could afford to pay \$263.30 monthly for health insurance. See 2019 Schedule HC Instructions and Worksheets, *supra* at

Table 3. Private insurance would have been available to her from the Premium Tables, at a cost of \$257.00 monthly for coverage. *Id.* at Table 4.

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

Appellant is deemed to afford \$263.30 for health insurance coverage because of her income. Private insurance in the market place was \$257.00 per month, which is less than she could afford. She had health insurance in 2019 but she did not find out until the end of 2019 that it did not meet Massachusetts standards. On these facts, I find that Appellant has shown that she was precluded from purchasing affordable health insurance during 2019. 956 Mass. Code Regs. 6.08(3) (2008). Accordingly, I conclude that she is exempt from a tax penalty for her non-compliance with the individual mandate.

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

PENALTY ASSESSED

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

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

OR

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

NOTIFICATION OF YOUR RIGHT TO APPEAL TO COURT

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

Hearing Officer

Cc: Connector Appeals Unit

Massachusetts Health Connector Appeals Unit

FINAL APPEAL DECISION: PA19-750

Appeal Decision: Appeal Approved.

Hearing Issue: Appeal of the 2019 Tax Year Penalty

Hearing Date: October 23, 2020

Decision Date: October 29, 2020

AUTHORITY

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

JURISDICTION

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

HEARING RECORD

The Appellant appeared at the hearing, which was held by telephone, on October 23, 2020. The procedures to be followed during the hearing were reviewed with the Appellant who was then sworn in. Exhibits were marked and admitted into evidence with no objection from the Appellant. The hearing record consists of the Appellant's testimony and the following documents which were admitted into evidence:

- Exhibit 1: Health Connector Appeals Unit Notice of Hearing dated September 24, 2020.
- Exhibit 2: Appeal Case Information from Schedule HC 2019.
- Exhibit 3: The Statement of Grounds for Appeal signed by the Appellant on June 4, 2020.
- Exhibit 4: Appellant's letter in support of this appeal, with attachments.

FINDINGS OF FACT

The record shows, and I so find:

1. The Appellant, age 23 in February 2019, filed their Federal Income Tax return as a single person with no dependents claimed (Exhibit 2).
2. The Appellant lived in Suffolk County, MA in 2019 (Exhibit 2).
3. The Appellant's Federal Adjusted Gross Income for 2019 was \$34,697 (Exhibit 2).
4. According to the Appellant's Schedule HC-2019 the Appellant had health insurance for the period of September through December but did not have health insurance for the period of January through August in tax year 2019 (Appellant Testimony).
5. The Appellant has been assessed a five-month tax penalty for 2019. The Appellant filed an appeal of the assessment in June 2020 (Exhibits 2, 3, 4).

6. I take administrative notice of the financial information set forth in Tables 1 through 6 in the DOR 2019 Massachusetts Schedule HC Health Care Instructions and Worksheets. Tables 3 and 4 incorporate affordability and premium schedules adopted by the Board of Directors for the Commonwealth Health Insurance Connector Authority for 2019. Table 2 sets forth income at 300% of the Federal poverty level and Tables 5 and 6 set forth tax penalties in effect for 2019.
7. In accordance with Table 3 of Schedule HC for 2019, the Appellant filing the Federal tax return as a single person with no dependents claimed, with an annual adjusted gross income of \$34,697 could afford to pay \$145 per month for health insurance. In accordance with Table 4, the Appellant, age 23, living in Suffolk County, could have purchased private insurance for \$257 per month for a plan (Schedule HC for 2019). Private insurance was not affordable for the Appellant in 2019.
8. The Appellant testified credibly that they did not have access to employer sponsored health insurance during the period of January through July in tax year 2019. The Appellant submitted a copy of their tax form 1095 B verifying that the Appellant had health insurance for the period of August through December 2019 and a mistake was made on the Schedule HC form (Exhibit 4 and Appellant Testimony).
9. The Appellant would have been eligible for ConnectorCare coverage in 2019 because the Appellant's income was less than 300% of the federal poverty level, which was \$36,420 for a household of one in 2019. (See Table 2 of Schedule HC-2019 and 956 CMR
10. The Appellant testified that for the months of January through July they were employed by various Temp agencies and their income was not steady or predictable. For example, the Appellant worked only one day in January 2019. The Appellant said that they were finally hired by one of their employers effective August 2019 and enrolled in the health insurance program as soon as they were eligible. The Appellant's credible testimony is supported by documentation of the Appellant's employment history submitted with this appeal (Exhibit 4 and Appellant Testimony).
11. The Appellant's 2019 monthly expenses of \$1,458 included: rent and utilities- \$925; a monthly T-Pass \$100; and food-\$433. The Appellant spent \$300 on an educational program. The Appellant said that because their employment was sporadic for the first seven months of tax year 2019 they had to conserve their money to be able to meet their expenses during the months they did not have full time work. I found the Appellant to be credible (Exhibit 4 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.

According to the information on the Appellant's Schedule HC 2019 it appeared that the Appellant did not have health insurance for the period of January through August in tax year 2019 and consequently was assessed a five-month penalty. This was an error. The Appellant submitted a copy of their tax form 1095-B verifying that the Appellant was insured for the period of August through December and therefore is potentially subject to a four-month tax penalty. The Appellant asserts that the penalty should not apply in this case because of financial hardship. To determine if the penalty should be waived in whole or in part, there must be an evaluation of whether affordable insurance which met minimum creditable coverage standards was available to the Appellant through employment, through private insurance, or through a government sponsored program. If affordable insurance was available, it must be determined if such insurance was not affordable to the Appellant because the Appellant experienced a financial hardship as defined in 956 CMR 6.08.

In accordance with Table 3 of Schedule HC for 2019, the Appellant filing the Federal tax return as a single person with no dependents claimed with an adjusted gross income of \$34,697 could afford to pay \$145 per month for health insurance. According to Table 4, the Appellant, age 23, living in Suffolk County, could have purchased a private insurance plan for \$257 per month. See Schedule HC for 2019. Private insurance was not affordable for the Appellant in tax year 2019.

The Appellant did not have access to employer sponsored health insurance during the period of January through July in 2019. The Appellant would have been eligible for ConnectorCare coverage based upon the Appellant's income which was less than \$36,420 for their household of one. See Table 2 of Schedule HC 2019 and 956 CMR 12.04 for eligibility criteria. Since affordable insurance was available to the Appellant in 2019, it must be determined whether the Appellant experienced a financial hardship pursuant to 956 CMR 6.08 (1).

The Appellant testified that for the period of January through July they were employed by several Temp agencies, but the work was sporadic and unpredictable. For example, the Appellant worked one day in the month of January. The Appellant had significant expenses for rent, utilities, food, and transportation. The Appellant explained that they had to conserve their income to be able to meet their living expenses during the month when work was not available every week. The Appellant said that they did not want to take on another expense without steady, predictable income. The Appellant has demonstrated that for the period of January through July in tax year 2019 purchasing health insurance would have caused them to experience a significant financial hardship. The Appellant's five-month penalty is waived. See 956 CMR 6.08(1)(e).

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

PENALTY ASSESSED

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

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

NOTIFICATION OF YOUR RIGHT TO APPEAL TO COURT

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

Cc: Connector Appeals Unit

Massachusetts Health Connector Appeals Unit

FINAL APPEAL DECISION: PA19-751

Appeal Decision: Appeal Approved

Hearing Issue: Appeal of the 2019 Tax Year Penalty

Hearing Date: October 23, 2020

Decision Date: October 30, 2020

AUTHORITY

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

JURISDICTION

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

HEARING RECORD

The Appellant appeared at the hearing, which was held by telephone, on October 23, 2020. The procedures to be followed during the hearing were reviewed with the Appellant who was then sworn in. Exhibits were marked and admitted into evidence with no objection from the Appellant. The hearing record consists of the Appellant's testimony and the following documents which were admitted into evidence:

- Exhibit 1: Health Connector Appeals Unit Notice of Hearing dated September 24, 2020.
- Exhibit 2: Appeal Case Information from Schedule HC 2019.
- Exhibit 3: The Statement of Grounds for Appeal signed by the Appellant on June 8, 2020, with attachments.
- Exhibit 4: Health Connector Appeals Unit Open Record form dated October 23, 2020.
- Exhibit 5: Documentation submitted by the Appellant on October 23, 2020 after the hearing concluded.

FINDINGS OF FACT

The record shows, and I so find:

1. The Appellant, age 25 in November 2019, filed their Federal Income Tax return as a single person with no dependents claimed (Exhibit 2).
2. The Appellant reported on their Schedule HC 2019 that they were a part year resident of MA, living in Essex County during the period of January 1, 2019 through October 31, 2019 (Exhibit 2).
3. The Appellant's Federal Adjusted Gross Income for 2019 was \$18,457 (Exhibit 2 and Appellant Testimony).
4. According to the Appellant's Schedule HC 2019 the Appellant did not have health insurance for any months in tax year 2019 (Exhibit 2).

5. The Appellant has been assessed a seven-month tax penalty for 2019. The Appellant filed an appeal of the assessment in June 2020 (Exhibits 2, 3).
6. The Appellant testified that the person who completed their tax return made mistakes when completing the forms. The Appellant explained that they are a non-citizen student who came to Massachusetts on May 30, 2019 to attend a four-month program. The program required students to purchase health insurance to participate in the program. The Appellant said that they left Massachusetts in mid-September. The Appellant's credible testimony is supported by a copy of their J1 Visa verifying an effective date of May 30, 2019 and an expiration date of September 30, 2019 (Exhibit 3 and Appellant Testimony).
7. The record was left open after the hearing concluded to allow the Appellant to submit documentation verifying their health insurance coverage while living in Massachusetts (Exhibit 4).
8. The Appellant submitted a copy of their health insurance policy verifying an effective date of May 30, 2019. The policy remained effective 180 days from May 30, 2019 (Exhibit 5).

ANALYSIS AND CONCLUSIONS OF LAW

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

The Appellant filed their income tax return as a part-time resident of Massachusetts in tax year 2019. The Appellant noted the dates of residency as 1/11/19- 10/31/19. The Appellant did not report having health insurance for any months of tax year 2019 and consequently was assessed a seven-month tax penalty. The person assisting the Appellant with completing their tax return made errors when completing the applicable forms.

The Appellant testified credibly that they came to Massachusetts as a foreign exchange student on May 30, 2019 and left Massachusetts in mid-September when their program ended. The Appellant explained that as a condition of program participation they were required to purchase health insurance. The Appellant submitted a copy of their J1 Visa verifying effective dates of May 30, 2019- September 30, 2019. The Appellant also submitted a copy of their health insurance policy verifying an effective date of May 30, 2019. The policy remained in effect for 180 days. The Appellant was not a resident of Massachusetts during the period of January 1 through May 29 in tax year 2019. 45 CFR § 155.305(a)(3), 956 CMR 12.08(1). The Appellant lived in Massachusetts during the period of May 30, 2019 through mid-September 2019 and had health insurance coverage for these months. The Appellant should not be subject to a seven-month penalty.

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

PENALTY ASSESSED

Number of Months Appealed: ____7____ Number of Months Assessed: __0____

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

The Appellant is advised to file an amended tax return for tax year 2019 and report their part time residency status and health insurance coverage for the period in 2019.

Cc: Connector Appeals Unit

Massachusetts Health Connector Appeals Unit

FINAL APPEAL DECISION: PA19-752

Appeal Decision: Appeal Denied.

Hearing Issue: Appeal of the 2019 Tax Year Penalty

Hearing Date: October 23, 2020

Decision Date: October 30, 2020

AUTHORITY

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

JURISDICTION

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

HEARING RECORD

The Appellant appeared at the hearing, which was held by telephone, on October 23, 2020. The procedures to be followed during the hearing were reviewed with the Appellant who was then sworn in. Exhibits were marked and admitted into evidence with no objection from the Appellant. The hearing record consists of the Appellant's testimony and the following documents which were admitted into evidence:

- Exhibit 1: Health Connector Appeals Unit Notice of Hearing dated September 24, 2020.
- Exhibit 2: Appeal Case Information from Schedule HC 2019.
- Exhibit 3: Statement of Grounds for Appeal signed by the Appellant on June 5, 2020, with attachments.

FINDINGS OF FACT

The record shows, and I so find:

1. The Appellant turned 30 years old in November 2019. The Appellant filed their Federal Income Tax return as a single person with no dependents claimed (Exhibit 2).
2. The Appellant lived in Suffolk County, MA in 2019 (Exhibit 2).
3. The Appellant's Federal Adjusted Gross Income for 2019 was \$48,539 (Exhibit 2).
4. The Appellant had health insurance in January but did not have insurance for the period of February through December in tax year 2019 (Exhibit 2).
5. The Appellant has been assessed an eight-month tax penalty for 2019. The Appellant filed an appeal of the assessment in June 2020 (Exhibits 2, 3).
6. I take administrative notice of the financial information set forth in Tables 1 through 6 in the DOR 2019 Massachusetts Schedule HC Health Care Instructions and Worksheets. Tables 3 and 4

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

7. In accordance with Table 3 of Schedule HC for 2019, the Appellant filing the Federal tax return as a single person, with no dependents claimed, with an annual adjusted gross income of \$48,539 could afford to pay \$307 per month for health insurance. In accordance with Table 4, the Appellant, age 30, living in Suffolk County, could have purchased private insurance for \$257 per month for a single plan (Schedule HC for 2019). Private insurance was affordable for the Appellant.
8. The Appellant testified that their employer did not offer health insurance. The Appellant's income was greater than 300% of the federal poverty level, which was \$36,420 in 2019. The Appellant was not eligible for ConnectorCare in tax year 2019 (See Table 2 of Schedule HC-2019 and 956 CMR 12.04).
9. The Appellant filed an appeal in May 2020 alleging that purchasing health insurance would have caused them to experience a deprivation of food, clothing, shelter and/or other necessities. The Appellant submitted copies of credit card statements for the year 2020 as well as documentation of their car insurance payment (Exhibit 3).
10. The Appellant testified that they had MassHealth in 2018 and it was terminated at the end of January 2019 due to their income. The Appellant said that they looked at options for coverage but all of them were too expensive (Appellant Testimony).
11. The Appellant lives in a shared housing arrangement. The Appellant's 2019 monthly living expenses of \$1,813 included: rent-\$600; heat-\$60; electricity-\$25; telephone-\$152; car insurance-\$283; gasoline-\$260 and food-\$433. The Appellant testified that they have numerous credit cards and pay between \$600-\$700 each month in total (Appellant Testimony).
12. The Appellant did not fall behind in their rent or utility payments and did not incur any unexpected expenses due to a family emergency or other unexpected natural or human caused disaster (Appellant Testimony).
13. As of October 23, 2020, the Appellant remains uninsured (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 had health insurance in January but did not have health insurance for the period of February through December in tax year 2019. The Appellant has consequently been assessed an eleven-month penalty. The Appellant submitted a statement of grounds for this appeal on the basis of financial hardship.

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

In accordance with Table 3 of Schedule HC for 2019, the Appellant filing the Federal tax return as a single person with no dependents claimed, with an adjusted gross income of \$48,539 could afford to pay \$307 per month for health insurance. In accordance with Table 4, the Appellant, age 30, living in Suffolk County, could have purchased private insurance for \$257 per month for a plan (Schedule HC for 2019). Private insurance was affordable for the Appellant in 2019.

The Appellant did not have access to employer sponsored health insurance in tax year 2019. The Appellant's income of \$48,539 was greater than 300% of the federal poverty level, which was \$36,420 in 2019. The Appellant was not eligible for ConnectorCare in tax year 2019 (See Table 2 of Schedule HC-2018 and 956 CMR 12.04). Since affordable insurance was available to the Appellant in 2019, it must be determined whether the Appellant experienced a financial hardship pursuant to 956 CMR 6.08 (1).

The Appellant testified that their MassHealth was terminated at the end of January 2019 due to their income. The Appellant said that they looked at options at that time, but the premiums were too high. The Appellant testified to monthly living expenses of \$1,813. In addition, the Appellant indicated that they have multiple credit cards and pay between \$600-\$700 in total monthly payments. The credit card statements submitted by the Appellant were dated in tax year 2020. Accepting the Appellant's testimony at face value, the Appellant's monthly expenses would be between \$2,413 and \$2,513. The Appellant lived in a shared housing arrangement. The Appellant did not face eviction, receive utility shut off notices or experience a family or other emergency that resulted in unexpected expenses in tax year 2019. Given the Appellant's income of \$48,539 and the fact that the Appellant could have purchased private insurance at a cost of \$259 per month, the Appellant has failed to demonstrate that the cost of purchasing health insurance for 2019 would have caused the Appellant to experience a serious financial hardship. See 956 CMR 6.08. The Appellant's eight-month penalty is upheld.

PENALTY ASSESSED

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

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

NOTIFICATION OF YOUR RIGHT TO APPEAL TO COURT

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

Cc: Connector Appeals Unit

Massachusetts Health Connector Appeals Unit

FINAL APPEAL DECISION: PA19-753

Appeal Decision: Appeal Approved.

Hearing Issue: Appeal of the 2019 Tax Year Penalty

Hearing Date: October 23, 2020

Decision Date: October 29, 2020

AUTHORITY

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

JURISDICTION

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

HEARING RECORD

The Appellant appeared at the hearing, which was held by telephone, on October 23, 2020. The procedures to be followed during the hearing were reviewed with the Appellant who was then sworn in. Exhibits were marked and admitted into evidence with no objection from the Appellant. The hearing record consists of the Appellant's testimony and the following documents which were admitted into evidence:

- Exhibit 1: Health Connector Appeals Unit Notice of Hearing dated September 24, 2020.
- Exhibit 2: Appeal Case Information from Schedule HC 2019.
- Exhibit 3: The Statement of Grounds for Appeal signed by the Appellant on April 24, 2020.
- Exhibit 4: Appellant's letter in support of this appeal.

FINDINGS OF FACT

The record shows, and I so find:

1. The Appellant, age 30 in May 2019, filed their Federal Income Tax return as a Head of Household with one dependent claimed (Exhibit 2).
2. The Appellant lived in Essex County, MA in 2019 (Exhibit 2).
3. The Appellant's Federal Adjusted Gross Income for 2019 was \$26,347 (Exhibit 2).
4. The Appellant had health insurance for the period of August through December but did not have insurance for the period of January through July in tax year 2019 (Exhibit 2 and Appellant Testimony).
5. The Appellant has been assessed a four-month tax penalty for 2019. The Appellant filed an appeal of the assessment in April 2020 (Exhibits 2, 3, 4).

6. I take administrative notice of the financial information set forth in Tables 1 through 6 in the DOR 2019 Massachusetts Schedule HC Health Care Instructions and Worksheets. Tables 3 and 4 incorporate affordability and premium schedules adopted by the Board of Directors for the Commonwealth Health Insurance Connector Authority for 2019. Table 2 sets forth income at 300% of the Federal poverty level and Tables 5 and 6 set forth tax penalties in effect for 2019.
7. In accordance with Table 3 of Schedule HC for 2019, the Appellant filing the Federal tax return as a Head of Household with one dependent claimed, with an annual adjusted gross income of \$26,347 could afford to pay \$94 per month for health insurance. In accordance with Table 4, the Appellant, age 30, living in Essex County, could have purchased private insurance for \$655 per month for a family plan (Schedule HC for 2019). Private insurance was not affordable for the Appellant in 2019.
8. The Appellant testified credibly that they did not have access to employer sponsored health insurance in 2019 (Appellant Testimony).
9. The Appellant would have been eligible for ConnectorCare coverage in 2019 because the Appellant's income was less than 300% of the federal poverty level, which was \$49,380 for a household of two in 2019. (See Table 2 of Schedule HC-2019 and 956 CMR 12.04).
10. The Appellant testified that during the period of January through July in tax year 2019 they were homeless and used a family member's address to receive mail. The Appellant said that they occasionally stayed with family and friends and periodically rented a hotel room to be able to shower. The Appellant explained that they had lost their driver's license and had to use a taxi service to get to and from work. The Appellant said that they had to pay to have their driver's license and truck registration reinstated. The Appellant said that their child was born in July and the Appellant qualified for MassHealth in August 2019. The Appellant stated that they could not afford health insurance while homeless. I found the Appellant to be credible (Exhibits 3, 4 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 had health insurance for the period of August through December but did not have health insurance for the period of January through July in tax year 2019. The Appellant has been assessed a four-month penalty. The Appellant asserts that the penalty should not apply in this case because of financial hardship. To determine if the penalty should be waived in whole or in part, there must be an evaluation of whether affordable insurance which met minimum creditable coverage standards was available to the Appellant through employment, through private insurance, or through a government sponsored program. If affordable insurance was available, it must be

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

In accordance with Table 3 of Schedule HC for 2019, the Appellant filing the Federal tax return as a Head of Household with one dependent claimed with an adjusted gross income of \$26,347 could afford to pay \$94 per month for health insurance. According to Table 4, the Appellant, age 30, living in Essex County, could have purchased a private insurance plan for \$655 per month. See Schedule HC for 2019. Private insurance was not affordable for the Appellant in tax year 2019.

The Appellant did not have access to employer sponsored health insurance in 2019. The Appellant would have been eligible for ConnectorCare coverage based upon the Appellant's income which was less than \$49,380 for their family of two'. See Table 2 of Schedule HC 2019 and 956 CMR 12.04 for eligibility criteria. Since affordable insurance was available to the Appellant in 2019, it must be determined whether the Appellant experienced a financial hardship pursuant to 956 CMR 6.08 (1).

The Appellant testified that they had some difficulties in tax year 2019 and were homeless from January until July. The Appellant said that they stayed with friends and family here and there and rented hotel rooms periodically so that they could shower. The Appellant said that they had to pay to have their driver's license reinstated and get their truck back on the road. Prior to doing that the Appellant had to use a taxi service to get to and from work. The Appellant said that they could not afford health insurance. The Appellant explained that their child was born in July and the Appellant qualified for MassHealth in August. The Appellant has demonstrated that the cost of purchasing health insurance would have caused the Appellant to experience a significant financial hardship. The Appellant's four-month penalty is waived. See 956 CMR 6.08(1)(a).

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

PENALTY ASSESSED

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

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

NOTIFICATION OF YOUR RIGHT TO APPEAL TO COURT

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

Cc: Connector Appeals Unit

FINAL APPEAL DECISION: PA19-676

Appeal Decision: The penalty is overturned in part.
Hearing Issue: Appeal of the 2019 Tax Year Penalty
Hearing Date: October 8, 2020
Decision Date: October 16, 2020

AUTHORITY

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

JURISDICTION

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

HEARING RECORD

The Appellant appeared at the hearing, which was held by telephone on October 8, 2020. 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. Appellant testified.

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

- Exhibit 1: Appeal Case Information from Schedule HC. (1 page).
- Exhibit 2: Statement of Grounds for Appeal 2019 Signed by Appellant on 5/15/2020. (2 PP).
- Exhibit 2(a) Appellant's Supporting Correspondence to the Health Connector 5/15/2019 (2 PP).
- Exhibit 3: Health Connector's Notice of Hearing dated 8/17/2020 (2 PP).

FINDINGS OF FACT

The record shows, and I so find:

1. Appellant, who filed a 2019 Massachusetts tax return reported she was filing her tax returns as married separate, was age 61 in 2019, lived in Middlesex County, with zero dependents and a family size of two (2). (Exhibit 1, Testimony of Appellant).
2. Appellant worked in part time between 35 and 40 hours a week at an hourly rate between \$13 and \$14 per hour offered Employer Sponsored Insurance("ESI"). (Testimony of Appellant).
3. Appellant's employer did not offer employer sponsored insurance ("ESI"). (Testimony of Appellant).
4. Appellant testified she did not investigate obtaining public sponsored insurance because she could not afford it. (Testimony of Appellant).

5. Appellant testified that her spouse is on Medicare. (Appellant Testimony).
6. Appellant's Federal Adjusted Gross Income for 2019 was \$81,900 (Exhibit 1).
7. Appellant testified she was heavily in debt, and was supporting an adult child who was residing with her and she was paying for costly medical and other necessary expenses including medical, phone, transportation and legal at approximately \$675. (Exhibit 2(a), Appellant Testimony).
8. Appellant has been assessed a tax penalty for twelve (12) months in 2019. The Appellant has appealed this assessment (Exhibits 1, 2).
9. Appellant testified she received approximately 4 to 5 shutoff notices from utility providers and the balance was approximately \$2,000. (Appellant Testimony).
10. Appellant testified she has been unable at this time to obtain shutoff notices. (Testimony, Exhibit 2(a)).
11. Appellant was provided with the opportunity to leave the record open to submit any shutoff notices and any other documents related to support and basic necessities but declined. (Appellant Testimony).
12. Appellant had the following monthly expenses for basic necessities in 2019: Utilities approximately \$-300, Cell Phone \$168, Car Insurance \$68, Pet Insurance \$53, totaling: \$589. (Testimony of Appellant).
13. Appellant testified her Spouse paid the following monthly expenses basic necessities in 2019: Rent \$1,550, Food \$200.
14. According to Table 3 Appellant could have afforded \$546 per month for health insurance in 2019. According to Table 4 Appellant could have purchased insurance for \$418.00 per month.
15. In addition to the foregoing, I take administrative notice of the 2019 Schedule HC Instructions and Worksheets, available at <http://www.mass.gov.dor/docs/dor/health-care/2019>, and in particular, Tables 1-6 which, as discussed below, include the Affordability Schedule and other financial information used in making 2019 individual mandate tax penalty determinations.

ANALYSIS AND CONCLUSIONS OF LAW

The issue on appeal is whether the tax penalty assessed by the Massachusetts Department of Revenue for 2019 should be waived, either in whole or in part. Appellant has been assessed a tax penalty for twelve (12) months in 2019. Appellant has appealed the penalty. (See Exhibits 1 and 2).

The Appellant submitted a statement of grounds for appeal (Ex. 2), claiming that the individual mandate did not apply to her during 2019 because 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 and that during 2019, she received a shut-off notice for utilities, and she

incurred a significant increase in essential expenses relating directly from the consequences of the sudden responsibility of providing full care for other family member. See 956 CMR 6.08.

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

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

The evidence provided by the appellant established that the income for 2019, \$81,900.00, was greater than 300% of the federal poverty level, which for 2019 was \$49,380.00 for a family size of 2. According to Table 3 of Schedule HC for 2019, the Appellant had an adjusted gross income of \$81,900 in 2019 and could have afforded \$546 per month. According to Table 4, Appellant, age 61 and living in Middlesex County during the time she was being penalized for not having insurance, could have purchased insurance for \$418.00 per month. Individual coverage was affordable through the individual market for the appellant in 2019 (Schedule HC for 2019).

The next issue to consider is whether the appellant had access to affordable employer health insurance once she became eligible to enroll in 2019. The Appellant testified that she worked part time and her employer did not offer health insurance.

Where the Appellant had access to affordable insurance through the individual market but did not have access through employer sponsored coverage, we need to determine if the Appellant experienced a financial hardship such the coverage would have been unaffordable for her. See 956 CMR 6.08. et. seq. The Appellant may not be subject to a penalty for failing to get health insurance for the months in question if he can show that he experienced a hardship during 2019. Examples of hardships include being homeless or overdue in rent or mortgage payments, receiving a shut-off notice for utilities, or incurring unexpected increases in basic living expenses due to domestic violence, death of a family member, sudden responsibility for providing care for a family member or fire, flood or natural disaster. In addition, the Appellants’ tax penalty for 2019 could be waived if he experienced financial circumstances such that the expense of purchasing health insurance would have caused her to experience a serious deprivation of food, shelter, clothing or other necessities. See 956 CMR 6.08

The Appellant credibly testified that he had the following monthly expenses for basic necessities in 2019. Appellant had the following monthly expenses for basic necessities in 2019: Utilities approximately \$-

\$300, Cell Phone \$168, Car Insurance \$68, Pet Insurance \$53, totaling: \$589. The Appellant also testified that she supported an adult child who was residing with her for costly medical and other necessary expenses including medical, phone, transportation and legal at approximately \$675.

The evidence presented by the Appellant in this case is insufficient to establish that she experienced a financial hardship as defined by law so as to waive her penalty for the months in question. Given the Appellant’s Annual Adjusted Gross Income (“AGI” of \$81,900) and that health insurance was available to her through the private market, the Appellant failed to demonstrate that the cost of purchasing private insurance for \$546 per month would have caused the Appellant to experience a serious deprivation of food, shelter clothing, or other necessities. (Exhibit 2, Appellant Testimony). Appellant testified she had shutoff notices but did not substantiate her testimony by providing documentation including the shutoff notices and for the expenses related to caring for her adult child.

Based upon the facts summarized above, I determine that the cost of purchasing health insurance would not have caused the Appellant to experience a serious deprivation of basic necessities. Pursuant to 956 CMR 6.08(1)(e) and 956 CMR 6.08(3), it is concluded that the Appellant did not establish through substantial and credible evidence that she could not afford \$ 404.29 per month or the cost of an employer plan of \$ 300 per month. did not experience a financial hardship within the meaning of 956 CMR 6.08(1)(b)(e), and (3) which allows consideration of financial issues raised by the appellant on appeal. The Appellant did not send in specific termination notices with specific addresses, account holder to corroborate shut off notices.

Notwithstanding this, the Appellant’s also adduced testimony and documentation that she was supporting her adult child and was behind on their utilities. Accordingly, the penalty will be reduced to six (6) months in order to mitigate the harshness of a full twelve-month assessment.

Appellant should note that any waiver granted here is for 2019 only and is based upon the specific facts I have found to be true and should not assume that the same determination will be made should Appellant be assessed a penalty in the future.

PENALTY ASSESSED

Number of Months Appealed: 12 Number of Months Assessed: 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 2019.

NOTIFICATION OF YOUR RIGHT TO APPEAL TO COURT

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

Cc: Connector Appeals Unit

Hearing Officer

ADDENDUM

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

Appeal Decision: The penalty is overturned in full.
Hearing Issue: Appeal of the 2019 Tax Year Penalty
Hearing Date: September 24, 2020
Decision Date: September 30, 2020

AUTHORITY

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

JURISDICTION

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

HEARING RECORD

The Appellant appeared at the hearing, which was held by telephone on September 24, 2020. 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. Appellant testified.

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

- Exhibit 1: Appeal Case Information from Schedule HC. (1 page).
- Exhibit 2: Statement of Grounds for Appeal 2019 Signed by Appellant 5/1/2020. (2 PP).
- Exhibit 2(a) Appellant's Supporting Correspondence (1 PP).
- Exhibit 3: Health Connector's Notice of Hearing dated 8/17/2020 (2 PP).

FINDINGS OF FACT

The record shows, and I so find:

1. Appellant, who filed a 2019 Massachusetts tax return reported he was single, was age 41 in 2019, lived in Bristol County, and had a family size of 1. (Exhibit 1, Testimony of Appellant).
2. Appellant worked full time part of the year but had to look for another job as his Company was moving and his hours were being reduced. (Testimony of Appellant).
3. Appellant testified that his full time Employer offer health insurance at approximately \$90/week, but he could not afford it. (Testimony of Appellant).
4. Appellant was able to find full time employment in October and after a 90-day waiting period obtained health insurance coverage in 2020. (Testimony).

5. Appellant's Federal Adjusted Gross Income for 2019 was \$27,670 (Exhibit 1).
6. Appellant has been assessed a tax penalty for twelve (12) months in 2019. The Appellant has appealed this assessment (Exhibits 1, 2).
7. Appellant had the following monthly expenses for basic necessities in 2019: Rent \$1,000, Utilities \$305, Cell Phone \$85, Food \$410, Car \$335, Car Insurance: \$ 210, Gas \$185, Car Repairs \$100, Child Support \$125, totaling \$2,755. (Testimony of Appellant).
8. Appellant testified his weekly net take home pay was \$339 a week, or \$1,457/month. (Appellant Testimony).
9. According to Table 3 Appellant could have afforded \$ 95.41 per month for health insurance in 2019. According to Table 4 Appellant could have purchased insurance for \$306.00 per month.
10. In addition to the foregoing, I take administrative notice of the 2019 Schedule HC Instructions and Worksheets, available at <http://www.mass.gov/dor/docs/dor/health-care/2019>, and in particular, Tables 1-6 which, as discussed below, include the Affordability Schedule and other financial information used in making 2019 individual mandate tax penalty determinations.

ANALYSIS AND CONCLUSIONS OF LAW

The issue on appeal is whether the tax penalty assessed by the Massachusetts Department of Revenue for 2019 should be waived, either in whole or in part. Appellant has been assessed a tax penalty for twelve (12) months in 2019. Appellant has appealed the penalty. (See Exhibits 1 and 2).

The Appellant submit grounds with his appeal that during 2019: that the expense of purchasing health insurance would have caused a serious deprivation of food, shelter, clothing or other necessities, and 3) that he incurred an unexpected natural or human caused event causing substantial household or personal damage to him. (Exhibit 2).

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

To determine if 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 2019, \$27,260.00, was less than 300% of the federal poverty level, which for 2019 was \$36,420 for an individual with a family size of one (1). According to Table 3 of Schedule HC for 2019, the Appellant had an adjusted gross income of \$27,260 in 2019 and could have afforded \$95.41 per month. According to Table 4, Appellant, age 41 and living in Bristol County during the time he was being penalized for not having insurance, could have purchased insurance for \$306.00 per month. Individual coverage was not affordable through the individual market for the Appellant in 2019 (Schedule HC for 2019).

The next issue to consider is whether the appellant had access to affordable employer health insurance (“ESI”). The Appellant credibly testified that health insurance was offered through his employer, but he could not afford the \$90 per week, or \$387 monthly premium. See 956 CMR 12.05 and 45 CFR section 155.305 (f)(1)(ii)(B). Pursuant to 26 IRC section 36B and 45 CFR section 155.305(f), applicants are eligible for an Advanced Premium Tax Credit (APTC) if they meet qualifying income levels and other eligibility requirements. Massachusetts residents may also be eligible for additional state premium assistance through the Health Connector’s ConnectorCare program if: a) their household income does not exceed 300 percent of the Federal Poverty Level (FPL) and b) they are eligible for an APTC. 956 CMR 12.09(1). An applicant who has access to other qualifying health insurance, including insurance through an employer, will be blocked from eligibility for an APTC if the coverage is affordable and meets minimum value standards, as those terms are defined by the law. See 26 CFR section 1.36B-2(c)(3). Coverage for plan year 2019 is considered to be affordable if the employee’s contribution for an individual plan is 9.86 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, the monthly cost for an individual plan through the appellant’s employer was \$387. That cost is more than 9.86 percent of the appellant’s projected household MAGI for 2019 (i.e.—9.86 percent of \$27,260.00 is \$2,687/12 or \$223/month). Hence, since the cost of employer insurance is more than \$223/month, he is considered to not have had access to qualifying employer health insurance. See 956 CMR 12.05 and 45 CFR section 155.305 (f)(1)(ii)(B). Moreover, the ESI cost of \$223 is greater than the amount he could have afforded under Table 3 of the Schedule HC (\$95.41), and as a result ESI was not affordable under Table 3.

Where the Appellant did not have access to affordable insurance through the individual market and through employer sponsored coverage, he did have access to the Health Connector. Accordingly, where the Appellant had access to insurance through the ConnectorCare program, we need to determine if the Appellant experienced a financial hardship such the coverage would have been unaffordable for him. See 956 CMR 6.08. et. seq. The Appellant may not be subject to a penalty for failing to get health insurance for the months in question if he can show that he experienced a hardship during 2019. Examples of hardships include being homeless or overdue in rent or mortgage payments, receiving a shut-off notice for utilities, or incurring unexpected increases in basic living expenses due to domestic violence, death of a family member, sudden responsibility for providing care for a family member or fire, flood or natural disaster. In addition, the Appellants’ tax penalty for 2019 could be waived if he experienced financial

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

Th Appellant testified credibly that he had the following monthly expenses for basic necessities in 2019. Rent \$1,000, Utilities \$305, Cell Phone \$85, Food \$410, Car \$335, Car Insurance: \$ 210, Gas \$185, Car Repairs \$100, Child Support \$125, totaling \$2,755.

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. The Appellant credibly testified that he could not afford \$95.41 per month as well as the cost of employer sponsored insurance at \$387/month given that his net take home pay was approximately \$1,457 per month. I find that his basic monthly expenses of \$2,755 were subsumed in his annual gross adjusted earnings of \$27,260. 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), (e), and (3) which allows consideration of financial issues raised by the Appellant on appeal.

The Appellant’s penalty is, therefore, waived.

Appellant should note that any waiver granted here is for 2019 only and is based upon the specific facts I have found to be true and should not assume that the same determination will be made should Appellant be assessed a penalty in the future.

PENALTY ASSESSED

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

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

NOTIFICATION OF YOUR RIGHT TO APPEAL TO COURT

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

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: PA19572

Appeal Decision: The penalty is overturned in full.

Hearing Issue: Appeal of the 2019 Tax Year Penalty

Hearing Date: September 15, 2020

Decision Date: October 14, 2020

AUTHORITY

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

JURISDICTION

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

HEARING RECORD

The appellant appeared at the hearing which was held by telephone on September 15, 2020. The procedures to be followed during the hearing were reviewed with Appellant who was then sworn in. Exhibits were marked and admitted in evidence with no objection from the appellant. Appellant testified.

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

Exhibit 1: Statement of Grounds for Appeal 2019 signed and dated by Appellant on March 23, 2020 with electricity bill and notice of termination of service, November, 2019

Exhibit 2: Appeal Case Information from Schedule HC 2019

Exhibit 3: Notice of Hearing sent to Appellant dated August 12, 2020 for September 15, 2020 hearing

FINDINGS OF FACT

The record shows, and I so find:

1. Appellant, who filed a 2019 Massachusetts tax return as a single person with no dependents claimed, was 23 years old in 2019 (Exhibit 2, Testimony of Appellant).
2. Appellant resided in Middlesex County in 2019 (Testimony of Appellant, Exhibit 2).
3. Appellant had a Federal Adjusted Income of \$44,087 in 2019 (Testimony of Appellant, Exhibit 2).
4. Appellant was employed in the medical field, earning \$17.25 an hour. Appellant worked 40 hours a week with occasional overtime. His take-home pay was approximately \$1,100 a week. Appellant started at this job on January 1, 2019. (Testimony of Appellant).
5. Appellant was offered health insurance through his job. Appellant did not enroll in the plan which would have cost him \$64 biweekly or \$138 a month. Appellant felt he could not afford the premium (Testimony of Appellant).
6. Appellant tried to apply for MassHealth, but he learned that he was ineligible because he earned too much. Appellant obtained health insurance through work as of January 1, 2020 (Testimony of Appellant).

7. Appellant has been assessed a penalty for all of 2019. Appellant has appealed this assessment (Testimony of Appellant, Exhibits 1 and 2).
8. I take administrative notice of the financial information set forth in Tables 1 through 6 in the DOR 2019 Massachusetts Schedule HC Health Care Instructions and Worksheets. Tables 3 and 4 incorporate affordability and premium schedules adopted by the Board of Directors for the Commonwealth Health Insurance Connector Authority for 2019. Table 2 sets forth income at 300% of the Federal poverty level and Tables 5 and 6 set forth tax penalties in effect for 2019.
9. According to Table 3 of Schedule HC for 2019, the appellant with no dependents claimed with an adjusted gross income of \$44,087 could afford to pay \$279 per month for health insurance. According to Table 4, Appellant, 23 years old and living in Middlesex County, could have purchased insurance for \$257 per month for a plan for an individual. Insurance on the individual market was affordable for the appellant (Schedule HC for 2019 Tables 3 and 4, Exhibit 2, Testimony of Appellant).
10. According to Table 2 of Schedule HC for 2019, Appellant earning more than \$36,420 per year, would have been ineligible for the ConnectorCare program based upon income (Table 2 of Schedule HC-2019, and Exhibit 2).
11. The insurance offered to Appellant through his job would have cost the appellant \$138 a month. This would have been affordable for the appellant (See Schedule HC, Table 3, 2019).
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 2019 (Testimony of Appellant).
13. Appellant did not fall more than thirty days behind in rent payments in 2019 (Testimony of Appellant).
14. Appellant had his electricity shut off once and his telephone service shut off twice during 2019 (Testimony of Appellant), Exhibit 1 attachment).
14. Appellant had the following monthly expenses for basic necessities in 2019: rent, including heat-\$1625; electricity-\$90, but up to \$185 during summer months; telephone and internet-\$275; food-\$600; car payments-\$120; car insurance-\$150; gas-\$215; clothing-\$25. Appellant moved in December and had to pay \$3,000 for his first month's rent and for his security deposit. He had \$150 in moving expenses (Testimony of Appellant, Exhibit 1 attachment).

ANALYSIS AND CONCLUSIONS OF LAW

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

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

health insurance which meets minimum essential coverage as defined in the Patient Protection and Affordable Care Act.

The appellant has been assessed a penalty for all of 2019. The appellant has appealed the assessment. Exhibits 1, 2. Appellant obtained health insurance as of January 1, 2020. Since Appellant is entitled to a three-month grace period prior to obtaining coverage, Appellant's penalty for October through December is waived. See Exhibit 2 and the testimony of the appellant which I find to be credible.

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

According to Table 3 of Schedule HC for 2019, the appellant with no dependents claimed with an adjusted gross income of \$44,087 could afford to pay \$279 per month for health insurance. According to Table 4, Appellant, 23 years old and living in Middlesex County, could have purchased insurance for \$257 per month for a plan for an individual. Insurance on the individual market was affordable for the appellant. See Schedule HC for 2019 Tables 3 and 4, Exhibit 2, and the testimony of Appellant.

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

Appellant had access to health insurance through his job. He was offered coverage which would have cost him \$138 a month. See the testimony of the appellant which I find to be credible. According to Schedule HC for 2019, Tables 3 and 4, at the salary he was earning, he could have afforded to pay \$279 a month. The coverage was affordable for him. See the testimony of the appellant which I find to be credible.

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

Appellant had the following monthly expenses for basic necessities in 2019: rent, including heat-\$1625; electricity-\$90, but up to \$185 during summer months; telephone and internet-\$275; food-\$600; car payments-\$120; car insurance-\$150; gas-\$215; clothing-\$25. Appellant moved in December and had to pay \$3,000 for his first month's rent and for his security deposit. He had \$150 in moving expenses. See Exhibit 1 attachment, and the testimony of Appellant which I find to be credible.

Appellant's expenses amounted to about \$3,200 a month. Appellant earned about \$3,600 month before taxes, leaving him with little or no disposable income. Appellant also had to pay an extra \$1,500 in December for a security deposit and had moving expenses of \$150. In addition, Appellant had his cell phone and electricity turned off during the year. See the testimony of the appellant which I find to be credible, and Exhibit 1 attachment.

Based upon these facts summarized above, I determine that the appellant had a financial hardship such that health insurance was unaffordable for him during 2019. I determine that the cost of purchasing coverage would have caused Appellant to experience a serious deprivation of basic necessities. See 956 CMR 6.08(1)(e). See also 6.08(3) which allows the consideration of other financial issues raised by the appellant during the hearing and 956 CMR 6.08(1)(b) which allows consideration of shut-offs of basic utilities, in this case electricity and telephone.

Appellant's penalty is waived in full.

Appellant should note that any waiver granted here is for 2019 only and is based upon the specific facts I have found to be true and should not assume that the same determination will be made should Appellant be assessed a penalty in the future.

PENALTY ASSESSED

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

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

NOTIFICATION OF YOUR RIGHT TO APPEAL TO COURT

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

Hearing Officer

Cc: Connector Appeals Unit

Massachusetts Health Connector Appeals Unit

FINAL APPEAL DECISION: PA19575

Appeal Decision: The penalty is overturned in full.

Hearing Issue: Appeal of the 2019 Tax Year Penalty

Hearing Date: September 15, 2020

Decision Date: October 14, 2020

AUTHORITY

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

JURISDICTION

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

HEARING RECORD

The appellant appeared at the hearing which was held by telephone on September 15, 2020. The procedures to be followed during the hearing were reviewed with Appellant who was then sworn in. Exhibits were marked and admitted in evidence with no objection from the appellant. Appellant testified.

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

- Exhibit 1: Statement of Grounds for Appeal 2019 signed and dated by Appellant on April 25, 2020 with letter in support attached
- Exhibit 2: Appeal Case Information from Schedule HC 2019
- Exhibit 3: Notice of Hearing sent to Appellant dated August 12, 2020 for September 15, 2020 hearing
- Exhibit 4: Schedule HC worksheets, summary of Appellant's gross wages 2017-2019
- Exhibit 5: Appellant's 2018 Federal Tax Form 8965

FINDINGS OF FACT

The record shows, and I so find:

1. Appellant, who filed a 2019 Massachusetts tax return as a single person with no dependents claimed, was 45 years old in 2019 (Exhibit 2, Testimony of Appellant).
2. Appellant resided in Berkshire County in 2019 (Testimony of Appellant, Exhibit 2).
3. Appellant had a Federal Adjusted Income of \$34,632 in 2019 (Testimony of Appellant, Exhibit 2).
4. Appellant worked as a home health aide in 2019. She worked for four agencies, obtaining clients through each. The number of hours worked and her weekly income were unpredictable and inconsistent. If a client were hospitalized or died, the number of hours Appellant worked decreased. In order to increase her hours of work after such an event, Appellant had to wait for one of the agencies to assign her to a new client (Testimony of Appellant, Exhibit 1 attachment).
5. Appellant was not offered health insurance through any of the agencies she worked for (Testimony of Appellant).

6. Appellant had health insurance until the end of September, 2018 through the Connector. Appellant dropped the coverage because she felt she could no longer afford the premiums. Appellant's car had died; she had to buy another car so that she could get to work (Testimony of Appellant, Exhibit 2).
7. Appellant had no health insurance in 2019 until November when she obtained ConnectorCare coverage. Appellant has been assessed a penalty for seven months, January through July. Appellant has appealed this assessment (Testimony of Appellant, Exhibits 1 and 2).
8. As of the date of this hearing, Appellant still had ConnectorCare coverage (Testimony of Appellant).
8. I take administrative notice of the financial information set forth in Tables 1 through 6 in the DOR 2019 Massachusetts Schedule HC Health Care Instructions and Worksheets. Tables 3 and 4 incorporate affordability and premium schedules adopted by the Board of Directors for the Commonwealth Health Insurance Connector Authority for 2019. Table 2 sets forth income at 300% of the Federal poverty level and Tables 5 and 6 set forth tax penalties in effect for 2019.
9. According to Table 3 of Schedule HC for 2019, the appellant with no dependents claimed with an adjusted gross income of \$34,632 could afford to pay \$144 per month for health insurance. According to Table 4, Appellant, 45 years old and living in Berkshire County, could have purchased insurance for \$314 per month for a plan for an individual. Insurance on the individual market was unaffordable for the appellant (Schedule HC for 2019 Tables 3 and 4, Exhibit 2).
10. According to Table 2 of Schedule HC for 2019, Appellant earning less than \$36,420 per year, would have been eligible for the ConnectorCare program based upon income (Table 2 of Schedule HC-2019, and Exhibit 2).
11. Appellant did not incur significant and unexpected increases in essential expenses as a result of domestic violence; the death of a spouse, family member, or partner who shared household expenses; the sudden responsibility for providing full care for an aging parent or other family member; or fire, flood, or other natural or man-made disaster in 2019 (Testimony of Appellant).
12. Appellant did not fall more than thirty days behind in mortgage payments in 2019 (Testimony of Appellant).
13. Appellant did not receive any shut-off notices for basic utilities in 2019 (Testimony of Appellant).
14. Appellant had the following monthly expenses for basic necessities in 2019: mortgage-\$600; heat-\$150; electricity-\$35; water-\$30; telephone-\$80; food-\$260; car payment-\$205; car insurance-\$75; gas-\$175; clothing-\$67. In 2019, Appellant had to pay \$500 a month for old credit card debt. She also had to pay \$1,200 for car repairs and \$400 for home repairs (Testimony of Appellant).

ANALYSIS AND CONCLUSIONS OF LAW

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

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

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

The appellant has been assessed for a penalty for January through July, 2019. The appellant has appealed the assessment. Appellant obtained health insurance which met the Commonwealth's minimum creditable coverage standards as of November 1, 2019. Since Appellant is entitled to a three-month grace period before obtaining coverage at the beginning of November, her penalty for August through October, 2019 is waived. Exhibits 1, 2, and the testimony of the appellant which I find to be credible.

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 individual market, or through a government-sponsored program during the months Appellant was uninsured. If affordable insurance was available, we must determine if such insurance was, in fact, not affordable to the appellant because Appellant experienced a financial hardship as defined in 956 CMR 6.08.

According to Table 3 of Schedule HC for 2019, the appellant with no dependents claimed with an adjusted gross income of \$34,632 could afford to pay \$144 per month for health insurance. According to Table 4, Appellant, 45 years old and living in Berkshire County, could have purchased insurance for \$314 per month for a plan for an individual. Insurance on the individual market was unaffordable for the appellant (Schedule HC for 2019 Tables 3 and 4, Exhibit 2).

Appellant had no access to health insurance through employment in 2019. Appellant worked as a home health aide. Appellant obtained clients through four agencies. None of these offered health insurance coverage to any of its employees. See the testimony of the appellant which I find to be credible.

Appellant could have had affordable coverage through the ConnectorCare program. Her annual Federal Adjusted Income was \$34,632, less than the income limit for one person (\$36,420).

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

Appellant had the following expenses for basic necessities in 2019: mortgage-\$600; heat-\$150; electricity-\$35; water-\$30; telephone-\$80; food-\$260; car payment-\$205; car insurance-\$75; gas-\$175; clothing-\$67. In 2019, Appellant had to pay \$500 a month for old credit card debt. She also had to pay \$1,200 for car repairs and \$400 for home repairs. See the testimony of Appellant, which I find to be credible.

Appellant's monthly income before taxes averaged \$2,800 a month. Her monthly expenses for basic necessities, including debt payment and car and home repairs expenses came to over \$2,300. See the testimony of the appellant which I find to be credible and Exhibit 2. These figures are known to us after the fact. But, Appellant's work had inconsistent hours; at any time, Appellant could have lost a client due to hospitalization or death of a client. Her income varied from week to week and month to month. Based upon these facts, I determine that the appellant had a financial hardship such that health insurance was unaffordable for her. I determine that the cost of purchasing coverage would have caused Appellant to experience a serious deprivation of basic necessities. See 956 CMR 6.08(1)(e), and 956 CMR 6.08(3) which allows the consideration of financial issues raised by the appellant on appeal.

I also note that Appellant obtained health insurance as of November, 2019 and still had that coverage as of the date of the hearing.

Appellant's penalty is waived in full.

Appellant should note that any waiver granted here is for 2019 only and is based upon the specific facts I have found to be true and should not assume that the same determination will be made should Appellant be assessed a penalty in the future.

PENALTY ASSESSED

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

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

NOTIFICATION OF YOUR RIGHT TO APPEAL TO COURT

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

Hearing Officer

Cc: Connector Appeals Unit

Massachusetts Health Connector Appeals Unit

FINAL APPEAL DECISION: PA19631

Appeal Decision: The penalty is overturned in full.

Hearing Issue: Appeal of the 2019 Tax Year Penalty

Hearing Date: September 22, 2020

Decision Date: October 21, 2020

AUTHORITY

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

JURISDICTION

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

HEARING RECORD

The appellant appeared at the hearing which was held by telephone on September 22, 2020. The procedures to be followed during the hearing were reviewed with Appellant who was then sworn in. Exhibits were marked and admitted in evidence with no objection from the appellant. Appellant testified.

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

Exhibit 1: Statement of Grounds for Appeal 2019 signed and dated by Appellant on May 12, 2020

Exhibit 2: Appeal Case Information from Schedule HC 2019

Exhibit 3: Notice of Hearing sent to Appellant dated August 17, 2020 for September 22, 2020 hearing

FINDINGS OF FACT

The record shows, and I so find:

1. Appellant, who filed a 2019 Massachusetts tax return as a single person with no dependents claimed, was 18 years old in 2019 (Exhibit 2, Testimony of Appellant).
2. Appellant resided in Essex County in 2019. Appellant moved to Massachusetts from his country of origin in 2018. Appellant had a permanent resident card when Appellant came to the Commonwealth (Testimony of Appellant, Exhibit 2).
3. Appellant had a Federal Adjusted Income of \$20,010 in 2019 (Testimony of Appellant, Exhibit 2).
4. Appellant did not have health insurance which met the Commonwealth's standards in 2019. Appellant obtained coverage as of January 1, 2020 (Exhibit 2, Testimony of Appellant).
5. Appellant has been assessed a penalty for all of 2019. Appellant has appealed this assessment, claiming that the cost of purchasing health insurance would have caused him a serious deprivation of basic necessities (Testimony of Appellant, Exhibits 1 and 2).
6. Appellant was unemployed in January and February. He obtained a job at a fast food restaurant at the end of February and had the job the rest of the year. He earned \$12.00 an hour and worked between 20 and 32 hours a

week. Appellant also had a second job; the work was occasional. Appellant earned between \$4,000 and \$5,000 at the second job (Testimony of Appellant).

7. Appellant was not offered health insurance through either job (Testimony of Appellant).

8. Appellant was a part-time student at a community college starting in June, 2019. As of the date of this hearing, Appellant is still enrolled in courses (Testimony of Appellant).

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

10. According to Table 3 of Schedule HC for 2019, the appellant with no dependents claimed with an adjusted gross income of \$20,010 could afford to pay \$48 per month for health insurance. According to Table 4, Appellant, 18 years old and living in Essex County, could have purchased insurance for \$257 per month for a plan for an individual. Insurance on the individual market was unaffordable for the appellant (Schedule HC for 2019 Tables 3 and 4, Exhibit 2).

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

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 2019 (Testimony of Appellant).

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

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

15. Appellant had the following monthly expenses for basic necessities in 2019: rent-\$100 January through July, and \$350 August through December; heat and electricity-\$0; telephone-\$28; food-\$360 January through July and \$420 the rest of the year; clothing-\$50; public transportation-\$150. Appellant had to purchase books for his course work, and had to pay \$1,200 for moving expenses. Appellant also supported relatives in his country of origin and in Massachusetts, sending them about \$1,000 during the year (Testimony of Appellant).

ANALYSIS AND CONCLUSIONS OF LAW

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

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

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

The appellant has been assessed for a penalty for all of 2019. The appellant has appealed the assessment, claiming that the expense of purchasing health insurance would have caused him a serious deprivation of basic necessities. Exhibits 1, 2. Appellant obtained coverage which met the Commonwealth's standards as of January 1, 2020. Since he is entitled to a three-month grace period prior to obtaining coverage, his penalty for October through December is waived. See Massachusetts General Laws Chapter 111M, Section 2.

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

According to Table 3 of Schedule HC for 2019, the appellant with no dependents claimed with an adjusted gross income of \$20,010 could afford to pay \$48 per month for health insurance. According to Table 4, Appellant, 18 years old and living in Essex County, could have purchased insurance for \$257 per month for a plan for an individual. Insurance on the individual market was unaffordable for Appellant. See Schedule HC for 2019, Tables 3 and 4, Exhibit 2.

Appellant had no access to health insurance through employment in 2019. Appellant was unemployed during January and February. Appellant had two part-time jobs during the rest of the year. He was not offered health insurance by either employer. See the testimony of the appellant which I find credible.

Appellant could have had affordable coverage through the ConnectorCare program. His annual Federal Adjusted Income was \$20,010, less than the income limit for one person (\$36,420). He also had no access to employer-sponsored insurance during the months in question. See 956 CMR 12.00.

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

Appellant had the following expenses for basic necessities in 2019: rent-\$100 January through July, and \$350 August through December; heat and electricity-\$0; telephone-\$28; food-\$360 January through July and \$420 the rest of the year; clothing-\$50; public transportation-\$150. Appellant had to purchase books for his course work, and had to pay \$1,200 for moving expenses. Appellant also supported relatives in his country of origin and in Massachusetts, sending them about \$1,000 during the year. See the testimony of Appellant, which I find to be credible.

Based upon these facts summarized above, I determine that the appellant had a financial hardship such that health insurance was unaffordable for him during 2019. Appellant had no income for part of the year (January and February) and income that varied month to month during the rest of the year. His take-home pay was unpredictable. Appellant's income before taxes averaged \$1,700 a month, leaving Appellant little or no disposable income. I determine that the cost of purchasing health insurance would have caused the appellant a serious deprivation of basic necessities. See 956 CMR 6.08(1)(e). See also 6.08(3) which allows the consideration of other financial issues raised by Appellant during the hearing.

I also note Appellant obtained health insurance as of January 1, 2020 and still had coverage as of the date of this hearing.

Appellant's penalty is waived in full.

Appellant should note that any waiver granted here is for 2019 only and is based upon the specific facts I have found to be true and should not assume that the same determination will be made should Appellant be assessed a penalty in the future.

PENALTY ASSESSED

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

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

NOTIFICATION OF YOUR RIGHT TO APPEAL TO COURT

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

Hearing Officer

Cc: Connector Appeals Unit

Massachusetts Health Connector Appeals Unit

FINAL APPEAL DECISION: PA19633

Appeal Decision: The penalty is overturned in full.

Hearing Issue: Appeal of the 2019 Tax Year Penalty

Hearing Date: September 22, 2020

Decision Date: October 29, 2020

AUTHORITY

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

JURISDICTION

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

HEARING RECORD

The appellant appeared at the hearing which was held by telephone on September 22, 2020. The procedures to be followed during the hearing were reviewed with Appellant who was then sworn in. Exhibits were marked and admitted in evidence with no objection from the appellant. Appellant testified. At the end of the hearing the record was left until October 16th to give Appellant time to submit additional evidence. A document was received from the appellant on October 28, 2020. It has been marked as an exhibit and admitted in evidence. This hearing is now closed.

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

- Exhibit 1: Statement of Grounds for Appeal 2019 signed and dated by Appellant on May 8, 2020
- Exhibit 2: Appeal Case Information from Schedule HC 2019
- Exhibit 3: Notice of Hearing sent to Appellant dated August 17, 2020 for September 22, 2020 hearing
- Exhibit 4: Employer Information Sheet regarding 2019 offer of health insurance to Appellant

FINDINGS OF FACT

The record shows, and I so find:

1. Appellant, who filed a 2019 Massachusetts tax return as a single person with no dependents claimed, was 40 years old in 2019 (Exhibit 2, Testimony of Appellant).
2. Appellant resided in Plymouth County in 2019 (Testimony of Appellant, Exhibit 2).
3. Appellant had a Federal Adjusted Income of \$48,046 in 2019 (Testimony of Appellant, Exhibit 2).
4. Appellant worked full-time in a grocery store in 2019. Appellant was offered health insurance which met the Commonwealth's minimum creditable coverage standards. The appellant missed the open enrollment period for 2019 and was uninsured all year. Appellant enrolled for 2020 coverage and had health insurance as of January 1, 2020. Appellant now pays \$42 a week for the coverage (Testimony of Appellant, Exhibits 2 and 4).
5. Appellant has been assessed a penalty for all of 2019. Appellant has appealed this assessment (Testimony of Appellant, Exhibits 1 and 2).

6. I take administrative notice of the financial information set forth in Tables 1 through 6 in the DOR 2019 Massachusetts Schedule HC Health Care Instructions and Worksheets. Tables 3 and 4 incorporate affordability and premium schedules adopted by the Board of Directors for the Commonwealth Health Insurance Connector Authority for 2019. Table 2 sets forth income at 300% of the Federal poverty level and Tables 5 and 6 set forth tax penalties in effect for 2019.
7. According to Table 3 of Schedule HC for 2019, the appellant with no dependents claimed with an adjusted gross income of \$48,046 could afford to pay \$304 per month for health insurance. According to Table 4, Appellant, 40 years old and living in Plymouth County, could have purchased insurance for \$306 per month for a plan for an individual. Insurance on the individual market was unaffordable for the appellant (Schedule HC for 2019 Tables 3 and 4, Exhibit 2, Testimony of Appellant).
8. According to Table 2 of Schedule HC for 2019, Appellant earning more than \$36,420 per year, would have been ineligible for the ConnectorCare program based upon income (Table 2 of Schedule HC-2019, and Exhibit 2).
9. Appellant did not incur significant and unexpected increases in essential expenses as a result of domestic violence; the death of a spouse, family member, or partner who shared household expenses; the sudden responsibility for providing full care for an aging parent or other family member; or fire, flood, or other natural or man-made disaster in 2019 (Testimony of Appellant).
10. Appellant did not receive any shut-off notices for basic utilities during 2019 (Testimony of Appellant).
11. Appellant was homeless all of 2019. For approximately five months, Appellant lived in motels. At other times, Appellant stayed with friends, moving from place to place (Testimony of Appellant).
12. Appellant had the following monthly expenses for basic necessities in 2019: rent, including heat and electricity-\$1,600 when in a motel and \$860 when with friends; telephone-\$40; food-\$350; clothing-\$10. Appellant had no car. When he had to go some place he got rides from friends (Testimony of Appellant).

ANALYSIS AND CONCLUSIONS OF LAW

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

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

The appellant has been assessed a penalty for all of 2019. The appellant has appealed the assessment. Exhibits 1, 2. Appellant obtained health insurance as of January 1, 2020. Since Appellant is entitled to a three-month grace period prior to obtaining coverage, Appellant’s penalty for October through December is waived. See Exhibit 2 and the testimony of the appellant which I find to be credible.

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

According to Table 3 of Schedule HC for 2019, the appellant with no dependents claimed with an adjusted gross income of \$48,046 could afford to pay \$304 per month for health insurance. According to Table 4, Appellant, 40 years old and living in Plymouth County, could have purchased insurance for \$306 per month for a plan for an individual. Insurance on the individual market was unaffordable for the appellant. See Schedule HC for 2019 Tables 3 and 4, Exhibit 2, and the testimony of Appellant.

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

Appellant had access to health insurance through his job. The coverage offered met the Commonwealth's minimum creditable coverage standards. There is no evidence in the record as to the cost of the coverage so we cannot determine if the coverage was affordable. Appellant missed the open enrollment period for 2019 coverage, and was unable to obtain coverage once the period was past. However, as of January 1, 2020, Appellant obtained coverage through his job for \$42 a week. See Exhibit 4 and the testimony of the appellant which I find to be credible.

If we assume that the health insurance offered to Appellant through employment was affordable, we need to explore whether Appellant had a financial hardship such that the cost of purchasing insurance was unaffordable for the Appellant. See 956 CMR 6.08 (1). Appellant was homeless all of 2019. For approximately five months, Appellant lived in motels. At other times, Appellant stayed with friends, moving from place to place. See the testimony of the appellant which I find to be credible. Being homeless constitutes a financial hardship such that the cost of purchasing health insurance is unaffordable for an individual. See 956 CMR 6.08 (1)(a).

Appellant's penalty is waived in full because of financial hardship.

Appellant should note that any waiver granted here is for 2019 only and is based upon the specific facts I have found to be true and should not assume that the same determination will be made should Appellant be assessed a penalty in the future.

PENALTY ASSESSED

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

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

NOTIFICATION OF YOUR RIGHT TO APPEAL TO COURT

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

Hearing Officer

Cc: Connector Appeals Unit

Massachusetts Health Connector Appeals Unit

FINAL APPEAL DECISION: PA19634

Appeal Decision: The penalty is overturned in full.

Hearing Issue: Appeal of the 2019 Tax Year Penalty

Hearing Date: September 22, 2020

Decision Date: October 27, 2020

AUTHORITY

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

JURISDICTION

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

HEARING RECORD

The appellant appeared at the hearing which was held by telephone on September 22, 2020. The procedures to be followed during the hearing were reviewed with Appellant who was then sworn in. Exhibits were marked and admitted in evidence with no objection from the appellant. Appellant testified.

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

- Exhibit 1: Statement of Grounds for Appeal 2019 signed and dated by Appellant on May 11, 2020 with letter in support attached
- Exhibit 1a: Record of Appellant's student loan payment, car loan payments, and car insurance payments
- Exhibit 2: Appeal Case Information from Schedule HC 2019
- Exhibit 3: Notice of Hearing sent to Appellant dated August 17, 2020 for September 22, 2020 hearing

FINDINGS OF FACT

The record shows, and I so find:

1. Appellant, who filed a 2019 Massachusetts tax return as a single person with no dependents claimed, was 27 years old in 2019 (Exhibit 2, Testimony of Appellant).
2. Appellant resided in Norfolk County in 2019 (Testimony of Appellant, Exhibit 2).
3. Appellant had a Federal Adjusted Income of \$36,320 in 2019 (Testimony of Appellant, Exhibit 2).
4. Appellant was unemployed from January through the end of July. He did not receive unemployment compensation while he was out of work. Appellant found a new job near the end of July (Testimony of Appellant).
5. Appellant was offered health insurance through his job, but Appellant had to be on the job for 90 days before he could enroll. Appellant obtained insurance some time near the end of November (Testimony of Appellant, Exhibit 2).

6. Appellant still had coverage as of the date of this hearing (Testimony of Appellant).
7. Appellant has been assessed a penalty for eight months, January through August. Appellant has appealed this assessment (Testimony of Appellant, Exhibits 1 and 2).
8. I take administrative notice of the financial information set forth in Tables 1 through 6 in the DOR 2019 Massachusetts Schedule HC Health Care Instructions and Worksheets. Tables 3 and 4 incorporate affordability and premium schedules adopted by the Board of Directors for the Commonwealth Health Insurance Connector Authority for 2019. Table 2 sets forth income at 300% of the Federal poverty level and Tables 5 and 6 set forth tax penalties in effect for 2019.
9. According to Table 3 of Schedule HC for 2019, the appellant with no dependents claimed with an adjusted gross income of \$36,320 could afford to pay \$151 per month for health insurance. According to Table 4, Appellant, 27 years old and living in Norfolk County, could have purchased insurance for \$257 per month for a plan for an individual. Insurance on the individual market was unaffordable for the appellant (Schedule HC for 2019 Tables 3 and 4, Exhibit 2).
10. According to Table 2 of Schedule HC for 2019, Appellant earning less than \$36,420 per year, would have been eligible for the ConnectorCare program based upon income (Table 2 of Schedule HC-2019, and Exhibit 2).
11. Appellant did not incur significant and unexpected increases in essential expenses as a result of domestic violence; the death of a spouse, family member, or partner who shared household expenses; the sudden responsibility for providing full care for an aging parent or other family member; or fire, flood, or other natural or man-made disaster in 2019 (Testimony of Appellant).
13. Appellant did not fall more than thirty days behind in rent payments in 2019 (Testimony of Appellant).
14. Appellant did not receive any shut-off notices for basic utilities in 2019 (Testimony of Appellant).
15. Appellant had the following monthly expenses for basic necessities in 2019: rent, including heat and electricity-\$500; telephone-\$0.00; food-\$50; car payment-\$476; car insurance-\$251; gas-\$320; clothing-\$0.00. Appellant also paid \$548 a month from January through April and \$393 from May through July for students loans. Since the appellant had no income from January through the end of July, Appellant lived off of his savings. By the time Appellant found work, he had used up his savings (Testimony of Appellant, Exhibits 1 and 1a).

ANALYSIS AND CONCLUSIONS OF LAW

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

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

The appellant has been assessed for a penalty for January through August, 2019. The appellant has appealed the assessment. Exhibits 1, 2. Appellant obtained health insurance which met the Commonwealth's minimum creditable coverage standards as of December, 2019. Since Appellant is entitled to a three-month grace period before obtaining coverage, his penalty for September through November, 2019 is waived. See the testimony of the appellant which I find to be credible and Exhibit 2.

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

According to Table 3 of Schedule HC for 2019, the appellant with no dependents claimed with an adjusted gross income of \$36,320 could afford to pay \$151 per month for health insurance. According to Table 4, Appellant, 27 years old and living in Norfolk County, could have purchased insurance for \$257 per month for a plan for an individual. Insurance on the individual market was unaffordable for him. See Schedule HC for 2019, Tables 3 and 4, Exhibit 2.

Appellant had no access to health insurance through employment from January through some time in November, 2019. He was unemployed until the end of July. At the job he obtained, Appellant was offered insurance which met the Commonwealth's standards, but he could not enroll until some time in November. The effective start date was December 1, 2019. See the testimony of the appellant which I find to be credible, and Exhibit 2.

Appellant could have had affordable coverage through the ConnectorCare program. His annual Federal Adjusted Income was \$36,320, less than the income limit for one person (\$36,420). He also had no access to employer-sponsored insurance during the months for which he has been assessed a penalty. See 956 CMR 12.00 et. seq.

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

Appellant had the following expenses for basic necessities in 2019: rent, including heat and electricity-\$500; telephone-\$0.00; food-\$50; car payment-\$476; car insurance-\$251; gas-\$320; clothing-\$0.00. Appellant also paid \$548 a month from January through April and \$393 from May through July for students loans. Since the appellant had no income from January through the end of July, Appellant lived off of his savings. By the time Appellant found work, he had used up his savings. See the testimony of Appellant, which I find to be credible, and Exhibits 1 and 1a.

Appellant was unemployed for seven of the eight months for which he has been assessed a penalty. He had no source of income during that period, while he had substantial expenses for basic necessities. Appellant lived off his savings and by the time he obtained work, had used up his reserves. Once he started work, he would not immediately have had enough money to pay his bills. In addition, he was told that he would be eligible for health insurance after 90 days on the job. He enrolled when he could and had insurance for all of December. See the testimony of the appellant which I find to be credible and Exhibits 1 and 1a.

Based upon these facts summarized above, I determine that the appellant had a financial hardship such that health insurance was unaffordable for him. The cost of purchasing coverage would have caused him to experience a serious deprivation of basic necessities. See 956 CMR 6.08(1)(e).

Appellant's penalty is waived.

Appellant should note that any waiver granted here is for 2019 only and is based upon the specific facts I have found to be true and should not assume that the same determination will be made should Appellant be assessed a penalty in the future.

PENALTY ASSESSED

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

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

NOTIFICATION OF YOUR RIGHT TO APPEAL TO COURT

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

Hearing Officer

Cc: Connector Appeals Unit

Massachusetts Health Connector Appeals Unit

FINAL APPEAL DECISION: PA19635

Appeal Decision: The penalty is overturned in full.

Hearing Issue: Appeal of the 2019 Tax Year Penalty

Hearing Date: September 22, 2020

Decision Date: October 21, 2020

AUTHORITY

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

JURISDICTION

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

HEARING RECORD

The appellant appeared at the hearing which was held by telephone on September 22, 2020. The procedures to be followed during the hearing were reviewed with Appellant who was then sworn in. Exhibits were marked and admitted in evidence with no objection from the appellant. Appellant testified.

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

Exhibit 1: Statement of Grounds for Appeal 2019 signed and dated by Appellant on May 8, 2020 with paystub for week ending May 4, 2019 attached

Exhibit 2: Appeal Case Information from Schedule HC 2019

Exhibit 3: Notice of Hearing sent to Appellant dated August 17, 2020 for September 22, 2020 hearing

FINDINGS OF FACT

The record shows, and I so find:

1. Appellant, who filed a 2019 Massachusetts tax return as a single person with no dependents claimed, was 39 years old in 2019 (Exhibit 2, Testimony of Appellant).
2. Appellant resided in Worcester County in 2019 (Testimony of Appellant, Exhibit 2).
3. Appellant had a Federal Adjusted Income of \$26,055 in 2019 (Testimony of Appellant, Exhibit 2).
4. Appellant did not have health insurance which met the Commonwealth's standards in 2019. Appellant is still uninsured, as of the date of this hearing (Exhibit 2, Testimony of Appellant).
5. Appellant has been assessed a penalty for all of 2019. Appellant has appealed this assessment, claiming that the cost of purchasing health insurance would have caused him a serious deprivation of basic necessities (Testimony of Appellant, Exhibits 1 and 2).
6. Appellant was employed from January through the end of May, 2019 at a job he had had for ten years. After being injured, Appellant left the job. Appellant was then unemployed until September when he obtained new employment. Appellant earned about \$11,000 from January through May and about \$15,000 from September through December (Testimony of Appellant).

7. Appellant was offered health insurance through his first job. He would have had to pay \$360 a month for the coverage. He did not enroll. At his second job, he was offered coverage. The coverage would not have an effective start date until the January, 2020 (Testimony of Appellant).

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

9. According to Table 3 of Schedule HC for 2019, the appellant with no dependents claimed with an adjusted gross income of \$26,055 could afford to pay \$91 per month for health insurance. According to Table 4, Appellant, 39 years old and living in Worcester County, could have purchased insurance for \$286 per month for a plan for an individual. Insurance on the individual market was unaffordable for the appellant (Schedule HC for 2019 Tables 3 and 4, Exhibit 2).

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

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

13. Appellant was homeless from June through mid-September in 2019. He lived in his car, sometimes in campgrounds, moved from friend to friend, or stayed in a motel during this period (Testimony of Appellant).

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

15. Appellant had the following monthly expenses for basic necessities in 2019: rent-\$430, except when he was homeless; heat and electricity-\$0; telephone-\$0; food-\$380; clothing-\$25; car insurance-\$78; gas-\$80; child support-\$645. Appellant also had to spend \$1,000 on car repairs. When he was a homeless, he spent \$400 a month paying friends, motels, or campground fees (Testimony of Appellant).

ANALYSIS AND CONCLUSIONS OF LAW

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

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

The appellant has been assessed for a penalty for all of 2019. The appellant has appealed the assessment, claiming that the expense of purchasing health insurance would have caused him a serious deprivation of basic necessities. Exhibits 1, 2.

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

According to Table 3 of Schedule HC for 2019, the appellant with no dependents claimed with an adjusted gross income of \$26,055 could afford to pay \$91 per month for health insurance. According to Table 4, Appellant, 39 years old and living in Worcester County, could have purchased insurance for \$286 per month for a plan for an individual. Insurance on the individual market was unaffordable for Appellant. See Schedule HC for 2019, Tables 3 and 4, Exhibit 2.

Appellant had no access to affordable health insurance through employment in 2019. When he was employed at the first job he had, the health insurance was unaffordable. It would have cost him \$360 a month. Pursuant to Schedule HC 2019, Table 3, Appellant was deemed able to spend only \$91 a month on coverage. At his second job, he was offered health insurance, but with an effective start date of January, 2020. Between jobs, Appellant was unemployed. See the testimony of the appellant which I find credible.

Appellant could have had affordable coverage through the ConnectorCare program. His annual Federal Adjusted Income was \$26,055, less than the income limit for one person (\$36,420). However, the coverage, which is subsidized in part by an advance premium tax credit, is available to individuals who have access to insurance through employment only if the offered insurance is unaffordable. Pursuant to the Affordable Care Act, if employer-sponsored health insurance was offered and if the cost to the employee in 2019 was less than 9.86% of the employee's modified adjusted gross income, then the coverage was deemed affordable and the employee was not eligible for an advance premium tax credit. See 45 CFR Section 155.305(f) and 26 CFR Section 1.36B-2.

Appellant was offered health insurance through the job he had from January through May. 9.86% of the appellant's adjusted gross income of \$26,055 equals \$2,569. This amount divided by twelve equals \$214, the amount the appellant was deemed able to afford according to the Affordable Care Act. Coverage through employment cost \$360 per month. The coverage was deemed unaffordable pursuant to the Affordable Care Act. The appellant was therefore, eligible for ConnectorCare coverage; the appellant was eligible for an advance premium tax credit. See Exhibit 2. For the rest of the year, June through December, Appellant had no access to insurance through employment, so remained eligible. See 956 CMR 12.00.

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

Appellant was homeless for over three months during 2019. From June through mid-September he lived in his car, sometimes staying in campgrounds, stayed in motels, or moved from friend to friend. Pursuant to 956 CMR 6.08(1)(a), homelessness constitutes a financial hardship such that the cost of purchasing health insurance is unaffordable. Given this, Appellant's penalty must be waived in its entirety.

Appellant's penalty is waived in full.

Appellant should note that any waiver granted here is for 2019 only and is based upon the specific facts I have found to be true and should not assume that the same determination will be made should Appellant be assessed a penalty in the future.

PENALTY ASSESSED

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

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

NOTIFICATION OF YOUR RIGHT TO APPEAL TO COURT

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

Hearing Officer

Cc: Connector Appeals Unit

Addendum: If Appellant still does not have health insurance, he may want to apply for coverage through the Connector by calling 617-623-6765 or by going online at mahealthconnector.org.

Massachusetts Health Connector Appeals Unit

FINAL APPEAL DECISION: PA181136

Appeal Decision: The penalty is overturned in full.

Hearing Issue: Appeal of the 2018 Tax Year Penalty

Hearing Date: September 03, 2020

Decision Date: October 2, 2020

AUTHORITY

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

JURISDICTION

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

HEARING RECORD

The appellant appeared at the hearing which was held by telephone on September 3, 2020. The procedures to be followed during the hearing were reviewed with Appellant who was then sworn in. Exhibits were marked and admitted in evidence with no objection from the appellant. Appellant testified. At the end of the hearing the record was kept open until September 25, 2020 to give the appellant time to submit additional evidence. As of the date of this writing, October 2, 2020, the appellant has not submitted any additional evidence. The record is now closed.

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

Exhibit 1: Statement of Grounds for Appeal 2018 signed and dated February 4, 2020

Exhibit 2: Appeal Case Information from Schedule HC 2018

Exhibit 3: Notice of Hearing sent to Appellant dated August 10, 2020 for September 3, 2020 hearing

FINDINGS OF FACT

The record shows, and I so find:

1. Appellant, who filed a 2018 Massachusetts tax return as Head of Household with one dependent claimed, was 58 years old in 2018. Her dependent was her granddaughter who was 11 years old in 2018. (Exhibit 2, Testimony of Appellant).
2. Appellant lived in Norfolk County in 2018 (Exhibit 2, Testimony of Appellant).
3. Appellant had a Federal adjusted gross income for 2018 of \$49,551 (Exhibit 2 and Testimony of Appellant).
4. Appellant worked for a temp agency in 2018. She earned \$14.00 an hour and worked 40 hours a week. Some weeks she worked overtime (Testimony of Appellant).
5. Appellant's employer offered health insurance to its employees. Appellant did not know about the offer, and, therefore, did not enroll. As of June, 2020, Appellant had obtained coverage (Testimony of Appellant).
6. Appellant was uninsured all of 2018. She has been assessed a tax penalty for twelve months. Appellant has appealed the assessment, claiming that the cost of purchasing health insurance would have caused her to experience a serious deprivation of basic necessities (Exhibits 1 and 2).

7. I take administrative notice of the financial information set forth in Tables 1 through 6 in the DOR 2018 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 2018. Table 2 sets forth income at 300% of the Federal poverty level and Tables 5 and 6 set forth tax penalties in effect for 2018.

8. According to Table 3 of Schedule HC for 2018, the appellant who filed her Massachusetts taxes as Head of Household with one dependent claimed with a Federal adjusted gross income of \$49,551 could afford to pay \$307 per month for health insurance. According to Table 4, Appellant, 58 years old and living in Norfolk County, could have purchased insurance for \$1,003 per month for a plan for a family. Insurance on the individual market was not affordable to the appellant. (Schedule HC for 2018, Tables 3 and 4, Exhibit 2).

9. According to Table 2 of Schedule HC for 2018, Appellant, with an income of more than \$48,720 (the income limit for a tax household of two) per year, would have been ineligible for the ConnectorCare program based upon income.(Table 2 of Schedule HC-2018, Exhibit 2, 956 CMR12.00 et seq.).

10. Appellant had the following monthly expenses for basic necessities in 2018: rent-\$1,600; electricity-\$200; heat and hot water-\$230 in winter months, \$60 in summer months; phone-\$85; food and personal items-\$300; transportation-\$750; clothes-\$40. In addition, Appellant paid \$183 a month for her granddaughter's after school program and \$300 a month for credit card debt (Testimony of Appellant).

11. Appellant did not incur significant and unexpected increases in essential expenses as a result of domestic violence; the death of a spouse, family member, or partner who shared household expenses; 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 2018 (Testimony of Appellant).

12. Appellant did not fall more than 30 days behind in her rent payment during 2018 (Testimony of Appellant).

13. Appellant had her electricity shut off once during 2018 (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 2018 should be waived, either in whole or in part.

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

The appellant was assessed for a penalty for all of 2018. The appellant has appealed the assessment, claiming that the cost of purchasing health insurance would have caused her to experience a serious deprivation of basic necessities. Exhibits 1, 2.

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

According to Table 3 of Schedule HC for 2018, the appellant who filed her Massachusetts taxes as Head of Household with one dependent claimed with a Federal adjusted gross income of \$49,551 could afford to pay \$307 per month for health insurance. According to Table 4, Appellant, 58 years old and living in Norfolk County, could have purchased insurance for \$1,003 per month for a plan for a family. Insurance on the individual market was not affordable to the appellant. See Schedule HC for 2018, Tables 3 and 4, Exhibit 2.

Appellant worked for a temp agency all of 2018. The agency did offer health insurance, but the appellant did not realize this, so she never enrolled. See the testimony of the appellant which I find to be credible. Appellant was asked to submit evidence about the cost of the coverage offered, but she failed to do so. From the record we cannot determine whether the coverage offered was affordable or not.

Appellant was not income-eligible for ConnectorCare coverage. She had an income of more than \$48,720, the income limit for a tax household of two. See Exhibit 2, Table 2 of Schedule HC for 2018 and 956 CMR 12.00 et.seq.

Even if we assume that the health insurance offered to her through employment was affordable, Appellant's penalty is waived because of financial hardship. Appellant had her electricity shut off once during the year. Pursuant to 956 CMR 6.08(1)(b), having a basic utility such as electricity shut off constitutes a financial hardship so that the cost of health insurance is unaffordable.

In addition, Appellant's expenses for basic necessities amounted to about \$3,600 a month. Her income before taxes amounted to about \$4,000. Considering that a portion of Appellant's income was pay for overtime which she could not count on, and the expense of taxes, Appellant was left with little or no disposable income to pay for health insurance each month. 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).

Appellant's penalty is waived entirely.

Appellant should note that any waiver granted here is for 2018 only and is based upon the specific facts I have found to be true and should not assume that the same determination will be made should Appellant be assessed a penalty in the future.

PENALTY ASSESSED

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

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

NOTIFICATION OF YOUR RIGHT TO APPEAL TO COURT

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

CC. Connector Appeals Unit

Hearing Officer