

Massachusetts Health Connector Appeals Unit

FINAL APPEAL DECISION: PA21-1929

Appeal Decision: Appeal Approved

Hearing Issue: Appeal of the 2021 Tax Year Penalty

Hearing Date: August 11, 2022

Decision Date: October 11, 2022

AUTHORITY

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

JURISDICTION

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

HEARING RECORD¹

The Appellant appeared at the hearing, which was held by telephone, on August 11, 2022.

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

Exhibit 1	Hearing Notice dated July 8, 2022	2 pages
Exhibit 2	Appeal Case Info. fr. Sch. HC for 2021	1 page
Exhibit 3	Statement of Grounds for Appeal	5 pages
Exhibit 4	Supporting Letter	1 page
Exhibit 5	BCBS MA HMO Blue Instruction1/19/22	2 pages
Exhibit 6	Form 1099 HC for 2021	1 page

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

FINDINGS OF FACT

The record shows, and I so find:

1. The Appellant turned 26 years old in June 2021. The Appellant filed their Federal Income Tax Return as a single individual, with no dependents claimed. (Exhibit 2).
2. The Appellant lived in Norfolk County, MA during 2021. (Appellant's Testimony and Exhibit 2).
3. The Appellant's Federal Adjusted Gross Income (AGI) for 2021 was \$35,858.00 as shown on Schedule HC for 2021. (Exhibit 2).
4. The Appellant did not have health insurance that met Minimum Creditable Coverage (MCC) during six (6) months of tax year 2021, July through December, according to Appeal Case Information from Schedule HC for 2021. (Exhibit 2).
5. The Appellant has been assessed a three (3)-month tax penalty for 2021, which they have appealed. (Exhibit 2).
6. I take administrative notice of the financial information set forth in Tables 1 through 6 of the DOR 2021 Massachusetts Schedule HC Health Care Instructions and Worksheet. Tables 3 and 4 incorporate affordability and premium schedules adopted by the Board of Directors for the Commonwealth Health Insurance Connector Authority for 2021. Table 2 sets forth income at 300% of the Federal poverty level and Tables 5 and 6 set forth tax penalties in effect for 2021.
7. In accordance with Table 3 of Schedule HC for 2021, the Appellant filing the Federal tax return as a single individual, with no dependents claimed, with an annual adjusted gross income of \$35,858.00, could afford to pay \$149.00 per month for government-sponsored health insurance. In accordance with Table 4, the Appellant, age 26 years, living in Norfolk County could have purchased private market health insurance for \$263.00 per month. (Table 4, Schedule HC for 2021). Thus, private insurance was not affordable for the Appellant in 2021.
8. Employer-sponsored insurance (ESI) that was MCC-compliant was available to Appellant during 2021 for six months of the year, January through June 2021. (Appellant's Testimony).
9. The Appellant was income-eligible for ConnectorCare coverage in 2021 because their adjusted gross income of \$35,858.00 was less than 300% of the Federal poverty level, which was \$38,280.00 in 2021 (Schedule HC, Table 2). (Exhibit 2).
10. The Appellant was employed by a company that provided them with ESI from January through June 2021. (Appellant's Testimony).

11. In June 2021, Appellant’s employer was purchased by a national company. Considerable confusion ensued as to employee benefits and Human Resource (“HR”) issues. Communications from the new HR Department were spotty, non-responsive and incomplete. (Appellant’s Testimony, which I credit).
12. The Appellant believed that their health insurance continued to be MCC-compliant after the new company took over. They did not understand that the health insurance offered by the new company was not MCC-compliant until they received their Form MA 1099-HC for tax purposes.² (Exhibit 6 and Appellant’s Testimony, which I credit).
13. Appellant did not understand the Health Connector marketplace or that they were income-eligible for Connector health insurance during 2021. (Appellant’s Testimony).
14. The Appellant’s monthly living expenses during 2021 of \$3,575.00 included: Mortgage - \$2,000.00, Heat - \$175.00, Electricity - \$170.00, Car insurance - \$180.00, Car Payments - \$313.00, Gas - \$100.00, Telephone - \$80.00, Internet - \$90.00, Food - \$150.00, Credit card debt - \$150.00; financial assistance to struggling mother – \$167.00. Appellant has total credit card debt of about \$5,000.00 and student loan debt which was in forbearance during 2021 for approximately \$180.00 per month. (Appellant’s Testimony, which I credit).

ANALYSIS AND CONCLUSIONS OF LAW

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

The Appellant checked a box on their Statement of Grounds for Appeal stating that they had purchased health insurance from their new national employer that didn’t meet minimum creditable coverage because that is what their employer offered and circumstances prevented

² If Appellant does not obtain MCC-compliant health insurance, they were encouraged to contact the Health Connector to explore possible options by calling 1-877-623-6765 or www.mahealthconnector.org during the Open Enrollment period, from November 1, 2022 through January 23, 2023.

them from buying other insurance that met the requirements. (Appellant's Testimony and Exhibit 3).

To determine if the three (3)-month penalty should be waived in whole or in part, there must be an evaluation of whether affordable insurance which met minimum creditable coverage standards was available to the Appellant through employment, through private insurance, or through a government-sponsored program. If affordable insurance was available, it must be determined if such insurance was not affordable to the Appellant because the Appellant experienced a hardship as defined in 956 CMR 6.08.

I take administrative notice of the financial information set forth in Tables 1 through 6 of the DOR 2021 Massachusetts Schedule HC Health Care Instructions and Worksheet. Tables 3 and 4 incorporate affordability and premium schedules adopted by the Board of Directors for the Commonwealth Health Insurance Connector Authority for 2021. Table 2 sets forth income at 300% of the Federal poverty level and Tables 5 and 6 set forth tax penalties in effect for 2021.

Employer-sponsored insurance (ESI) that was MCC-compliant was available to Appellant during 2021 for six months of the year, January through June 2021. (Appellant's Testimony).

The Appellant was income-eligible for ConnectorCare coverage in 2021 because their adjusted gross income of \$35,858.00 was less than 300% of the Federal poverty level, which was \$38,280.00 in 2021 (Schedule HC, Table 2). (Exhibit 2).

The Appellant was employed by a company that provided them with ESI from January through June 2021. (Appellant's Testimony).

In June 2021, Appellant's employer was purchased by a national company. Considerable confusion ensued as to employee benefits and Human Resource ("HR") issues. Communications from the new HR Department were spotty, non-responsive and incomplete. (Appellant's Testimony).

The Appellant believed that their health insurance continued to be MCC-compliant after the new company took over. They did not understand that the health insurance offered by the new company was not MCC-compliant until they received their Form MA 1099-HC for tax purposes. (Exhibit 6 and Appellant's Testimony, which I credit).

Appellant did not understand the Health Connector marketplace or that they were income-eligible for Connector health insurance during 2021. (Appellant's Testimony).

The Appellant's monthly living expenses during 2021 of \$3,575.00 included: Mortgage - \$2,000.00, Heat - \$175.00, Electricity - \$170.00, Car insurance - \$180.00, Car Payments - \$313.00, Gas - \$100.00, Telephone - \$80.00, Internet - \$90.00, Food - \$150.00, Credit card debt - \$150.00; financial assistance to struggling mother - \$167.00. Appellant has total credit card debt of about \$5,000.00 and student loan debt which was in forbearance during 2021 for approximately \$180.00 per month. (Appellant's Testimony, which I credit).

Appellant had MCC-compliant health insurance coverage through their employer for the first six months of 2021. In June 2021, a new national company purchased Appellant's employer. Communications about benefits from the new company were spotty and incomplete. Appellant believed that the new company provided MCC-compliant insurance until they received their Form MA-1099 in spring 2021. They did not understand the Connector Marketplace given their young age and, in any event, the open enrollment period for 2021 had passed by the time Appellant became aware that the new company's insurance was non-compliant. Appellant's living expenses of \$3,575.00 monthly, or \$42,900 annually, during 2021 exceeded their AGI of \$35,858.00 that year.

Considering the evidence in the administrative record and the totality of the circumstances, I conclude that Appellant has established hardship within the meaning of 956 CMR 6.08. For all these reasons, the Appellant's three (3)-month penalty is waived.

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

PENALTY ASSESSED

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

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

NOTIFICATION OF YOUR RIGHT TO APPEAL TO COURT

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

Hearing Officer

cc: Connector Appeals Unit

Massachusetts Health Connector Appeals Unit

FINAL APPEAL DECISION: PA 21-2099

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

Hearing Issue: Appeal of the 2021 Tax Year Penalty

Hearing Date: October 20, 2022

Decision Date: October 27, 2022

AUTHORITY

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

JURISDICTION

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

HEARING RECORD

Appellant appeared at the hearing, which was held by telephone, on October 20, 2022. The hearing record consists of the testimony of Appellant, and the following documents, which were admitted into evidence:

Exhibit 1: Health Connector Hearing Notice (2 pages)

Exhibit 2: Appeal Case Information sheet¹ (1 page)

Exhibit 3: Statement of Grounds (6 pages)

FINDINGS OF FACT

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

1. Appellant was 30 at the end of 2021. Exhibit 2.
2. Appellant lived in Plymouth County in 2021. Exhibit 2.
3. Appellant filed his taxes as single with no dependents. Exhibit 2.
4. Appellant reported on the Schedule HC that he filed with his state income taxes, and confirmed at the hearing, that his annual income for 2021 was \$69,884. Exhibit 2.

¹ Exhibit 2 is a computer printout containing information extracted from the Schedule HC that Appellant submitted as part of his 2021 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 2021 state income taxes, and confirmed at the hearing, that he did not have health insurance meeting minimum creditable coverage standards at any point in 2021. Exhibit 2.
6. At the start of 2021 and through August of that year, Appellant worked in the building trades as an hourly worker. The work was irregular. He was not offered health insurance through employment during that period of time.
7. Appellant's income during the period from January through August 2021 was \$16,871, or about \$2100 a month. See Exhibit 3 (attachment).
8. Starting in August 2021, Appellant qualified to work as a union member. As a result, his hourly wage increased. His income for the period from August through December was approximately \$53,000. See Exhibit 3 (attachment).
9. Appellant's union offered its members health insurance after they had worked a certain number of hours in the union. It took Appellant until the beginning of 2022 to qualify. At the point that he qualified for health insurance, he enrolled.
10. Appellant was insured as of the date of the hearing.

In addition to the foregoing, I take administrative notice of the 2021 Schedule HC Instructions and Worksheets, available at <https://www.mass.gov/doc/2021-schedule-hc-instructions/download>, which, as discussed below, include the Affordability Schedule and other financial information used in making 2021 individual mandate tax penalty determinations.

ANALYSIS AND CONCLUSIONS OF LAW

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

In order to determine whether Appellant should be penalized for not having coverage, I must first consider whether he could have obtained affordable insurance from any of the following three sources: (1) employment-based insurance; (2) government-subsidized insurance; or (3) unsubsidized insurance purchased on the non-group market. See 2021 Schedule HC instructions at pages HC 7-9

During the period from January through August 2021 when he was uninsured, Appellant was working as an hourly, non-unionized worker at positions that did not offer him health insurance. From August onward, he worked as a union member, but he was not eligible to receive insurance through the union until the beginning of 2022. Thus, Appellant did not have access to employment-based insurance at any point in 2022.

Further, Appellant was not eligible for Connector Care, which is government-subsidized health insurance in Massachusetts. To be eligible for Connector Care, an individual must have household income below 300 percent of the federal poverty limit. See 956 CMR § 12.04 (Connector Care eligibility requirements.) This amount is \$38,280 for a household of one person like Appellant's. (I obtain the figure of \$38,280

from Table 2 to the instructions for the 2021 Schedule HC.) In this case, Appellant's income during 2021 was \$69,884 and therefore he was not eligible for Connector Care.

However, Appellant would have been able to afford to purchase unsubsidized health insurance on the non-group market under state affordability standards established by the Health Connector Board under M.G.L. c. 111M. Under those standards, an individual like Appellant who was in a household of one person and had income of \$69,884 was deemed able to afford 8 percent of income for insurance. (I obtain that figure from Table 3 of the 2021 Schedule HC instructions.) In this case, that amounts to \$5,590 annually or \$465 a month. During 2021, a person like Appellant who lived in Middlesex County and was 30 years of age could have obtained health insurance meeting minimum creditable coverage standards for a monthly premium of \$263. (I obtain the premium figure from Table 4 to the instructions for the 2021 Schedule HC). Thus, under state standards, this amount would have been affordable.

Because Appellant could have obtained affordable insurance in 2021, but did not, I am required to consider whether he has stated grounds sufficient to waive the penalty under Health Connector regulations. 956 C.M.R. § 6.08. I conclude that he has. Although he is deemed able to afford health insurance based on his annual salary for 2021, most of those earnings occurred in the months beginning August, during which he became a union member. During the earlier part of the year, his income was significantly lower, amounting to about \$2,100 a month, which, if annualized, is \$25,200. A person with income of that amount is deemed able to afford only 2.9 percent of income for health insurance. See Table 3 of the 2021 Schedule HC instructions. That percentage of \$25,200 amounts to \$730 annually or \$60 a month, which is far below the amount that would have been needed to afford health insurance. As a result, during the period before he joined the union, Appellant could not have afforded to purchase insurance. Thus, in this case, application of the affordability standards based on his annual income would, in this case, be inequitable.

After August, his monthly income increased significantly. However, at that point, he would have been unable to purchase health insurance in the non-group market because it was outside the annual open enrollment period, which ran from October through December 2020 for a January 1, 2021 start date. In effect, Appellant would have been unable to purchase insurance at that point. Further, he was reasonably waiting until he qualified for health insurance through his union.

Based on the foregoing, I am exercising my discretion to waive the penalty assessed against Appellant 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 2020.

NOTIFICATION OF YOUR RIGHT TO APPEAL TO COURT

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

Hearing Officer

Cc: Connector Appeals Unit

Massachusetts Health Connector Appeals Unit

Tax Penalty Appeal Decision—Docket No. PA21-2055 (BC)

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

Hearing Issue: Appeal of the 2021 Tax Year Penalty

Hearing Date: October 6, 2022

Decision Date: October 21, 2022

AUTHORITY

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

JURISDICTION

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

HEARING RECORD

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

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

FINDINGS OF FACT

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

1. The Appellant appealed from the Department of Revenue's assessment of a 5 month penalty for 2021. The basis for the penalty was that the Appellant was a part-year resident in Massachusetts beginning on May 15, 2021, and ending on December 31, 2021, and was not insured during the period when she resided in Massachusetts in 2021. Exhibits 1 and 2. Based on Exhibit 1 and the Appellant's hearing testimony, I find that the penalty assessment is accurate.
2. The Appellant lived and worked in another state (New York) before she moved to Massachusetts in mid-May 2021, to work at a resort. (She stated May 15, 2021, on her Massachusetts state income tax return, which I consider the most reliable information). Testimony and Exhibit 1. The Appellant was not offered health insurance coverage by her new Massachusetts employer in 2021, and she did not obtain health insurance elsewhere during 2021.
3. The Massachusetts Department of Revenue assessed a 5 month penalty for the months of August through December. The August starting date is based on the "first day of the third month following the month you became domiciled in (a resident of) Massachusetts." (See page HC-4 as set forth by the DOR in 2021 Massachusetts Schedule HC Health Care.). Exhibit 1, Exhibit 3, and Testimony.
4. The Appellant was laid off by her Massachusetts employer from her seasonal job in October 2021. She was rehired by the same employer in March 2022 as a full-time employee who qualified for job benefits. The Appellant enrolled in the health insurance plan offered by her employer after the required waiting period ended. Before the end of 2022 the Appellant moved to a third state (New Jersey), and she was no longer insured in Massachusetts. Testimony and Exhibit 3.
5. During her October 2021 – March 2022 layoff the Appellant received unemployment insurance benefits from the state of New York based on her prior earnings in New York. She did not receive unemployment insurance benefits from the Commonwealth of Massachusetts. Testimony and Exhibit 3.
6. The Appellant filed a Massachusetts income tax return as a 48 year old single person based on her part-year earnings and residence in Massachusetts. Exhibit 1, Exhibit 3, and Testimony.

7. The Appellant's federal adjusted gross income for 2021 was \$62,955. Her AGI consisted of wages earned in two states (New York and Massachusetts) and unemployment insurance benefits for October, November and December 2021. Exhibit 1, Exhibit 2, and Testimony.
8. In her supporting letter (Exhibit 3) and in her testimony at the appeal hearing the Appellant credibly asserted that she was "unaware" of the health insurance requirement when she moved to Massachusetts. Her employer did not inform her of the Massachusetts health insurance requirement when she started her new job at the resort in 2021. She first learned of the requirement in 2022 when she was preparing her Massachusetts income tax return for 2021. Testimony and Exhibit 3.
9. Except as set forth in the foregoing findings of fact, I adopt the facts set forth in Exhibit 1 as my own findings of fact. Exhibit 1 is a computer printout prepared by the Massachusetts Department of Revenue (DOR) that extracts information submitted by the Appellant on Schedule HC as part of the Appellant's 2021 Massachusetts income tax return.
10. I take administrative notice of the financial information set forth in Tables 1 through 6 of the DOR 2021 Massachusetts Schedule HC Health Care Instructions and Worksheet. Tables 3 and 4 incorporate the affordability schedules adopted by the board of directors for the Commonwealth Health Insurance Connector Authority (Health Connector or Connector) for 2021. See 956 Code Mass. Regs. 6.05. Table 1 sets forth income levels less than 150% of the federal poverty level that are exempt from the assessment of a state tax penalty. Table 2 sets forth income eligibility standards for various family sizes at 300% of the federal poverty level, which is the income eligibility standard for the ConnectorCare government subsidized health insurance program. Tables 5 and 6 set forth the tax penalties in effect for 2020. (The DOR instructions are published online at <http://www.mass.gov/dor/2018ScheduleHCInstructions> and are also available in the state income tax forms supplied to taxpayers. See also DOR Technical Information Release (TIR) 12-7: Individual Mandate Penalties for Tax Year 2021.)

ANALYSIS AND CONCLUSIONS OF LAW

The case is before me on the Appellant's appeal from the state Department of Revenue's (DOR) assessment of a 5 month tax penalty because the Appellant did not

have health insurance coverage during the part of 2021 when she was a Massachusetts resident. See Exhibits 1 and 2. The issue to be decided is whether the penalty should be waived, either in whole or in part.

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

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

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

As just stated, under Massachusetts law only state residents are subject to the tax penalty that is imposed on people who do not obtain health insurance coverage. See Mass. Gen. Law c. 111M, sec. 2 (a), above. In this case it is undisputed that the Appellant was not a Massachusetts resident prior to May 15, 2021. Consequently, the DOR did not impose a penalty for the first part of 2021 when the Appellant resided in another state.

It is also undisputed that the Appellant became a Massachusetts resident on May 15, 2021, and that she was not insured at any time after she became a resident. After the grace period that is allowed for new state residents to obtain health insurance, the DOR

assessed a five month penalty against the Appellant starting in August 2021. See 2021 Massachusetts Schedule HC Health Care, page HC-1 (Part-year residents), available at link in paragraph 10, above. Coincidentally, the example of the grace period set forth by the DOR matches the Appellant's situation ("If you moved into Massachusetts on May 14, the mandate applies on August 1. In this example, do not count the months of January through July because the mandate did not apply.").

I have considered the circumstances that surround the DOR penalty assessment. First, I was persuaded by the Appellant's testimony that she was not aware of the individual mandate that applies in Massachusetts until she prepared her 2021 state income tax return in 2022. By then, of course, it was too late to rectify the Appellant's lack of health insurance for part of 2021.

Second, it does seem that the Appellant's new Massachusetts employer should have informed her about the individual mandate when she started to work in Massachusetts in mid-2021. Third, I note that the Appellant did enroll in her employer's health plan when coverage was offered to her in early 2022.

Finally, the Appellant was laid off by the resort where she worked in Massachusetts in October 2021. For the remainder of 2021 – which overlapped with the penalty assessed by the DOR – unemployment insurance benefits were the source of the Appellant's income. Although precise amounts are not available in the hearing record, it is reasonable to conclude that health insurance was not "affordable" under state law during the period of the penalty assessment. See Mass. Gen. Laws, c. 111M, sec. 2 (a), above. See also 956 Code Mass. Regs. 6.08 €.

After considering all the circumstances I conclude that it is appropriate to waive the entire penalty that was assessed for 2021.

PENALTY ASSESSED

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

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

OR

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

NOTIFICATION OF YOUR RIGHT TO APPEAL TO COURT

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

Hearing Officer

Cc: Massachusetts Health Connector Appeals Unit

Massachusetts Health Connector Appeals Unit

Tax Penalty Appeal Decision—Docket No. PA21-2056

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

Hearing Issue: Appeal of the 2021 Tax Year Penalty

Hearing Date: October 6, 2022

Decision Date: October 24, 2022

AUTHORITY

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

JURISDICTION

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

HEARING RECORD

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

1. DOR Appeal Case Information from Schedule HC (1 page);
2. Appellant's Statement of Grounds for Appeal – 2021 (5 pages);
3. Appellant's Letter in Support of Appeal (1 page); and
4. Health Connector's Notice of Hearing (2 pages).

FINDINGS OF FACT

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

1. The Appellant appealed from the Department of Revenue's assessment of a 7 month penalty for 2021. The basis for the penalty was that the Appellant was not insured for the months of January through October but was insured for the months of November and December 2021. Exhibits 1 and 2. Based on Exhibit 1 and the Appellant's hearing testimony, I find that the penalty assessment is accurate. (The calculation is 12 months minus 2 months insured = 10 months uninsured minus 3-month administrative grace period = 7 penalty months.)
2. The Appellant filed a Massachusetts personal income tax return for 2021 as a single person with no dependents. The Appellant's federal adjusted gross income (AGI) for 2021 was \$ 70,681. Exhibit 1.
3. The Appellant was 45 years old at the beginning of 2021 and resided in [name of city or town omitted] in Middlesex County, Massachusetts. Exhibit 1.
4. The Appellant's 2021 AGI (\$70,681) was more than 300% of the federal poverty level (\$38,280 for a one person household). DOR Table 2. On this basis I infer that it is likely that the Appellant would not satisfy the financial eligibility requirements for government-subsidized health insurance.
5. Based on DOR Table 3 the Appellant could afford to pay 8.00 % of his income -- or \$471 per month -- for health insurance coverage in 2021. (The calculation is 8.00% multiplied by \$70,681 AGI = \$5,654.48 per year divided by 12 months = \$471.20 per month.)
6. Based on DOR Table 4 (Region 2) the Appellant could obtain individual health insurance coverage at his age and location for \$336 per month in 2021.
7. The Appellant worked as an electrician who was qualified for health insurance coverage under a union-sponsored health plan after he served a prescribed waiting period. Testimony and Exhibit 3.
8. Due to the impact of the coronavirus pandemic (COVID-19), the Appellant had three different employers in 2021. The Appellant was laid off by one employer before he satisfied the waiting period and a second employer went out of business before he satisfied the waiting period. For the third employer the Appellant satisfied the waiting period, and he was enrolled in the union-sponsored health

plan in November and December 2021. Exhibit 1, Exhibit 3 and Testimony. The Appellant's health insurance coverage continued into 2022. Testimony.

9. The Appellant received unemployment insurance benefits for brief periods in 2021 when he was out of work. Testimony.
10. The Appellant used credit cards to cover his living expenses. The outstanding balances on his two credit cards were approximately \$5,000 and \$10,000. Testimony and Exhibit 3.
11. Except as set forth in the foregoing findings of fact, I adopt the facts set forth in Exhibit 1 as my own findings of fact. Exhibit 1 is a computer printout prepared by the Massachusetts Department of Revenue (DOR) that extracts information submitted by the Appellant on Schedule HC as part of the Appellant's 2021 Massachusetts income tax return.
12. I take administrative notice of the financial information set forth in Tables 1 through 6 of the DOR 2021 Massachusetts Schedule HC Health Care Instructions and Worksheet. Tables 3 and 4 incorporate the affordability schedules adopted by the board of directors for the Commonwealth Health Insurance Connector Authority (Health Connector or Connector) for 2021. See 956 Code Mass. Regs. 6.05. Table 1 sets forth income levels less than 150% of the federal poverty level that are exempt from the assessment of a state tax penalty. Table 2 sets forth income eligibility standards for various family sizes at 300% of the federal poverty level, which is the income eligibility standard for the ConnectorCare government subsidized health insurance program. Tables 5 and 6 set forth the tax penalties in effect for 2020. (The DOR instructions are published online at <http://www.mass.gov/dor/2018ScheduleHCInstructions> and are also available in the state income tax forms supplied to taxpayers. See also DOR Technical Information Release (TIR) 12-7: Individual Mandate Penalties for Tax Year 2021.)

ANALYSIS AND CONCLUSIONS OF LAW

The case is before me on the Appellant's appeal from the state Department of Revenue's (DOR) assessment of a 7 month tax penalty because the Appellant did not have health insurance coverage for the months of January through October 2021. See

Exhibits 1 and 2. The issue to be decided is whether the penalty should be waived, either in whole or in part.

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

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

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

The Appellant’s lack of health insurance in this appeal is a consequence of his multiple jobs traceable to the coronavirus pandemic and the waiting period that would reset each time he obtained a new job. Only with his final (third) job did the Appellant work long enough to satisfy the waiting period, and he was enrolled in the union-sponsored health plan for November and December 2021 (and on into 2022).

In effect, the Appellant was not able to obtain health insurance coverage for most of 2021 due to a combination of his income when he was working and the waiting periods required by the union-sponsored health plans when he was between jobs. One

consequence was that the Appellant ran up a \$15,000 credit card balance to cover his living expenses when he was out-of-work.

After considering all the circumstances, I conclude that it is appropriate to waive the entire penalty assessed against the Appellant for 2021. See, e.g., 956 Code Mass. Regs. 6.08 (1) (e).

PENALTY ASSESSED

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

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

OR

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

NOTIFICATION OF YOUR RIGHT TO APPEAL TO COURT

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

/s/ Hearing Officer

Cc: Massachusetts Health Connector Appeals Unit

Massachusetts Health Connector Appeals Unit

FINAL APPEAL DECISION: PA 21-2096

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

Hearing Issue: Appeal of the 2021 Tax Year Penalty

Hearing Date: October 20, 2022

Decision Date: October 27, 2022

AUTHORITY

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

JURISDICTION

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

HEARING RECORD

Appellant appeared at the hearing, which was held by telephone, on October 20, 2022. The hearing record consists of the testimony of Appellant, and the following documents, which were admitted into evidence:

Exhibit 1: Health Connector Hearing Notice (2 pages)

Exhibit 2: Appeal Case Information sheet¹ (1 page)

Exhibit 3: Statement of Grounds (10 pages)

FINDINGS OF FACT

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

1. Appellant was 29 at the end of 2021. Exhibit 2.
2. Appellant lived in Essex County in 2021. Exhibit 2.
3. Appellant filed his taxes as single with no dependents. Exhibit 2.
4. Appellant reported on the Schedule HC that he filed with his state income taxes, and confirmed at the hearing, that his annual income for 2021 was \$55,308. Exhibit 2.

¹ Exhibit 2 is a computer printout containing information extracted from the Schedule HC that Appellant submitted as part of his 2021 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 2021 state income taxes, and confirmed at the hearing, that he did not have health insurance meeting minimum creditable coverage standards at any point in 2021. Exhibit 2.
6. Appellant immigrated to the United States in 2019 and applied for asylum. He received authorization for employment in January 2021. See attachments to Exhibit 2.
7. Starting in January 2021, Appellant sought employment. He worked at various part-time and short-term jobs for most of the year, none of which offered insurance.
8. In the last months of the calendar year, he obtained full-time employment. Most of the income that he reported in his 2021 income tax return came from the work he did in the last two to three months of the year.
9. The full-time job that Appellant obtained at the end of 2021 offered him health insurance, effective January 2022. Appellant took that insurance and was insured as of the date of the hearing.

In addition to the foregoing, I take administrative notice of the 2021 Schedule HC Instructions and Worksheets, available at <https://www.mass.gov/doc/2021-schedule-hc-instructions/download>, which, as discussed below, include the Affordability Schedule and other financial information used in making 2021 individual mandate tax penalty determinations.

ANALYSIS AND CONCLUSIONS OF LAW

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

In order to determine whether Appellant should be penalized for not having coverage, I must first consider whether he could have obtained affordable insurance from any of the following three sources: (1) employment-based insurance; (2) government-subsidized insurance; or (3) unsubsidized insurance purchased on the non-group market. See 2021 Schedule HC instructions at pages HC 7-9

During most of 2021, Appellant was employed at part-time or short-term jobs that did not offer him health insurance. When he finally obtained a full-time job, it offered him health insurance that was effective on January 1, 2022. Thus, during 2021, Appellant did not have access to employment-based insurance.

Further, Appellant was not eligible for Connector Care, which is government-subsidized health insurance in Massachusetts. To be eligible for Connector Care, an individual must have household income below 300 percent of the federal poverty limit. See 956 CMR § 12.04 (Connector Care eligibility requirements.) This amount is \$38,280 for a household of one person like Appellant’s. (I obtain the figure of \$38,280 from Table 2 to the instructions for the 2021 Schedule HC.) In this case, Appellant’s income during 2021 was \$55,308 and therefore he was not eligible for Connector Care.

However, Appellant would have been able to afford to purchase unsubsidized health insurance on the non-group market under state affordability standards established by the Health Connector Board under M.G.L. c. 111M. Under those standards, an individual like Appellant who was in a household of one person and had income of \$55,308 was deemed able to afford 8 percent of income for insurance. (I obtain that figure from Table 3 of the 2021 Schedule HC instructions.) In this case, that amounts to \$4,424 annually or \$368 a month. During 2021, a person like Appellant who lived in Essex County and was 29 years of age could have obtained health insurance meeting minimum creditable coverage standards for a monthly premium of \$263. (I obtain the premium figure from Table 4 to the instructions for the 2021 Schedule HC). Thus, under state standards, this amount would have been affordable.

Because Appellant could have obtained affordable insurance in 2021, but did not, I am required to consider whether he has stated grounds sufficient to waive the penalty under Health Connector regulations. 956 C.M.R. § 6.08. I conclude that he has. Although he is deemed able to afford health insurance based on his annual salary for 2021, most of those earnings occurred in the very last months of the calendar year. At that time, he obtained a job that paid a relatively high hourly wage and that offered him significant amounts of overtime. However, earlier in the year, he was making much less money because he was working at part-time, short-term jobs where he did not have a high hourly wage. During those months, he would not have been able to afford health insurance without experiencing a significant deprivation of the necessities of life. Thus, application of the affordability standards based on his annual income would, in this case, be inequitable.

Based on the foregoing, I am exercising my discretion to waive the penalty assessed against Appellant 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 2020.

NOTIFICATION OF YOUR RIGHT TO APPEAL TO COURT

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

Hearing Officer

Cc: Connector Appeals Unit

Massachusetts Health Connector Appeals Unit

FINAL APPEAL DECISION: PA 21-2098

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

Hearing Issue: Appeal of the 2021 Tax Year Penalty

Hearing Date: October 20, 2022

Decision Date: October 27, 2022

AUTHORITY

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

JURISDICTION

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

HEARING RECORD

Appellant appeared at the hearing, which was held by telephone, on October 20, 2022. The hearing record consists of the testimony of Appellant, and the following documents, which were admitted into evidence:

- Exhibit 1: Health Connector Hearing Notice (2 pages)
- Exhibit 2: Appeal Case Information sheet¹ (1 page)
- Exhibit 3: Statement of Grounds (6 pages)

FINDINGS OF FACT

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

1. Appellant was 60 at the end of 2021. Exhibit 2.
2. Appellant lived in Middlesex County in 2021. Exhibit 2.
3. Appellant filed his taxes as single with no dependents. Exhibit 2.
4. Appellant reported on the Schedule HC that he filed with his state income taxes, and confirmed at the hearing, that his annual income for 2021 was \$74,765. Exhibit 2.
5. Appellant reported in the Schedule HC that he filed with his 2021 state income taxes, and confirmed at the hearing, that he did not have health insurance meeting minimum creditable

¹ Exhibit 2 is a computer printout containing information extracted from the Schedule HC that Appellant submitted as part of his 2021 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.

coverage standards from January through July of 2021, but he did have such insurance from August through December. Exhibit 2.

6. Appellant left employment in March 2020. As a result, he lost health insurance at that point.
7. Through the remainder of 2020 and the first six months of 2021, he continued to look for employment. During the period that he was unemployed, he was living on savings and investments. He estimated that his income during that period was between \$2,500 and \$3,000 monthly.
8. Starting in August 2021, Appellant started working at a job that offered him health insurance. When that insurance was offered, he signed up and so was insured for the remainder of calendar year 2021.
9. The salary for the job that he started in August 2021 was approximately \$120,000 annually.
10. Appellant was insured as of the date of the hearing.

In addition to the foregoing, I take administrative notice of the 2021 Schedule HC Instructions and Worksheets, available at <https://www.mass.gov/doc/2021-schedule-hc-instructions/download>, which, as discussed below, include the Affordability Schedule and other financial information used in making 2021 individual mandate tax penalty determinations.

ANALYSIS AND CONCLUSIONS OF LAW

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

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

In order to determine whether Appellant should be penalized for not having coverage, I must first consider whether he could have obtained affordable insurance from any of the following three sources: (1) employment-based insurance; (2) government-subsidized insurance; or (3) unsubsidized insurance purchased on the non-group market. See 2021 Schedule HC instructions at pages HC 7-9

During the period in 2021 when he was uninsured, Appellant was unemployed. Thus, Appellant did not have access to employment-based insurance at that time.

Further, Appellant was not eligible for Connector Care, which is government-subsidized health insurance in Massachusetts. To be eligible for Connector Care, an individual must have household income below 300 percent of the federal poverty limit. See 956 CMR § 12.04 (Connector Care eligibility requirements.) This amount is \$38,280 for a household of one person like Appellant's. (I obtain the figure of \$38,280 from Table 2 to the instructions for the 2021 Schedule HC.) In this case, Appellant's income during 2021 was \$74,765 and therefore he was not eligible for Connector Care.

However, Appellant would have been able to afford to purchase unsubsidized health insurance on the non-group market under state affordability standards established by the Health Connector Board under M.G.L. c. 111M. Under those standards, an individual like Appellant who was in a household of one person and had income of \$74,765 was deemed able to afford 8 percent of income for insurance. (I obtain that figure from Table 3 of the 2021 Schedule HC instructions.) In this case, that amounts to \$5,981 annually or \$498 a month. During 2021, a person like Appellant who lived in Middlesex County and was 60 years of age could have obtained health insurance meeting minimum creditable coverage standards for a monthly premium of \$401. (I obtain the premium figure from Table 4 to the instructions for the 2021 Schedule HC). Thus, under state standards, this amount would have been affordable.

Because Appellant could have obtained affordable insurance in 2021, but did not, I am required to consider whether he has stated grounds sufficient to waive the penalty under Health Connector regulations. 956 C.M.R. § 6.08. I conclude that he has. Although he is deemed able to afford health insurance based on his annual salary for 2021, most of those earnings occurred in the months beginning August, during which he was insured. During the first seven months of the year, when he was uninsured, his income was much lower, consisting of between \$2,500 and \$3,000 a month. This would amount to at most \$36,000 annually. Under state affordability standards, a person making \$36,000 in income is deemed able to afford only 5 percent of income for health insurance. (I obtain that figure from Table 3 of the 2021 Schedule HC instructions.) In this case, that would amount to \$1,800 annually or \$150 a month. This is significantly less than Appellant would have needed to pay for health insurance. Thus, in this case, application of the affordability standards based on his annual income would be inequitable.

Based on the foregoing, I am exercising my discretion to waive the penalty assessed against Appellant in its entirety.

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 2020.

NOTIFICATION OF YOUR RIGHT TO APPEAL TO COURT

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

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

Hearing Officer

Cc: Connector Appeals Unit

Massachusetts Health Connector Appeals Unit

FINAL APPEAL DECISION: PA 21-2100

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

Hearing Issue: Appeal of the 2021 Tax Year Penalty

Hearing Date: October 20, 2022

Decision Date: October 27, 2022

AUTHORITY

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

JURISDICTION

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

HEARING RECORD

Appellant appeared at the hearing, which was held by telephone, on October 20, 2022. The hearing record consists of the testimony of Appellant, and the following documents, which were admitted into evidence:

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

FINDINGS OF FACT

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

1. Appellant was 36 at the end of 2021. Exhibit 2.
2. Appellant lived in Middlesex County in 2021. Exhibit 2.
3. Appellant filed her taxes as single with no dependents. Exhibit 2.
4. Although Appellant did not take any dependents on her 2021 taxes, she lived with a minor child. In 2021, the child's father took the child as a dependent. However, Appellant contributed to the support of the child who lived with her.

¹ Exhibit 2 is a computer printout containing information extracted from the Schedule HC that Appellant submitted as part of her 2021 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 on the Schedule HC that she filed with her state income taxes, and confirmed at the hearing, that her annual income for 2021 was \$53,160. Exhibit 2.
6. Appellant reported on the Schedule HC that she filed with her 2021 state income taxes, and confirmed at the hearing, that she did not have health insurance meeting minimum creditable coverage standards at any point in 2021. Exhibit 2.
7. Appellant worked two jobs during 2021, one full-time, the other part-time.
8. She was offered health insurance through her full-time job, but she did not take it because it did not cover the doctors that she wished to see.
9. During the course of the year, Appellant had difficulty paying bills. She was behind in her rent during part of 2021 and was concerned about losing her housing.
10. During 2022, Appellant obtained health insurance through the Health Connector. She was insured as of the date of the hearing.
11. Appellant's child became insured through MassHealth at the same time.

In addition to the foregoing, I take administrative notice of the 2021 Schedule HC Instructions and Worksheets, available at <https://www.mass.gov/doc/2021-schedule-hc-instructions/download>, which, as discussed below, include the Affordability Schedule and other financial information used in making 2021 individual mandate tax penalty determinations.

ANALYSIS AND CONCLUSIONS OF LAW

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

In order to determine whether Appellant should be penalized for not having coverage, I must first consider whether she could have obtained affordable insurance from any of the following three sources: (1) employment-based insurance; (2) government-subsidized insurance; or (3) unsubsidized insurance purchased on the non-group market. See 2021 Schedule HC instructions at pages HC 7-9

Appellant could have obtained affordable insurance through her employment, but she declined it, because she felt that it didn't provide coverage for the doctors that she wanted to see. Thus, Appellant had access to affordable employment-based insurance at any point in 2022.

Appellant was not eligible for Connector Care, which is government-subsidized health insurance in Massachusetts. To be eligible for Connector Care, an individual must have household income below 300 percent of the federal poverty limit. See 956 CMR § 12.04 (Connector Care eligibility requirements.) This amount is \$38,280 for a household of one person like Appellant's. (I obtain the figure of \$38,280 from Table 2 to the instructions for the 2021 Schedule HC.) In this case, Appellant's income during 2021 was \$53,160 and therefore she was not eligible for Connector Care.

Finally, Appellant would have been able to afford to purchase unsubsidized health insurance on the non-group market under state affordability standards established by the Health Connector Board under M.G.L. c. 111M. Under those standards, an individual like Appellant who was in a household of one person and had income of \$53,160 was deemed able to afford 8 percent of income for insurance. (I obtain that figure from Table 3 of the 2021 Schedule HC instructions.) In this case, that amounts to \$4,252 annually or \$354 a month. During 2021, a person like Appellant who lived in Middlesex County and was 36 years of age could have obtained health insurance meeting minimum creditable coverage standards for a monthly premium of \$268. (I obtain the premium figure from Table 4 to the instructions for the 2021 Schedule HC). Thus, under state standards, this amount would have been affordable.

Because Appellant could have obtained affordable insurance in 2021, either through work or through purchase on the non-group market, but did not, I am required to consider whether she has stated grounds sufficient to waive the penalty under Health Connector regulations. 956 C.M.R. § 6.08. I conclude that she has. For one, although Appellant filed taxes as having no dependents, she did in fact support the minor child that she lived with. Thus, her expenses were like those of a two-person household, which would have left her with less money available to pay for health insurance than what is deemed available under strict application of the affordability tables. Whether application of the affordability tables would be inequitable in light of family size is a factor to consider in determining whether to waive the individual mandate penalty. See 956 C.M.R. § 6.08(2)(f). Additionally, Appellant reported that she had financial difficulties during 2021, which caused her to become several months delinquent in paying her rent. Being more than 30 days in arrears on rent is also a ground for waiving the penalty. See id. § 6.08(1)(a). Finally, I take into account the fact that Appellant did obtain health insurance through the Health Connector in August 2021 and was insured as of the date of the hearing.

Based on the foregoing, I am exercising my discretion to waive the penalty assessed against Appellant 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 2020.

NOTIFICATION OF YOUR RIGHT TO APPEAL TO COURT

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

Hearing Officer

Cc: Connector Appeals Unit

Massachusetts Health Connector Appeals Unit

FINAL APPEAL DECISION: PA 21-2101

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

Hearing Issue: Appeal of the 2021 Tax Year Penalty

Hearing Date: October 20, 2022

Decision Date: October 27, 2022

AUTHORITY

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

JURISDICTION

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

HEARING RECORD

Appellant appeared at the hearing, which was held by telephone, on October 20, 2022. The hearing record consists of the testimony of Appellant, and the following documents, which were admitted into evidence:

Exhibit 1: Health Connector Hearing Notice (2 pages)

Exhibit 2: Appeal Case Information sheet¹ (1 page)

Exhibit 3: Statement of Grounds (4 pages)

FINDINGS OF FACT

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

1. Appellant was 33 at the end of 2021. Exhibit 2.
2. Appellant lived in Middlesex County in 2021. Exhibit 2.
3. Appellant filed his taxes as single with no dependents. Exhibit 2.
4. Appellant reported on the Schedule HC that he filed with his state income taxes, and confirmed at the hearing, that his annual income for 2021 was \$52,229. Exhibit 2.

¹ Exhibit 2 is a computer printout containing information extracted from the Schedule HC that Appellant submitted as part of his 2021 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 2021 state income taxes, and confirmed at the hearing, that he did not have health insurance meeting minimum creditable coverage standards at any point in 2021. Exhibit 2.
6. Appellant worked full-time throughout 2021 at a job that offered him health insurance. The insurance that he could obtain through work would have cost him about \$280 a month in premium.
7. Appellant chose not to sign up for the health insurance because he felt he didn't need it.
8. At the end of 2021, Appellant decided to sign up for health insurance through his employment, which became effective at the start of 2022. Appellant was insured as of the date of the hearing.
9. Appellant did not report any unusual expenses or other significant financial challenges. His income was steady through the entire year.

In addition to the foregoing, I take administrative notice of the 2021 Schedule HC Instructions and Worksheets, available at <https://www.mass.gov/doc/2021-schedule-hc-instructions/download>, which, as discussed below, include the Affordability Schedule and other financial information used in making 2021 individual mandate tax penalty determinations.

ANALYSIS AND CONCLUSIONS OF LAW

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

In order to determine whether Appellant should be penalized for not having coverage, I must first consider whether she could have obtained affordable insurance from any of the following three sources: (1) employment-based insurance; (2) government-subsidized insurance; or (3) unsubsidized insurance purchased on the non-group market. See 2021 Schedule HC instructions at pages HC 7-9

Appellant could have obtained affordable insurance through his employment, but he declined it, because he felt he didn't need it. That insurance would have cost him about \$280 a month. This is affordable for him under state affordability standards established by the Health Connector Board under M.G.L. c. 111M. Under those standards, an individual like Appellant who was in a household of one person and had income of \$52,229 was deemed able to afford 8 percent of income for insurance. (I obtain that figure from Table 3 of the 2021 Schedule HC instructions.) In this case, that amounts to \$4,178 annually or \$348 a month. Thus, \$280 a month was affordable.

Appellant was not eligible for Connector Care, which is government-subsidized health insurance in Massachusetts. To be eligible for Connector Care, an individual must have household income below 300 percent of the federal poverty limit. See 956 CMR § 12.04 (Connector Care eligibility requirements.) This amount is \$38,280 for a household of one person like Appellant's. (I obtain the figure of \$38,280 from Table 2 to the instructions for the 2021 Schedule HC.) In this case, Appellant's income during 2021 was \$53,160 and therefore he was not eligible for Connector Care.

Finally, Appellant would have been able to afford to purchase unsubsidized health insurance on the non-group market under state affordability standards established by the Health Connector Board under M.G.L. c. 111M. As stated above, under those standards, Appellant is deemed able to afford \$348 a month in premiums. During 2021, a person like Appellant who lived in Middlesex County and was 30 years of age could have obtained health insurance meeting minimum creditable coverage standards for a monthly premium of \$268. (I obtain the premium figure from Table 4 to the instructions for the 2021 Schedule HC). Thus, under state standards, this amount would have been affordable.

Because Appellant could have obtained affordable insurance in 2021 either through work or in the non-group market, but did not, I am required to consider whether he has stated grounds sufficient to waive the penalty under Health Connector regulations. 956 C.M.R. § 6.08. I conclude that he has not. Appellant did not claim or present any evidence of a financial hardship that would constitute grounds for waiving the penalty. His income was steady and his expenses were normal throughout the year. His decision not to get insurance was not a result of an inability to pay, but rather a choice based on his opinion that he did not need insurance.

Nonetheless, I take into consideration the fact that Appellant did obtain health insurance at the end of 2021 for the following year. Once he changed his mind and decided to obtain insurance through his employer, he would have had to wait for the next open enrollment period, which in his case was at the end of the calendar year for the start of the following year. In light of these facts, I exercise my discretion to reduce the penalty assessed against him from 12 to 6 months.

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 2020.

NOTIFICATION OF YOUR RIGHT TO APPEAL TO COURT

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

Hearing Officer

Cc: Connector Appeals Unit

Massachusetts Health Connector Appeals Unit

FINAL APPEAL DECISION: PA21-1931

Appeal Decision: Appeal Approved

Hearing Issue: Appeal of the 2021 Tax Year Penalty

Hearing Date: August 11, 2022

Decision Date: October 18, 2022

AUTHORITY

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

JURISDICTION

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

HEARING RECORD¹

The Appellant appeared at the hearing, which was held by telephone, on August 11, 2022.

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

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

FINDINGS OF FACT

The record shows, and I so find:

1. The Appellant turned 59 years old in September 2021. The Appellant filed their Federal Income Tax Return as a single individual, with no dependents claimed. (Exhibit 2).

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

2. The Appellant lived in Norfolk County, MA during 2021. (Appellant's Testimony and Exhibit 2).
3. The Appellant's Federal Adjusted Gross Income (AGI) for 2021 was \$25,380.00 as shown on Schedule HC for 2021. (Exhibit 2).
4. The Appellant did not have health insurance that met Minimum Creditable Coverage (MCC) during twelve (12) months of tax year 2021, according to Appeal Case Information from Schedule HC for 2021. (Exhibit 2).
5. The Appellant has been assessed a twelve (12)-month tax penalty for 2021, which they have appealed. (Exhibit 2).
6. I take administrative notice of the financial information set forth in Tables 1 through 6 of the DOR 2021 Massachusetts Schedule HC Health Care Instructions and Worksheet. Tables 3 and 4 incorporate affordability and premium schedules adopted by the Board of Directors for the Commonwealth Health Insurance Connector Authority for 2021. Table 2 sets forth income at 300% of the Federal poverty level and Tables 5 and 6 set forth tax penalties in effect for 2021.
7. In accordance with Table 3 of Schedule HC for 2021, the Appellant filing the Federal tax return as a single individual, with no dependents claimed, with an annual adjusted gross income of \$25,380.00, could afford to pay \$61.33 per month for government-sponsored health insurance. In accordance with Table 4, the Appellant, age 59 years, living in Norfolk County could have purchased private market health insurance for \$401.00 per month. (Table 4, Schedule HC for 2021). Thus, private insurance was not affordable for the Appellant in 2021.
8. Employer-sponsored insurance (ESI) that was not available to Appellant during 2021. (Appellant's Testimony).
9. The Appellant was income-eligible for ConnectorCare coverage in 2021 because their adjusted gross income of \$25,380.00 was less than 300% of the Federal poverty level, which was \$38,280.00 in 2021 (Schedule HC, Table 2). (Exhibit 2).
10. The Appellant had MCC-compliant health insurance until they lost their job during 2020 because of the Covid-19 pandemic.
11. They did not find new employment until September 2022. Their new employer has a three-month probationary period before they qualify for health insurance. Appellant wants and needs health insurance and intends to enroll in ESI as soon as they qualify. (Appellant's Testimony, which I credit).
12. The Appellant is widowed. Their son lived with the Appellant throughout Covid-19 during 2021 and was not employed until recently. (Appellant's Testimony).

13. The Appellant did not understand the Health Connector Marketplace or that they were income-eligible for Connector insurance. (Appellant’s Testimony, which I credit).
14. The Appellant was in arrears on their rent payments on at least a couple of occasions during 2021. Additionally, they were behind on a few of their electricity payments. (Appellant’s Testimony, which I credit).
15. Appellant did not understand the Health Connector marketplace or that they were income-eligible for Connector health insurance during 2021. (Appellant’s Testimony, which I credit).
16. The Appellant’s monthly living expenses during 2021 of \$1,885.00 included: Rent - \$1,000.00, Heat - \$150.00, Electricity - \$75.00, Car insurance - \$140.00, \$313.00, Gas - \$75.00, Telephone - \$90.00, Internet - \$190.00, Food - \$165.00. (Appellant’s Testimony, which I credit).

ANALYSIS AND CONCLUSIONS OF LAW

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

The Appellant checked a box on their Statement of Grounds for Appeal stating that during 2021, the expense of purchasing health insurance would have caused a serious deprivation of food and other living necessities. (Appellant’s Testimony and Exhibit 3).

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

I take administrative notice of the financial information set forth in Tables 1 through 6 of the DOR 2021 Massachusetts Schedule HC Health Care Instructions and Worksheet. Tables 3 and 4 incorporate affordability and premium schedules adopted by the Board of Directors for the

Commonwealth Health Insurance Connector Authority for 2021. Table 2 sets forth income at 300% of the Federal poverty level and Tables 5 and 6 set forth tax penalties in effect for 2021.

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

The Appellant was income-eligible for ConnectorCare coverage in 2021 because their adjusted gross income of \$25,380.00 was less than 300% of the Federal poverty level, which was \$38,280.00 in 2021 (Schedule HC, Table 2). (Exhibit 2).

The Appellant had MCC-compliant health insurance until they lost their job during 2020 because of the Covid-19 pandemic.

They could not find new employment until September 2022. Their new employer has a three-month probationary period before they qualify for health insurance. Appellant wants and needs health insurance and intends to enroll in ESI as soon as they qualify. (Appellant's Testimony, which I credit).

The Appellant is widowed. Their son lived with the Appellant throughout Covid-19 and was not employed until recently. (Appellant's Testimony).

The Appellant did not understand the Health Connector Marketplace or that they were income-eligible for Connector insurance. (Appellant's Testimony, which I credit).

The Appellant was in arrears on their rent payments on at least a couple of occasions during 2021. Additionally, they were behind on their electricity payments on a few occasions. (Appellant's Testimony, which I credit).

Appellant did not understand the Health Connector marketplace or that they were income-eligible for Connector health insurance during 2021. (Appellant's Testimony, which I credit).

The Appellant's monthly living expenses during 2021 of \$1,885.00 included: Rent - \$1,000.00, Heat - \$150.00, Electricity - \$75.00, Car insurance - \$140.00, \$313.00, Gas - \$75.00, Telephone - \$90.00, Internet - \$190.00, Food - \$165.00. (Appellant's Testimony, which I credit).

Appellant became unemployed during 2020 because of the pandemic and did not find a new job until approximately June 2022. Appellant was widowed, and their unemployed son lived with them during the pandemic. Appellant did not understand the Connector Marketplace and that they were income-eligible for Connector insurance. Appellant was in arrears on rent payments and electric utility bills on a few occasions each during 2021.

Considering the evidence in the administrative record and the totality of the circumstances, I conclude that Appellant has established hardship within the meaning of 956 CMR 6.08. For all these reasons, the Appellant's twelve (12)-month penalty is waived.

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

PENALTY ASSESSED

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

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

NOTIFICATION OF YOUR RIGHT TO APPEAL TO COURT

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

Hearing Officer

cc: Connector Appeals Unit

Massachusetts Health Connector Appeals Unit

Tax Penalty Appeal Decision—Docket No. PA21-2057

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

Hearing Issue: Appeal of the 2021 Tax Year Penalty

Hearing Date: October 6, 2022

Decision Date: October 24, 2022

AUTHORITY

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

JURISDICTION

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

HEARING RECORD

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

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

FINDINGS OF FACT

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

1. The Appellant appealed from the Department of Revenue's assessment of a 12 month penalty for 2021. The basis for the penalty assessment (which is not apparent on the face of Exhibit 1) is that the employer-sponsored health insurance that the Appellant was enrolled in did not meet the Massachusetts minimum creditable coverage ("MCC") standards. On the pre-printed Statement of Grounds for Appeal the Appellant checked the next-to-last ground as the basis for his appeal: "During 2021, you purchased health insurance that didn't meet minimum creditable coverage standards because that is what your employer offered" Exhibit 2, page 2, ground 6.
2. Starting in February or March 2020 the Appellant worked for a small pizza shop that provided health insurance as a job benefit. That health insurance coverage continued for all of 2021 and resulted in the 12 month penalty that the DOR assessed against the Appellant that is the subject of this appeal. The Appellant paid \$197 per month for his employer-sponsored health insurance. Testimony. See also Exhibits 1 and 2.
3. Evolved Health Insurance, based in Florida, was the insurer selected by the Appellant's employer. In 2022, when the Appellant's accountant was preparing his 2021 Massachusetts income tax return, the accountant was unable to obtain a tax identification number for the insurer. Testimony.
4. Evolved was also unable to provide the identifying information when the Appellant made a follow-up telephone call concerning his 2021 coverage. The Appellant requested that his employer switch his coverage to a new insurer, which the employer did. Testimony.
5. The Appellant filed a Massachusetts personal income tax return for 2021 as a single person with no dependents. The Appellant's federal adjusted gross income (AGI) for 2021 was \$ 47,597. Exhibit 1.
6. The Appellant was 37 years old in 2021, and he resided in [name of city or town omitted] in Worcester County, Massachusetts. Exhibit 1. Under DOR Table 4 (Region 2) the Appellant could obtain health insurance coverage at his age and location for \$275 per month.

7. Except as set forth in the foregoing findings of fact, I adopt the facts set forth in Exhibit 1 as my own findings of fact. Exhibit 1 is a computer printout prepared by the Massachusetts Department of Revenue (DOR) that extracts information submitted by the Appellant on Schedule HC as part of the Appellant's 2021 Massachusetts income tax return.

8. I take administrative notice of the financial information set forth in Tables 1 through 6 of the DOR 2021 Massachusetts Schedule HC Health Care Instructions and Worksheet. Tables 3 and 4 incorporate the affordability schedules adopted by the board of directors for the Commonwealth Health Insurance Connector Authority (Health Connector or Connector) for 2021. See 956 Code Mass. Regs. 6.05. Table 1 sets forth income levels less than 150% of the federal poverty level that are exempt from the assessment of a state tax penalty. Table 2 sets forth income eligibility standards for various family sizes at 300% of the federal poverty level, which is the income eligibility standard for the ConnectorCare government subsidized health insurance program. Tables 5 and 6 set forth the tax penalties in effect for 2020. (The DOR instructions are published online at <http://www.mass.gov/dor/2018ScheduleHCInstructions> and are also available in the state income tax forms supplied to taxpayers. See also DOR Technical Information Release (TIR) 12-7: Individual Mandate Penalties for Tax Year 2021.)

ANALYSIS AND CONCLUSIONS OF LAW

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

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

sec. 2(a). Any health insurance policy must also satisfy the Massachusetts minimum creditable coverage standards (“MCC”) in order to avoid the penalty. Mass. Gen. Laws c. 111M, sec. 2(b). See also 956 Code Mass Regs. 501 and 5.03.

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

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

The evidence produced by the Appellant in this appeal shows that the Appellant actually had health insurance coverage obtained through his employer for which he paid \$197 per month as his share of the premium. The DOR nevertheless imposed a 12 month penalty for 2021 because the employer sponsored-health insurance did not meet the Massachusetts minimum creditable coverage standards (“MCC”), as required by 956 Code Mass. Regs. 5.01 and 5.03. See also Mass. Gen. Laws, c. 111M, sec. 2 (b).

The deficiency in the Appellant’s coverage was first unearthed by the Appellant’s accountant in 2022 when the accountant was preparing the Appellant’s 2021 state income tax return, and the deficiency is reflected in Exhibit 1, which reflects the information supplied to the DOR in the Appellant’s tax return. The Appellant subsequently investigate further, he confirmed that there was a problem, and he successfully got his employer to shift to a new insurer.

The question is whether the penalty assessment should stand under these circumstances. The Appellant enrolled in a health plan for all of 2021, as required by the individual mandate (see above). The health plan was selected by the Appellant’s employer (not by the Appellant), and he has already paid \$197 per month (\$2,364 per year) for the coverage. The Appellant (and his accountant) pursued the issue when it appeared that something was wrong. The Appellant then persuaded his employer to

drop the deficient coverage and select a new insurer that would satisfy the MCC requirements. The Appellant then enrolled in the coverage provided by the new insurer.

After considering all the circumstances, I conclude that it is appropriate to waive the entire penalty assessed against the Appellant for 2021. The Appellant is already out-of-pocket, and it is not reasonable to expect him to do any more.

PENALTY ASSESSED

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

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

OR

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

NOTIFICATION OF YOUR RIGHT TO APPEAL TO COURT

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

/s/ Hearing Officer

Cc: Massachusetts Health Connector Appeals Unit

Massachusetts Health Connector Appeals Unit

Tax Penalty Appeal Decision—Docket No. PA21-2058

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

Hearing Issue: Appeal of the 2021 Tax Year Penalty

Hearing Date: October 6, 2022

Decision Date: October 25, 2022

AUTHORITY

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

JURISDICTION

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

HEARING RECORD

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

1. DOR Appeal Case Information from Schedule HC (1 page);
2. Appellant's Statement of Grounds for Appeal – 2021 (2 pages);
3. 2020 Tax Penalty Appeal Decision (PA20-874) (3 pages, dated 12.14.21);
4. Employer's Email Re Available Health Insurance (1 page, dated 5.11.22);
5. Appellant's 2021 Spending and Budgeting Graphs (4 pages);
6. Appellant's 2021 Credit Card Information (1 page); and
7. Health Connector's Notice of Hearing (2 pages).

FINDINGS OF FACT

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

1. The Appellant appealed from the Department of Revenue's assessment of a 12 month penalty for 2021. The basis for the penalty was that the Appellant was not insured at any time in 2021. Exhibits 1 and 2. Based on Exhibit 1 and the Appellant's hearing testimony, I find that the penalty assessment is accurate.
2. The Appellant filed a Massachusetts personal income tax return for 2021 as a single person with no dependents. The Appellant's federal adjusted gross income (AGI) for 2021 was \$ 44,846. Exhibit 1.
3. The Appellant was 44 years old at the beginning of 2021 and resided in [name of city or town omitted] in Middlesex County, Massachusetts. Exhibit 1.
4. The Appellant's AGI was more than 150% of the federal poverty level. On this basis I conclude that the Appellant was not automatically exempt from the assessment of a tax penalty in 2021. DOR Table 1.
5. The Appellant's 2021 AGI (\$44,846) was more than 300% of the federal poverty level (\$38,280 for a one person household). DOR Table 2. On this basis I infer that it is likely that the Appellant would not satisfy the financial eligibility requirements for government-subsidized health insurance.
6. Based on DOR Table 3 the Appellant could afford to pay 7.60 % of his income -- or \$284 per month -- for health insurance coverage in 2021. (The calculation is 7.60% multiplied by \$44,846 AGI = \$3,408.29 per year divided by 12 months = \$284.02 per month.)
7. Based on DOR Table 4 (Region 2) the Appellant could obtain individual health insurance coverage at his age and location for \$294 per month in 2021.
8. The DOR also assessed a 12 month penalty for 2020 against the Appellant because he did not have health insurance. On an appeal filed in that case a hearing officer waived the entire penalty in a decision dated December 14, 2021. Exhibit 3

(Docket No. PA20-874). After reviewing the facts found by the hearing officer in the 2020 decision and the facts presented to me in this 2021 tax penalty appeal I conclude that they are substantially the same.

9. The Appellant worked as a salaried employee for the same employer in 2020 and 2021. His federal adjusted gross income increased from \$40,384 in 2020 to \$44,846 in 2021. There was no change in the Appellant's living situation. Testimony and Exhibit 3. See also Exhibit 5 (Appellant's spending for April, June, August, and November 2021) and Exhibit 6 (transactions for three credit cards in April, June, September, and December 2021).
10. In both years the Appellant was offered employer-sponsored health insurance, but he did not enroll in the health plan because it was more than he could afford. Testimony and Exhibit 3.
11. The 2020 appeal was not decided until December 14, 2021 (following an appeal hearing on December 7, 2021), so it was too late for the Appellant to make any changes to his 2021 health insurance coverage that is at issue in this appeal. Exhibit 3.
12. After he received the 2020 hearing decision in December 2021 (Exhibit 3) the Appellant inquired about the cost and availability of health insurance through his employer. An email informed the Appellant that he could be added to coverage effective in April 2022. Individual coverage would cost \$940.34 per month, and the Appellant would have to pay one-half of the monthly premium – or \$470.17 per month. Exhibit 4 and Testimony.
13. In 2020 and in 2021 The Appellant has substantial credit card balances totaling approximately \$24,000 that date back to his professional education. Exhibit 3, Exhibit 6, and Testimony.
14. Except as set forth in the foregoing findings of fact, I adopt the facts set forth in Exhibit 1 as my own findings of fact. Exhibit 1 is a computer printout prepared by the Massachusetts Department of Revenue (DOR) that extracts information submitted by the Appellant on Schedule HC as part of the Appellant's 2021 Massachusetts income tax return.

15. I take administrative notice of the financial information set forth in Tables 1 through 6 of the DOR 2021 Massachusetts Schedule HC Health Care Instructions and Worksheet. Tables 3 and 4 incorporate the affordability schedules adopted by the board of directors for the Commonwealth Health Insurance Connector Authority (Health Connector or Connector) for 2021. See 956 Code Mass. Regs. 6.05. Table 1 sets forth income levels less than 150% of the federal poverty level that are exempt from the assessment of a state tax penalty. Table 2 sets forth income eligibility standards for various family sizes at 300% of the federal poverty level, which is the income eligibility standard for the ConnectorCare government subsidized health insurance program. Tables 5 and 6 set forth the tax penalties in effect for 2020. (The DOR instructions are published online at <http://www.mass.gov/dor/2018ScheduleHCInstructions> and are also available in the state income tax forms supplied to taxpayers. See also DOR Technical Information Release (TIR) 12-7: Individual Mandate Penalties for Tax Year 2021.)

ANALYSIS AND CONCLUSIONS OF LAW

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

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

If these requirements are not met, a tax penalty is assessed for "each of the months" that the person did not have health insurance, as required by the individual mandate. Mass. Gen. Laws 111M, sec. 2(b). See Exhibit 1. There is, however, a three-month grace period for any lapse in coverage to allow the taxpayer to make a transition

between health insurance policies. Health Connector's Administrative Bulletin 03-10, applying Mass. Gen. Laws 111M, sec. 2(b). See also DOR Instructions, at page HC-3. A tax penalty will not be assessed during the 3-month administrative grace period.

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

The decision in this appeal turns on the affordability of health insurance coverage in 2021. See, e.g., Mass. Gen. Laws, c. 111M, sec. 2 (a). See also 956 Code Mass. Regs. 6.08. The evidence shows that coverage was not affordable.

The starting point is the objective standards set forth in the DOR Tables. The Appellant's federal adjusted gross income (AGI) for 2021 (\$44,846) was more than 300% of the federal poverty level for a one-person household (\$38,280). Consequently the Appellant would not be eligible for government subsidized health insurance through the Health Connector. Finding of Fact, No. 5 (DOR Table 2), above.

Under DOR Table 3, the Appellant could afford to pay 7.60% of his income -- or \$284 per month -- for health insurance. Hence, the Appellant could not afford to pay the \$294 monthly premium set forth in DOR Table 4 if he were to seek coverage on the open market. Findings of Fact, Nos. 6 and 7, above.

Finally, the Appellant could not afford the health insurance coverage offered to him by his employer, which is perhaps the most typical way to obtain insurance where it is offered by one's employer. The evidence (for 2022) shows that the premium cost was \$940.34 per month, split evenly between the Appellant and his employer. The Appellant's share of the premium (\$470.17 per month) is substantially more than the \$284 per month that the Appellant could afford to pay under DOR Table 3. Findings of Fact, Nos. 6 and 12, above.

In sum, the Appellant could not afford health insurance under the options that were available to him in 2021. Accordingly, I waive the entire 12 month penalty assessed by the DOR. See my RECOMMENDATION below.

PENALTY ASSESSED

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

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

OR

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

NOTIFICATION OF YOUR RIGHT TO APPEAL TO COURT

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

/s/ Hearing Officer

Cc: Massachusetts Health Connector Appeals Unit

RECOMMENDATION. Shortly after you receive this decision the Health Connector will be conducting its open enrollment period for health insurance coverage that begins on January 1, 2023. I recommend that you file an application with the Health Connector to learn what options are available to you in 2023 (looking forward under your current situation, not backwards as in a tax penalty appeal). You should also shop among various insurers to see how their premiums and coverages vary.

Massachusetts Health Connector Appeals Unit

FINAL APPEAL DECISION: PA21-1970

Appeal Decision Appeal Approved.

Hearing Issue: Appeal of the 2021 Tax Year Penalty

Hearing Date: August 24, 2022

Decision Date: October 13, 2022

AUTHORITY

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

JURISDICTION

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

HEARING RECORD

Appellant appeared at the hearing, which was held by telephone, on August 24, 2022. The hearing record consists of the Appellant's testimony, and the following documents which were admitted into evidence without objection by Appellant:

- Exhibit 1: Notice of Hearing (7-15-22) (2 pages);
- Exhibit 2: Information from Schedule HC TY 2021 (1 page); and
- Exhibit 3: Statement of Grounds for Appeal (4-11-22) (with letter and documents) (13 pages).

FINDINGS OF FACT

The record shows, and I so find:

1. Appellant, age 32 during 2021, from Suffolk County, filed single on the tax return with a family size of 1. (Exhibit 2).
2. Appellant did have health insurance for all of 2021 except for August 2021, but Appellant did not correctly fill out the form, or the software they used made an error. (Appellant's testimony, Exhibits 2, 3).
3. Appellant's Federal Adjusted Gross Income for 2021 was \$65,937.00 (Exhibit 2).
4. Appellant had health insurance through the employer for all of 2021 except for August. (Appellant's testimony, Exhibit 3).
5. Appellant had coverage for all but August of 2021 and continues to have coverage that meets the requirements for Massachusetts. (Appellant Testimony).

6. I take administrative notice of the financial information set forth in Tables 1 through 6 in the DOR 2021 Massachusetts Schedule HC Health Care Instructions and Worksheets. Tables 3 and 4 incorporate affordability and premium schedules adopted by the Board of Directors for the Commonwealth Health Insurance Connector Authority for 2021. Table 2 sets forth income at 300% of the Federal poverty level and Tables 5 and 6 set forth tax penalties in effect for 2021.
7. Appellant could afford health insurance based on the tables in Schedule HC. According to Table 4, the health insurance would cost \$268.00 for coverage. According to Table 3, Appellant was deemed to afford \$439.00.
8. Private insurance was affordable for the Appellant in 2021. (Schedule HC for 2021).
9. Appellant's AGI was over 300% of the Federal Poverty Level, and Appellant therefore would not have qualified for subsidized health insurance through the Health Connector. (Schedule HC for 2021).
10. Appellant claimed that they should be granted a waiver based on the grounds that they had purchased insurance through the employer that did meet minimum creditable coverage and no penalty should have been assessed. (Testimony of Appellant, Exhibit 3).
11. Appellant did not incur significant and unexpected increases in essential expenses as a result of domestic violence or the sudden responsibility for providing full care for an aging parent or other family member; and did not incur such expenses due to the death of a spouse, family member, or partner who shared household expenses. Appellant did not incur additional expenses as a result of a fire, flood, or other natural or man-made disaster in 2021 (Exhibit 3).
12. Appellant was not homeless, was not thirty days or more behind in rent in 2021, and did not receive eviction notices. Appellant did not receive a shut-off notice for basic utilities. (Appellant's Testimony, Exhibit 3).

ANALYSIS AND CONCLUSIONS OF LAW

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

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

Appellant did have health insurance for all but August of 2021, but made an error in completing the forms or the software they used made an error. They have been assessed a tax penalty for twelve months. Appellant appealed the assessment. See Exhibits 2, and 3. To determine if the penalty should be waived in whole or in part, we must consider whether affordable insurance which met minimum

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

Private insurance was affordable for the Appellant during 2021. According to Tables 3 and 4 of the HC Schedule for 2021, Appellant, with an adjusted gross income of \$65,937.00 was deemed to have been able to afford health insurance on the private market. According to Table 3, Appellant could have afforded to pay \$439.00 per month; according to Table 4, Appellant, who was 32 years old in 2021, from Suffolk County, and filed the 2021 Massachusetts taxes as single with a family size of 1, would have had to pay \$268.00 for coverage per month for insurance on the private market. See CMR 6.05 (1)(2), Schedule HC Tables 3 and 4, and Exhibit 2.

With regard to the hardship waiver of the penalty, Appellant claimed that they had purchased insurance through the employer that did meet minimum creditable coverage, a penalty should not have been assessed. For these reasons, the waiver of the penalty is approved.

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

PENALTY ASSESSED

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

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

NOTIFICATION OF YOUR RIGHT TO APPEAL TO COURT

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

Hearing Officer

Cc: Connector Appeals Unit

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

Massachusetts Health Connector Appeals Unit

FINAL APPEAL DECISION: PA21-1971

Appeal Decision Appeal Approved.

Hearing Issue: Appeal of the 2021 Tax Year Penalty

Hearing Date: August 24, 2022

Decision Date: October 13, 2022

AUTHORITY

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

JURISDICTION

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

HEARING RECORD

Appellant appeared at the hearing, which was held by telephone, on August 24, 2022. The hearing record consists of the Appellant's testimony, and the following documents which were admitted into evidence without objection by Appellant:

- Exhibit 1: Notice of Hearing (7-15-22) (2 pages);
- Exhibit 2: Information from Schedule HC TY 2021 (1 page); and
- Exhibit 3: Statement of Grounds for Appeal (3-29-22) (with documents) (12 pages).

FINDINGS OF FACT

The record shows, and I so find:

1. Appellant, age 43 during 2021, from Essex County, filed single on the tax return with a family size of 1. (Exhibit 2).
2. Appellant did not have health insurance for 2021. Appellant was homeless for most of 2021. (Appellant's testimony, Exhibits 2, 3).
3. Appellant's Federal Adjusted Gross Income for 2021 was \$27,695.00 (Exhibit 2).
4. Appellant now has MassHealth. (Appellant's testimony).
5. Appellant's expenses for food, shelter, clothing, and transportation used all of the income. The monthly expenses were \$2,515.00 or \$30,180.00 annually. (Appellant's Testimony).
6. I take administrative notice of the financial information set forth in Tables 1 through 6 in the DOR 2021 Massachusetts Schedule HC Health Care Instructions and Worksheets. Tables 3 and 4

incorporate affordability and premium schedules adopted by the Board of Directors for the Commonwealth Health Insurance Connector Authority for 2021. Table 2 sets forth income at 300% of the Federal poverty level and Tables 5 and 6 set forth tax penalties in effect for 2021.

7. Appellant could not afford health insurance based on the tables in Schedule HC. According to Table 4, the health insurance would cost \$294.00 for coverage. According to Table 3, Appellant was deemed to afford \$97.00.
8. Private insurance was not affordable for the Appellant in 2021. (Schedule HC for 2021).
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 2021).
10. Appellant claimed that they should be granted a waiver based on the grounds that they were homeless and that paying for health insurance would have caused a serious deprivation of food, shelter, clothing and other necessities. (Testimony of Appellant, Exhibit 3).
11. Appellant did not incur significant and unexpected increases in essential expenses as a result of domestic violence or the sudden responsibility for providing full care for an aging parent or other family member; and did not incur such expenses due to the death of a spouse, family member, or partner who shared household expenses. Appellant did not incur additional expenses as a result of a fire, flood, or other natural or man-made disaster in 2021 (Exhibit 3).
12. Appellant was homeless, and was thirty days or more behind in rent in 2021, and did receive eviction notices. Appellant did not receive a shut-off notice for basic utilities. (Appellant's Testimony, Exhibit 3).

ANALYSIS AND CONCLUSIONS OF LAW

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

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

Appellant did not have health insurance for 2021. They have been assessed a tax penalty for twelve months. Appellant appealed the assessment. See Exhibits 2, and 3. To determine if the penalty should be waived in whole or in part, we must consider whether affordable insurance which met minimum creditable coverage standards was available to the Appellant through employment, through the private market, or through a government-sponsored program. If affordable insurance was available, we must determine if such insurance was, in fact, not affordable to the Appellant because they experienced a financial hardship as defined in 956 CMR 6.08.

Private insurance was not affordable for the Appellant during 2021. According to Tables 3 and 4 of the HC Schedule for 2021, Appellant, with an adjusted gross income of \$27,695.00 was deemed not to have been able to afford health insurance on the private market. According to Table 3, Appellant could have afforded to pay \$97.00 per month; according to Table 4, Appellant, who was 43 years old in 2021, from Essex County, and filed the 2021 Massachusetts taxes as single with a family size of 1, would have had to pay \$294.00 for coverage per month for insurance on the private market. See CMR 6.05 (1)(2), Schedule HC Tables 3 and 4, and Exhibit 2.

With regard to the hardship waiver of the penalty, Appellant claimed that they were homeless, and that paying for health insurance would have caused a serious deprivation of food, shelter, clothing and other necessities. Appellant's expenses used all of their income. For these reasons, the waiver of the penalty is approved.

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

PENALTY ASSESSED

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

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

NOTIFICATION OF YOUR RIGHT TO APPEAL TO COURT

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

Hearing Officer

Cc: Connector Appeals Unit

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

Massachusetts Health Connector Appeals Unit

FINAL APPEAL DECISION: PA21-1973

Appeal Decision Appeal Approved.

Hearing Issue: Appeal of the 2021 Tax Year Penalty

Hearing Date: August 24, 2022

Decision Date: October 13, 2022

AUTHORITY

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

JURISDICTION

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

HEARING RECORD

Appellant appeared at the hearing, which was held by telephone, on August 24, 2022. The hearing record consists of the Appellant's testimony, and the following documents which were admitted into evidence without objection by Appellant:

- Exhibit 1: Notice of Hearing (7-15-22) (2 pages);
- Exhibit 2: Information from Schedule HC TY 2021 (1 page);
- Exhibit 3: Statement of Grounds for Appeal (4-1-22) (with documents) (6 pages);
- Exhibit 4: Final Appeal Decision TY2020 (5-14-21) (4 pages); and
- Exhibit 5: Final Appeal Decision TY2019 (10-6-20) (5 pages).

FINDINGS OF FACT

The record shows, and I so find:

1. Appellant, age 60 during 2021, from Hampden County, filed single on the tax return with a family size of 1. (Exhibit 2).
2. Appellant did not have health insurance for 2021. Appellant received shut off notices for May, June, September and October. (Appellant's testimony, Exhibits 2, 3).
3. Appellant's Federal Adjusted Gross Income for 2021 was \$71,634.00 (Exhibit 2).
4. Appellant did not have health insurance available from an employer. (Appellant's testimony).

5. Appellant's expenses for food, shelter, clothing, and transportation used a substantial amount of the income. The monthly expenses were \$3,870.00 or \$46,440.00 annually. (Appellant's Testimony).
6. I take administrative notice of the financial information set forth in Tables 1 through 6 in the DOR 2021 Massachusetts Schedule HC Health Care Instructions and Worksheets. Tables 3 and 4 incorporate affordability and premium schedules adopted by the Board of Directors for the Commonwealth Health Insurance Connector Authority for 2021. Table 2 sets forth income at 300% of the Federal poverty level and Tables 5 and 6 set forth tax penalties in effect for 2021.
7. Appellant could afford health insurance based on the tables in Schedule HC. According to Table 4, the health insurance would cost \$425.00 for coverage. According to Table 3, Appellant was deemed to afford \$477.00.
8. Private insurance was affordable for the Appellant in 2021. (Schedule HC for 2021).
9. Appellant's AGI was over 300% of the Federal Poverty Level, and Appellant therefore would not have qualified for subsidized health insurance through the Health Connector. (Schedule HC for 2021).
10. Appellant claimed that they should be granted a waiver based on the grounds that they received shut off notices and that paying for health insurance would have caused a serious deprivation of food, shelter, clothing and other necessities. (Testimony of Appellant, Exhibit 3).
11. Appellant did not incur significant and unexpected increases in essential expenses as a result of domestic violence or the sudden responsibility for providing full care for an aging parent or other family member; and did not incur such expenses due to the death of a spouse, family member, or partner who shared household expenses. Appellant did not incur additional expenses as a result of a fire, flood, or other natural or man-made disaster in 2021 (Exhibit 3).
12. Appellant was not homeless, and was not thirty days or more behind in rent in 2021, and did not receive eviction notices. Appellant did receive shut-off notices for basic utilities. (Appellant's Testimony, Exhibit 3).

ANALYSIS AND CONCLUSIONS OF LAW

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

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

Appellant did not have health insurance for 2021. They have been assessed a tax penalty for twelve months. Appellant appealed the assessment. See Exhibits 2, and 3. To determine if the penalty should be waived in whole or in part, we must consider whether affordable insurance which met minimum creditable coverage standards was available to the Appellant through employment, through the private market, or through a government-sponsored program. If affordable insurance was available, we must determine if such insurance was, in fact, not affordable to the Appellant because they experienced a financial hardship as defined in 956 CMR 6.08.

Private insurance was affordable for the Appellant during 2021. According to Tables 3 and 4 of the HC Schedule for 2021, Appellant, with an adjusted gross income of \$71,634.00 was deemed to have been able to afford health insurance on the private market. According to Table 3, Appellant could have afforded to pay \$477.00 per month; according to Table 4, Appellant, who was 60 years old in 2021, from Hampden County, and filed the 2021 Massachusetts taxes as single with a family size of 1, would have had to pay \$425.00 for coverage per month for insurance on the private market. See CMR 6.05 (1)(2), Schedule HC Tables 3 and 4, and Exhibit 2.

With regard to the hardship waiver of the penalty, Appellant claimed that they received shut off notices, and that paying for health insurance would have caused a serious deprivation of food, shelter, clothing and other necessities. Appellant's expenses used a substantial portion of their income. Appellant received shut off notices for four months during the year. For these reasons, the waiver of the penalty is approved.

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

PENALTY ASSESSED

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

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

NOTIFICATION OF YOUR RIGHT TO APPEAL TO COURT

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

Hearing Officer

Cc: Connector Appeals Unit

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

Massachusetts Health Connector Appeals Unit

FINAL APPEAL DECISION: PA21-1974

Appeal Decision Appeal Approved.

Hearing Issue: Appeal of the 2021 Tax Year Penalty

Hearing Date: August 24, 2022

Decision Date: October 21, 2022

AUTHORITY

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

JURISDICTION

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

HEARING RECORD

Appellant appeared at the hearing, which was held by telephone, on August 24, 2022. The hearing record consists of the Appellant's testimony, and the following documents which were admitted into evidence without objection by Appellant:

- Exhibit 1: Notice of Hearing (7-15-22) (2 pages);
- Exhibit 2: Information from Schedule HC TY 2021 (1 page); and
- Exhibit 3: Statement of Grounds for Appeal (3-31-22) (with letter) (4 pages).;

FINDINGS OF FACT

The record shows, and I so find:

1. Appellant, age 59 during 2021, from Worcester County, filed single on the tax return with a family size of 1. (Exhibit 2).
2. Appellant did have health insurance for January and February and for November and December of 2021, but did not have health insurance for the remainder of 2021. Appellant was laid off from employment in February 2021, and had to rely on unemployment, which ran out in August or September of 2021. (Appellant's testimony, Exhibits 2, 3).
3. Appellant's Federal Adjusted Gross Income for 2021 was \$25,772.00 (Exhibit 2).
4. Appellant now has health insurance again through an employer. (Appellant's testimony).

5. Appellant's expenses for food, shelter, clothing, and transportation used a substantial amount of the income. The monthly expenses were approximately \$1,600.00 or \$19,200.00 annually. (Appellant's Testimony).
6. I take administrative notice of the financial information set forth in Tables 1 through 6 in the DOR 2021 Massachusetts Schedule HC Health Care Instructions and Worksheets. Tables 3 and 4 incorporate affordability and premium schedules adopted by the Board of Directors for the Commonwealth Health Insurance Connector Authority for 2021. Table 2 sets forth income at 300% of the Federal poverty level and Tables 5 and 6 set forth tax penalties in effect for 2021.
7. Appellant could not afford health insurance based on the tables in Schedule HC. According to Table 4, the health insurance would cost \$401.00 for coverage. According to Table 3, Appellant was deemed to afford \$90.00.
8. Private insurance was not affordable for the Appellant in 2021. (Schedule HC for 2021).
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 2021).
10. Appellant claimed that they should be granted a waiver based on the grounds that paying for health insurance would have caused a serious deprivation of food, shelter, clothing and other necessities. (Testimony of Appellant, Exhibit 3).
11. Appellant did not incur significant and unexpected increases in essential expenses as a result of domestic violence or the sudden responsibility for providing full care for an aging parent or other family member; and did not incur such expenses due to the death of a spouse, family member, or partner who shared household expenses. Appellant did not incur additional expenses as a result of a fire, flood, or other natural or man-made disaster in 2021 (Exhibit 3).
12. Appellant was not homeless, and was not thirty days or more behind in rent in 2021, and did not receive eviction notices. Appellant did not receive shut-off notices for basic utilities. (Appellant's Testimony, Exhibit 3).

ANALYSIS AND CONCLUSIONS OF LAW

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

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

Appellant did have health insurance for January and February and for November and December of 2021, but not for the remainder of 2021. 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 2021. According to Tables 3 and 4 of the HC Schedule for 2021, Appellant, with an adjusted gross income of \$25,772.00 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 \$90.00 per month; according to Table 4, Appellant, who was 59 years old in 2021, from Worcester County, and filed the 2021 Massachusetts taxes as single with a family size of 1, would have had to pay \$401.00 for coverage per month for insurance on the private market. See CMR 6.05 (1)(2), Schedule HC Tables 3 and 4, and Exhibit 2.

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

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

PENALTY ASSESSED

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

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

NOTIFICATION OF YOUR RIGHT TO APPEAL TO COURT

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

Hearing Officer

Cc: Connector Appeals Unit

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

Massachusetts Health Connector Appeals Unit

FINAL APPEAL DECISION: PA20-1249

Appeal Decision: Appeal Approved.

Hearing Issue: Appeal of the 2020 Tax Year Penalty

Hearing Date: October 14, 2022

Decision Date: October 18, 2022

AUTHORITY

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

JURISDICTION

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

HEARING RECORD

The Appellant appeared at the hearing, which was held by telephone, on October 14, 2022.¹ 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 15, 2022.
- Exhibit 2: Appeal Case Information from Schedule HC 2020.
- Exhibit 3: The Statement of Grounds for Appeal signed by the Appellant on March 11, 2022.
- Exhibit 4: The Appellant's letter in support of the appeal, with attachments.

FINDINGS OF FACT

The record shows, and I so find:

1. The Appellant, age 60 in October 2020 filed their Federal Income Tax return as a single person with no dependents claimed (Exhibit 2).
2. The Appellant lived in Norfolk County, MA in 2020 (Exhibit 2).
3. The Appellant's Federal Adjusted Gross Income for 2020 was \$36,714 (Exhibit 2).
4. The Appellant did not have health insurance for any months in tax year 2020 (Exhibit 2 and Appellant Testimony).

¹ This Appeal was heard in conjunction with Appeal PA21-2067. Since two separate penalty periods are at issue, two separate decisions will be issued.

5. The Appellant has been assessed a twelve-month tax penalty for 2020. The Appellant filed an appeal of the assessment in March 2022 (Exhibits 2, 3, 4).
6. I take administrative notice of the financial information set forth in Tables 1 through 6 in the DOR 2020 Massachusetts Schedule HC Health Care Instructions and Worksheets. Tables 3 and 4 incorporate affordability and premium schedules adopted by the Board of Directors for the Commonwealth Health Insurance Connector Authority for 2020. Table 2 sets forth income at 300% of the Federal poverty level and Tables 5 and 6 set forth tax penalties in effect for 2020.
7. In accordance with Table 3 of Schedule HC for 2020, the Appellant filing the Federal tax return as a single person with no dependents claimed, with an annual adjusted gross income of \$36,714 could afford to pay \$153 per month for health insurance. In accordance with Table 4, the Appellant, age 60, living in Norfolk County, could have purchased private insurance for \$432 per month for a plan (Schedule HC for 2020). Private insurance was not affordable for the Appellant in 2020.
8. The Appellant testified that they were employed in January and February but was laid off due to the pandemic. The Appellant said that their employer did not offer health insurance. The Appellant said that they collected unemployment compensation income (Appellant Testimony).
9. The Appellant would have been eligible for ConnectorCare coverage in 2020 because the Appellant's income was less than 300% of the federal poverty level, which was \$34,470 for a household of one in 2020 (See Table 2 of Schedule HC-2020 and 956 CMR 12.04).
10. The Appellant's 2020 monthly living expenses of \$2,830 included: rent-\$1,200; electricity-\$35; telephone-\$85; car insurance-\$185, gasoline-\$108; food \$217 and monthly court ordered child support of \$1,000. The Appellant testified that they struggled to meet their living expenses with limited income and could not afford to pay a monthly health insurance premium (Appellant Testimony).
11. The Appellant testified that they did contact Health Connector and was told that they had an old case from 2017 that would have to be closed. The Appellant said that they tried to fix the problem but could not. The Appellant said that they knew they could not afford to pay for insurance, so they gave up trying to fix their old case (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 of tax year 2020 and consequently has been assessed a twelve-month penalty. The Appellant filed an appeal in March 2022 and testified at the hearing 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 2020, the Appellant filing the Federal tax return as a single person with no dependents claimed with an adjusted gross income of \$36,714 could afford to pay \$153 per month for health insurance. According to Table 4, the Appellant, age 60, living in Norfolk County, could have purchased a private insurance plan for \$432 month. See Schedule HC for 2020. Private insurance was not affordable for the Appellant in tax year 2020.

The Appellant did not have access to employer sponsored health insurance in tax year 2020. The Appellant would have been eligible for ConnectorCare coverage based upon the Appellant's income that was less than 300% of the federal poverty level which was \$37,470 for their household of one. See Table 2 of Schedule HC 2020 and 956 CMR 12.04 for eligibility criteria. Since affordable insurance was available to the Appellant in 2020, it must be determined whether the Appellant experienced a financial hardship pursuant to 956 CMR 6.08 (1).

The Appellant testified that they were employed for the first two months of tax year 2020 but was laid off due to the pandemic. The Appellant said that their only source of income was unemployment compensation. The Appellant testified to substantial monthly living expenses including child support and said that they struggled to meet their monthly living 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 2020. 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 2020.

NOTIFICATION OF YOUR RIGHT TO APPEAL TO COURT

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

Cc: Connector Appeals Unit

Massachusetts Health Connector Appeals Unit

FINAL APPEAL DECISION: PA21-1877

Appeal Decision: Penalty Overturned in Full
Hearing Issue: Appeal of the 2021 Tax Year Penalty
Hearing Date: July 18, 2022
Decision Date: October 5, 2022

AUTHORITY

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

JURISDICTION

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

HEARING RECORD

Appellant appeared at the hearing, which was held by telephone, on July 18, 2022. 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: Schedule HC for Healthcare from DOR
- Exhibit 2: Notice of Appeal and supporting documents, dated March 17, 2022
- Exhibit 3: Correspondence from Health Connector, dated June 8, 2022
- Exhibit 4: Appeal decisions for 2018 and 2017

FINDINGS OF FACT

The record shows, and I so find:

1. Appellant was 32 years old in 2021 and resided in Bristol County (Exhibit 1).
2. Appellant filed a Massachusetts 2021 tax return as single with no dependents claimed (Exhibit 1).
3. Appellant had an Adjusted Gross Income for 2021 of \$47,426 (Exhibit 1).
4. Appellant's schedule was unpredictable and Appellant only worked part time for most of the year (Testimony of Appellant).
5. Employer sponsored health insurance was not available to Appellant due to the part time status (Testimony of Appellant).
6. Appellant was in a car accident in 2021 and had to purchase a car, with car payments, gasoline and maintenance costing \$530 per month (Testimony of Appellant).
7. Appellant was divorced during 2020 and incurred a lot of debt as a result of the divorce (Testimony of Appellant).
8. Due to Appellant's part time status and the car accident and the divorce, Appellant used credit cards to pay for basic expenses and had payments of \$400 per month (Testimony of Appellant).

9. Appellant struggled to pay for basic necessities in 2022 (Testimony of Appellant).
10. I take administrative notice of the financial information set forth in Tables 1 through 6 in the DOR 2021 Massachusetts Schedule HC Health Care Instructions and Worksheets. Tables 3 and 4 incorporate affordability and premium schedules adopted by the Board of Directors for the Commonwealth Health Insurance Connector Authority for 2021. Table 2 sets forth income at 300% of the Federal poverty level and Tables 5 and 6 set forth tax penalties in effect for 2021.
11. According to Table 3 of Schedule HC for 2021 a person filing as single with no dependents claimed with an adjusted gross income of \$47,429 could afford to pay \$300 per month for private insurance. According to Table 4, Appellant, who was 32 years old and lived in Bristol County could have purchased private insurance for a cost of \$268 per month.
12. Private insurance was considered affordable for Appellant in 2021 (Schedule HC for 2021).
13. Appellant, earning more than \$38,280 would not have been income eligible for government subsidized health insurance (Schedule HC for 2021).
14. Appellant did not have health insurance for twelve months of 2021 (Exhibit 1 and Testimony of Appellant).
15. Appellant has been assessed a penalty for twelve months for 2021 (Exhibit 1).
16. Appellant filed a hardship Appeal on March 17, 2022 (Exhibit 2).
16. At the time of the hearing, Appellant was working a full time position and was going to enroll in 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 2021, Administrative Bulletin 03-10: Guidance Regarding M.G.L. c. 111M and M.G.L. c. 176Q, as implemented by 956 CMR 6.00, which interprets the 63-day gap in coverage to be three months. The Connector’s regulations provide for a waiver of the tax penalty in the case of a financial hardship. See 956 CMR 6.08.

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

Private health insurance was considered affordable for Appellant, so we must consider whether the purchase of insurance would have caused Appellant to experience deprivation of basic necessities. Appellant struggled to pay for necessities as Appellant worked a part-time schedule. Appellant had expenses from a divorce and from a car accident in 2021. I find that purchasing health insurance would have caused Appellant to experience a serious deprivation of food, shelter, clothing and other necessities. See Schedule HC for 2021, 956 CMR 6.08 (1)(e), Exhibits 1, 2 and Testimony of Appellant, which I find to be credible.

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

OR

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

NOTIFICATION OF YOUR RIGHT TO APPEAL TO COURT

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

Massachusetts Health Connector Appeals Unit

FINAL APPEAL DECISION: PA21-1896

Appeal Decision: Penalty Overturned in Full
Hearing Issue: Appeal of the 2021 Tax Year Penalty
Hearing Date: July 25, 2022
Decision Date: October 5, 2022

AUTHORITY

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

JURISDICTION

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

HEARING RECORD

Appellant appeared at the hearing, which was held by telephone, on July 25, 2022. 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: Schedule HC for Healthcare from DOR
- Exhibit 2: Notice of Appeal, dated March 20, 2022
- Exhibit 3: Correspondence from Health Connector, dated June 13, 2022

FINDINGS OF FACT

The record shows, and I so find:

1. Appellant was 40 years old in 2021 and resided in Norfolk county (Exhibit 1).
2. Appellant filed a Massachusetts tax return in 2021 as single with no dependents claimed (Exhibit 1).
3. Appellant had an Adjusted Gross Income for 2021 of \$27,095 (Exhibit 1).
4. Appellant worked part time and employer sponsored health insurance was not available to part time employees (Testimony of Appellant).
5. Appellant was homeless in 2021 and moved around between family and friends (Testimony of Appellant).
6. Appellant struggled to pay for basic expenses in 2021 (Testimony of Appellant).
7. I take administrative notice of the financial information set forth in Tables 1 through 6 in the DOR 2021 Massachusetts Schedule HC Health Care Instructions and Worksheets. Tables 3 and 4 incorporate affordability and premium schedules adopted by the Board of Directors for the Commonwealth Health Insurance Connector Authority for 2021. Table 2 sets forth income at 300% of the Federal poverty level and Tables 5 and 6 set forth tax penalties in effect for 2021.
8. According to Table 3 of Schedule HC for 2021 a person filing as single with no dependents claimed with an adjusted gross income of \$27,045 could afford to pay \$95 per month for private insurance. According to Table 4, Appellant, who was 40 years old and lived in Norfolk county could have purchased private insurance for a cost of \$294 per month.

9. Private insurance was not considered affordable for Appellant in 2021 (Schedule HC for 2021).
10. Appellant, earning less than \$38,280 would have been income eligible for government subsidized health insurance (Schedule HC for 2021).
11. Appellant did not have health insurance in 2021 (Testimony of Appellant and Exhibit 1).
12. Appellant has been assessed a penalty for twelve months for 2021 (Exhibit 1).
13. Appellant filed a hardship Appeal on June 16, 2022 (Exhibit 2).
14. Appellant had recently become a full-time employee and had begun the enrollment process for 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 2021, Administrative Bulletin 03-10: Guidance Regarding M.G.L. c. 111M and M.G.L. c. 176Q, as implemented by 956 CMR 6.00, which interprets the 63-day gap in coverage to be three months. The Connector’s regulations provide for a waiver of the tax penalty in the case of a financial hardship. See 956 CMR 6.08.

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

Private health insurance was not considered affordable to Appellant. Appellant was income eligible for government subsidized health insurance. See Schedule HC for 2021 Tables 2, 3, 4. Since affordable insurance was available to Appellant, we must consider whether Appellant suffered a financial hardship in 2021.

Appellant struggled to pay for basic necessities. Appellant was homeless and lived with various friends and family. I find that Appellant suffered a hardship and health insurance that provided minimum coverage was not affordable. See Schedule HC for 2021, 956 CMR 6.08 (1)(a), Exhibits 1, 2 and Testimony of Appellant, which I find to be credible.

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

OR

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

NOTIFICATION OF YOUR RIGHT TO APPEAL TO COURT

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

ADDENDUM

Appellant was applying for employer sponsored health insurance at the time of the hearing. If Appellant does not have health insurance, Appellant should contact the Health Connector at 1 877 623-6765 for affordable options.

Massachusetts Health Connector Appeals Unit

FINAL APPEAL DECISION: PA21-1898

Appeal Decision: Penalty Overturned in Full
Hearing Issue: Appeal of the 2021 Tax Year Penalty
Hearing Date: July 25, 2022
Decision Date: October 6, 2022

AUTHORITY

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

JURISDICTION

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

HEARING RECORD

Appellant appeared at the hearing, which was held by telephone, on July 25, 2022. Appellant also appeared for Appellant Spouse. The procedures to be followed during the hearing were reviewed with Appellant. Appellant was sworn in. Exhibits were marked and admitted in evidence with no objection from Appellant. Appellant testified.

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

- Exhibit 1: Schedule HC for Healthcare from DOR
- Exhibit 2: Notice of Appeal, dated March 16, 2022
- Exhibit 3: Correspondence from Health Connector, dated June 13, 2022

FINDINGS OF FACT

The record shows, and I so find:

1. Appellants were 47 and 49 years old in 2021 and resided in Hampshire county (Exhibit 1).
2. Appellants filed a Massachusetts tax return in 2021 as married filing jointly with no dependents claimed (Exhibit 1).
3. Appellants had an Adjusted Gross Income for 2021 of \$88,926 (Exhibit 1).
4. Appellant was laid off in May 2021, and did not receive unemployment insurance until December 2021 (Testimony of Appellant).
5. Appellants struggled to pay for basic expenses in 2021 (Testimony of Appellant).
6. Appellants received a shutoff notice for electricity in 2021 (Exhibit 2 and Testimony of Appellant).
7. I take administrative notice of the financial information set forth in Tables 1 through 6 in the DOR 2021 Massachusetts Schedule HC Health Care Instructions and Worksheets. Tables 3 and 4 incorporate affordability and premium schedules adopted by the Board of Directors for the Commonwealth Health Insurance Connector Authority for 2021. Table 2 sets forth income at 300% of the Federal poverty level and Tables 5 and 6 set forth tax penalties in effect for 2021.
8. According to Table 3 of Schedule HC for 2021 a couple with no dependents claimed with an adjusted gross income of \$88,926 could afford to pay \$593 per month for private insurance. According to Table 4, Appellants,

who were 49 and 47 years old, living in Hampshire county could have purchased private insurance for \$710 per month.

9. Private insurance was not considered affordable for Appellants in 2021 (Schedule HC for 2021).
10. Appellants, earning more than \$51,720 would not have been income eligible for government subsidized health insurance (Schedule HC for 2021).
11. Appellant did not have health insurance for twelve months in 2021 (Testimony of Appellant and Exhibit 1).
12. Appellant has been assessed a penalty for twelve months for 2021. Appellant Spouse was not assessed a penalty (Exhibit 1).
13. Appellants filed a hardship Appeal on March 16, 2022 (Exhibit 2).

ANALYSIS AND CONCLUSIONS OF LAW

G.L c. 111M, § 2, also called the “individual mandate,” requires every adult resident of Massachusetts to obtain health insurance that meets minimum creditable coverage standards “[s]o long as it is deemed affordable” under the schedule set by the board of directors for the Commonwealth Health Insurance Connector Authority. Residents who do not obtain insurance or who do not obtain insurance that meets the minimum creditable coverage standard are subject to a tax penalty for “each of the months” that the individual did not have health insurance as required by the individual mandate. There is a three-month grace period to allow the taxpayer to obtain health insurance coverage or to make the transition between health insurance policies. See G. L. c. 111M, sec. 2(b) and for Tax Year 2021, Administrative Bulletin 03-10: Guidance Regarding M.G.L. c. 111M and M.G.L. c. 176Q, as implemented by 956 CMR 6.00, which interprets the 63-day gap in coverage to be three months. The Connector’s regulations provide for a waiver of the tax penalty in the case of a financial hardship. See 956 CMR 6.08.

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

Appellant was not income eligible for subsidized health insurance. Private health insurance was not considered affordable for Appellant. Affordable insurance was not available to Appellant in 2021. See Schedule HC for 2021, Exhibits 1, 2, and Testimony of Appellant which I find to be credible.

I find that the penalty assessed against Appellant for 2021 should be waived in its entirety.

PENALTY ASSESSED

Number of Months Appealed: 12/0

Number of Months Assessed: 0/0

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

OR

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

NOTIFICATION OF YOUR RIGHT TO APPEAL TO COURT

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

ADDENDUM

If Appellant still does not have health insurance, Appellant can contact Healthcare for All at 800 272-4232 for assistance.

Massachusetts Health Connector Appeals Unit

FINAL APPEAL DECISION: PA21-1900

Appeal Decision: Penalty Overturned in Full
Hearing Issue: Appeal of the 2021 Tax Year Penalty
Hearing Date: July 25, 2022
Decision Date: October 7, 2022

AUTHORITY

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

JURISDICTION

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

HEARING RECORD

Appellant appeared at the hearing, which was held by telephone, on July 25, 2022. 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: Schedule HC for Healthcare from DOR
- Exhibit 2: Notice of Appeal and supporting documents, dated March 21, 2022
- Exhibit 3: Correspondence from Health Connector, dated June 13, 2022

FINDINGS OF FACT

The record shows, and I so find:

1. Appellant was 34 years old in 2021 (Exhibit 1).
2. Appellant resided in Suffolk county Massachusetts in 2021 (Exhibit 1 and Testimony of Appellant).
3. Appellant filed a Massachusetts 2021 tax return as single with no dependents claimed (Exhibit 1).
4. Appellant had an Adjusted Gross Income for 2021 of \$26,289 (Exhibit 1).
5. Employer sponsored health insurance was not available to Appellant in 2021 (Testimony of Appellant).
6. Appellant applied for government subsidized health insurance on several occasions during 2020 and 2021 (Testimony of Appellant).
7. Appellant was approved for subsidized health insurance on several occasions (Testimony of Appellant).
8. On several occasions, Appellant was terminated from the subsidized health insurance after a short time (Testimony of Appellant).
9. Appellant was notified that the terminations were because Appellant was incarcerated (Testimony of Appellant).
10. Appellant was previously incarcerated, but was released in 2009 (Testimony of Appellant).
11. Appellant has not been incarcerated since 2009 (Testimony of Appellant).
12. Appellant made several attempts to get the record updated so that it does not say that Appellant is incarcerated (Testimony of Appellant).

13. I take administrative notice of the financial information set forth in Tables 1 through 6 in the DOR 2021 Massachusetts Schedule HC Health Care Instructions and Worksheets. Tables 3 and 4 incorporate affordability and premium schedules adopted by the Board of Directors for the Commonwealth Health Insurance Connector Authority for 2021. Table 2 sets forth income at 300% of the Federal poverty level and Tables 5 and 6 set forth tax penalties in effect for 2021.

14. According to Table 3 of Schedule HC for 2021 a person filing as single with no dependents claimed with an adjusted gross income of \$26,289 could afford to pay \$92 per month for private insurance. According to Table 4, Appellant, who was 34 years old and lived in Suffolk County could have purchased private insurance for a cost of \$268 per month.

15. Private insurance was not considered affordable for Appellant in 2021 (Schedule HC for 2021).

16. Appellant, earning less than \$38,280, would have been income eligible for government subsidized health insurance (Schedule HC for 2021).

17. Appellant did not have health insurance for twelve months of 2021 (Exhibit 1 and Testimony of Appellant).

18. Appellant has been assessed a penalty for twelve months for 2021 (Exhibit 1).

19. Appellant filed a hardship Appeal on March 21, 2022 (Exhibit 2).

ANALYSIS AND CONCLUSIONS OF LAW

G.L.c. 111M, § 2, also called the “individual mandate,” requires every adult resident of Massachusetts to obtain health insurance that meets minimum creditable coverage standards “[s]o long as it is deemed affordable” under the schedule set by the board of directors for the Commonwealth Health Insurance Connector Authority. Residents who do not obtain insurance or who do not obtain insurance that meets the minimum creditable coverage standard are subject to a tax penalty for “each of the months” that the individual did not have health insurance as required by the individual mandate. There is a three-month grace period to allow the taxpayer to obtain health insurance coverage or to make the transition between health insurance policies. See G. L. c. 111M, sec. 2(b) and for Tax Year 2021, Administrative Bulletin 03-10: Guidance Regarding M.G.L. c. 111M and M.G.L. c. 176Q, as implemented by 956 CMR 6.00, which interprets the 63-day gap in coverage to be three months. The Connector’s regulations provide for a waiver of the tax penalty in the case of a financial hardship. See 956 CMR 6.08.

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

Appellant was income eligible for subsidized health insurance. Private health insurance was not considered affordable for Appellant. Although Appellant applied for government subsidized health insurance, Appellant was only able to obtain the insurance for a short time, until it was terminated due to incarceration. Appellant has not been incarcerated since 2009. See Schedule HC for 2021, Exhibits 1, 2, and Testimony of Appellant which I find to be credible.

I find that the penalty assessed against Appellant for 2021 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 2021 for the amount equal to one half of the lowest cost health insurance plan available to

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

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

NOTIFICATION OF YOUR RIGHT TO APPEAL TO COURT

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

ADDENDUM

Appellant was given the number for the Health Connector (1 877 623-6765) and HealthCare for All (1800 272-4232) to get assistance, so that Appellant can obtain health insurance.

Massachusetts Health Connector Appeals Unit

FINAL APPEAL DECISION: PA21-1958

Appeal Decision: Penalty Overturned in Full
Hearing Issue: Appeal of the 2021 Tax Year Penalty
Hearing Date: August 22, 2022
Decision Date: October 17, 2022

AUTHORITY

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

JURISDICTION

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

HEARING RECORD

Appellant appeared at the hearing, which was held by telephone, on August 22, 2022. 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: Schedule HC for Healthcare from DOR
- Exhibit 2: Notice of Appeal and supporting documents, dated March 25, 2022
- Exhibit 3: Correspondence from Health Connector, dated July 15, 2022

FINDINGS OF FACT

The record shows, and I so find:

1. Appellant was 25 years old in 2021 and resided in Middlesex County (Exhibit 1).
2. Appellant filed a Massachusetts 2021 tax return as single with no dependents claimed (Exhibit 1).
3. Appellant had an Adjusted Gross Income for 2021 of \$20,112 (Exhibit 1).
4. Appellant was laid off due to the pandemic and was unemployed for all of 2021 (Exhibit 2 and Testimony of Appellant).
5. Appellant struggled to pay for basic necessities (Testimony of Appellant).
6. Appellant lived with a family member and was able to keep expenses to a minimum (Testimony of Appellant).
7. Appellant applied for government subsidized health insurance, but was unable to obtain insurance (Testimony of Appellant).
8. I take administrative notice of the financial information set forth in Tables 1 through 6 in the DOR 2021 Massachusetts Schedule HC Health Care Instructions and Worksheets. Tables 3 and 4 incorporate affordability and premium schedules adopted by the Board of Directors for the Commonwealth Health Insurance Connector Authority for 2021. Table 2 sets forth income at 300% of the Federal poverty level and Tables 5 and 6 set forth tax penalties in effect for 2021.

9. According to Table 3 of Schedule HC for 2021 a person filing as single with no dependents claimed with an adjusted gross income of \$20,112 could afford to pay \$47 per month for private insurance. According to Table 4, Appellant, who was 25 years old and lived in Middlesex County could have purchased private insurance for a cost of \$263 per month.
10. Private insurance was not considered affordable for Appellant in 2021 (Schedule HC for 2021).
11. Appellant, earning less than \$38,280 would have been income eligible for government subsidized health insurance (Schedule HC for 2021).
12. Appellant did not have health insurance for twelve months of 2021 (Exhibit 1 and Testimony of Appellant).
13. Appellant has been assessed a penalty for twelve months for 2021 (Exhibit 1).
14. Appellant filed a hardship Appeal on July 15, 2022 (Exhibit 2).
15. At the time of the hearing, Appellant was covered by 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 2021, Administrative Bulletin 03-10: Guidance Regarding M.G.L. c. 111M and M.G.L. c. 176Q, as implemented by 956 CMR 6.00, which interprets the 63-day gap in coverage to be three months. The Connector’s regulations provide for a waiver of the tax penalty in the case of a financial hardship. See 956 CMR 6.08.

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

Appellant was income eligible for government subsidized health insurance, so we must consider whether the purchase of insurance would have caused Appellant to experience deprivation of basic necessities. Appellant struggled to pay for necessities as Appellant was unemployed. Appellant did attempt to obtain coverage under government subsidized insurance, but was unable to get the coverage until recently. I find that purchasing health insurance would have caused Appellant to experience a serious deprivation of food, shelter, clothing and other necessities. See Schedule HC for 2021, 956 CMR 6.08 (1)(e), Exhibits 1, 2 and Testimony of Appellant, which I find to be credible.

I find the penalty assessed against Appellant for 2021 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 2021 for the amount equal to one half of the lowest cost health insurance plan available to

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

OR

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

NOTIFICATION OF YOUR RIGHT TO APPEAL TO COURT

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

Massachusetts Health Connector Appeals Unit

FINAL APPEAL DECISION: PA21-1960

Appeal Decision: Penalty Overturned in Full
Hearing Issue: Appeal of the 2021 Tax Year Penalty
Hearing Date: August 22, 2022
Decision Date: October 17, 2022

AUTHORITY

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

JURISDICTION

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

HEARING RECORD

Appellant appeared at the hearing, which was held by telephone, on August 22, 2022. 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: Schedule HC for Healthcare from DOR
- Exhibit 2: Notice of Appeal, dated March 29, 2022
- Exhibit 3: Correspondence from Health Connector, dated June 15, 2022

FINDINGS OF FACT

The record shows, and I so find:

1. Appellant was 58 years old in 2021 and resided in Suffolk county (Exhibit 1).
2. Appellant filed a Massachusetts tax return in 2021 as single with no dependents claimed (Exhibit 1).
3. Appellant had an Adjusted Gross Income for 2021 of \$76,782 (Exhibit 1).
4. Appellant was unemployed for fourteen months until September 2021 (Testimony of Appellant).
5. Appellant struggled to pay basic expenses during the time of unemployment (Testimony of Appellant).
6. In addition to basic living expenses, Appellant had many divorce related expenses and tax expenses (Testimony of Appellant).
7. Appellant fell behind on rent for five months of 2021 (Exhibit 2 and Testimony of Appellant).
8. Appellant started a job and obtained employer sponsored health insurance beginning in September 2021 (Exhibit 2 and Testimony of Appellant)
9. I take administrative notice of the financial information set forth in Tables 1 through 6 in the DOR 2021 Massachusetts Schedule HC Health Care Instructions and Worksheets. Tables 3 and 4 incorporate affordability and premium schedules adopted by the Board of Directors for the Commonwealth Health Insurance Connector Authority for 2021. Table 2 sets forth income at 300% of the Federal poverty level and Tables 5 and 6 set forth tax penalties in effect for 2021.

10. According to Table 3 of Schedule HC for 2021 a person filing as single with no dependents claimed with an adjusted gross income of \$76,782 could afford to pay \$512 per month for private insurance. According to Table 4, Appellant, who was 58 years old and lived in Suffolk county could have purchased private insurance for a cost of \$401 per month.
11. Private insurance was considered affordable for Appellant in 2021 (Schedule HC for 2021).
12. Appellant, earning more than \$38,280 would not have been income eligible for government subsidized health insurance (Schedule HC for 2021).
13. Appellant did not have health insurance for eight months in 2021 (Exhibit 1 and Testimony of Appellant).
14. Appellant has been assessed a penalty for five months for 2021 (Exhibit 1).
15. Appellant filed a hardship Appeal on June 15, 2022 (Exhibit 2).

ANALYSIS AND CONCLUSIONS OF LAW

G.L.c. 111M, § 2, also called the “individual mandate,” requires every adult resident of Massachusetts to obtain health insurance that meets minimum creditable coverage standards “[s]o long as it is deemed affordable” under the schedule set by the board of directors for the Commonwealth Health Insurance Connector Authority. Residents who do not obtain insurance or who do not obtain insurance that meets the minimum creditable coverage standard are subject to a tax penalty for “each of the months” that the individual did not have health insurance as required by the individual mandate. There is a three-month grace period to allow the taxpayer to obtain health insurance coverage or to make the transition between health insurance policies. See G. L. c. 111M, sec. 2(b) and for Tax Year 2021, 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 five months. To determine if the penalty should be waived in whole or in part, we must consider whether affordable insurance was available to Appellant, before we consider whether Appellant suffered a financial hardship See 956 CMR 6.

Private health insurance was considered affordable for Appellant. See Schedule HC for 2021 Tables 2, 3, 4. Since affordable insurance was available to Appellant, we must consider whether Appellant suffered a financial hardship in 2021.

Appellant was unemployed and struggled to pay for basic necessities. Appellant fell behind in rent for five months. I find that Appellant suffered a hardship and health insurance that provided minimum coverage was not affordable. See Schedule HC for 2021, 956 CMR 6.08 (1)(a), Exhibits 1, 2 and Testimony of Appellant, which I find to be credible.

I find the penalty assessed against Appellant for 2021 should be waived in its entirety.

PENALTY ASSESSED

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

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

OR

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

NOTIFICATION OF YOUR RIGHT TO APPEAL TO COURT

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

Massachusetts Health Connector Appeals Unit

FINAL APPEAL DECISION: PA21-1962

Appeal Decision: Penalty Overturned in Full
Hearing Issue: Appeal of the 2021 Tax Year Penalty
Hearing Date: August 22, 2022
Decision Date: October 19, 2022

AUTHORITY

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

JURISDICTION

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

HEARING RECORD

Appellant appeared at the hearing, which was held by telephone, on August 22, 2022. 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. At the end of the hearing, the record was left open so that Appellant could submit further documents. The documents were submitted and have been marked as Exhibit 4.

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

- Exhibit 1: Schedule HC for Healthcare from DOR
- Exhibit 2: Notice of Appeal, dated March 30, 2022
- Exhibit 3: Correspondence from Health Connector, dated June 15, 2022
- Exhibit 4: Documents regarding health insurance coverage

FINDINGS OF FACT

The record shows, and I so find:

1. Appellant was 56 years old in 2021 and resided in Middlesex county (Exhibit 1).
2. Appellant filed a Massachusetts tax return in 2021 as Head of Household with two dependents claimed (Exhibit 1).
3. Appellant had an Adjusted Gross Income for 2021 of \$55,188 (Exhibit 1).
4. Appellant was covered by employer sponsored health insurance in January and February 2021 (Exhibit 4 and Testimony of Appellant).
5. Appellant was laid off from the job in March 2022 (Testimony of Appellant).
6. Appellant was told that Appellant would continue the employer sponsored insurance in March and April (Testimony of Appellant).
7. Appellant applied for government sponsored health insurance and Appellant believed that he was covered beginning in April (Testimony of Appellant).
8. Appellant was covered by government sponsored health insurance beginning in September 2021 (Exhibit 1).
9. Appellant struggled to pay for basic expenses during the time of unemployment (Testimony of Appellant).

10. During 2021, Appellant had expenses for a divorce, including a divorce attorney (Testimony of Appellant).
11. I take administrative notice of the financial information set forth in Tables 1 through 6 in the DOR 2021 Massachusetts Schedule HC Health Care Instructions and Worksheets. Tables 3 and 4 incorporate affordability and premium schedules adopted by the Board of Directors for the Commonwealth Health Insurance Connector Authority for 2021. Table 2 sets forth income at 300% of the Federal poverty level and Tables 5 and 6 set forth tax penalties in effect for 2021.
12. According to Table 3 of Schedule HC for 2021 a person filing as Head of Household with two dependents claimed with an adjusted gross income of \$55,188 could afford to pay \$271 per month for private insurance. According to Table 4, Appellant, who was 56 years old and lived in Middlesex county could have purchased private insurance for a cost of \$951 per month.
13. Private insurance was not considered affordable for Appellant in 2021 (Schedule HC for 2021).
14. Appellant, earning less than \$65,160 would have been income eligible for government subsidized health insurance (Schedule HC for 2021).
15. Appellant did not have health insurance for six months in 2021 (Exhibit 1 and Testimony of Appellant).
16. Appellant has been assessed a penalty for three months for 2021 (Exhibit 1).
17. Appellant filed a hardship Appeal on June 15, 2022 (Exhibit 2).

ANALYSIS AND CONCLUSIONS OF LAW

G.L.c. 111M, § 2, also called the “individual mandate,” requires every adult resident of Massachusetts to obtain health insurance that meets minimum creditable coverage standards “[s]o long as it is deemed affordable” under the schedule set by the board of directors for the Commonwealth Health Insurance Connector Authority. Residents who do not obtain insurance or who do not obtain insurance that meets the minimum creditable coverage standard are subject to a tax penalty for “each of the months” that the individual did not have health insurance as required by the individual mandate. There is a three-month grace period to allow the taxpayer to obtain health insurance coverage or to make the transition between health insurance policies. See G. L. c. 111M, sec. 2(b) and for Tax Year 2021, 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 three months. To determine if the penalty should be waived in whole or in part, we must consider whether affordable insurance was available to Appellant, before we consider whether Appellant suffered a financial hardship See 956 CMR 6.

Private health insurance was not considered affordable for Appellant. Appellant was eligible for government subsidized insurance. See Schedule HC for 2021 Tables 2, 3, 4. Since affordable insurance was available to Appellant, we must consider whether Appellant suffered a financial hardship in 2021.

Appellant was unemployed for part of 2021 and struggled to pay for basic necessities. I find that purchasing health insurance would have caused Appellant to experience a serious deprivation of food, shelter, clothing and other necessities. See Schedule HC for 2021, 956 CMR 6.08 (1)(e), Exhibits 1, 2 and Testimony of Appellant, which I find to be credible.

I find the penalty assessed against Appellant for 2021 should be waived in its entirety.

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

OR

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

NOTIFICATION OF YOUR RIGHT TO APPEAL TO COURT

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

Massachusetts Health Connector Appeals Unit

FINAL APPEAL DECISION: PA211968

Appeal Decision: The penalty is waived in part

Hearing Issue: Appeal of the 2021 Tax Year Penalty

Hearing Date: August 23, 2022

Decision Date: October 28, 2022

AUTHORITY

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

JURISDICTION

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

HEARING RECORD

The appellant appeared at the hearing which was held by telephone on August 23, 2022. The procedures to be followed during the hearing were reviewed with Appellant who was then sworn in. Exhibits were marked and admitted in evidence with no objection from the appellant. Appellant testified. At the end of the hearing, the record was left open until September 16, 2022 to give Appellant time to submit additional evidence about monthly expenses for basic necessities. As of the date of this writing no additional evidence has been submitted by Appellant. The record is now closed.

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

- Exhibit 1: Statement of Grounds for Appeal 2021 signed and dated by Appellant on March 27 2022, with letter attached
- Exhibit 2: Appeal Information sheet Schedule HC, 2021
- Exhibit 3: Connector notice of hearing sent to Appellant, dated July 15, 2022 for August 23, 2022 hearing
- Exhibit 4: Letter to Appellant from insurance company regarding termination of coverage and replacement coverage as of March 31, 2022, undated
- Exhibit 5: December 13, 2020 unsigned print-out showing Appellant had supplemental coverage
- Exhibit 6: Appellant's 2021 coverage guide for supplemental health insurance
- Exhibit 7: Connector Appeals Unit letter dated August 24, 2022 to Appellant with request for additional information

FINDINGS OF FACT

The record shows, and I so find:

1. Appellant, who filed a 2021 Massachusetts tax return as a single person with no dependents claimed, was 28 years old in 2021 (Exhibit 2, Testimony of Appellant).
2. Appellant lived in Plymouth County in 2021 (Exhibit 2, Testimony of Appellant).

3. Appellant's Federal Adjusted Gross Income for 2021 was \$68,465 (Exhibit 2, Testimony of Appellant).
4. Appellant moved to Massachusetts in December, 2020. Appellant still had a job in the state where she had resided which she was able to do remotely. Appellant had this job until mid-February, 2021. She earned \$2,150 every two weeks (Testimony of Appellant).
5. Appellant also had contract work in 2021. One contract which she had from January through December was for part-time work. Appellant was paid by the hour and the number of hours she worked varied. The second contract ran from May through December (Testimony of Appellant).
6. Appellant was able to obtain a limited form of health insurance through one of her contracts. Appellant paid approximately \$240 a month for coverage that was described as "supplemental." The description of the coverage clearly stated that the plan was not actual health insurance and that what coverage was offered had many exclusions (Testimony of Appellant, Exhibits 5 and 6).
7. Appellant had no health insurance that met the Commonwealth's minimum creditable coverage standards in 2021. Appellant has been assessed a tax penalty for the entire year. 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 2021 Massachusetts Schedule HC Health Care Instructions and Worksheets. Tables 3 and 4 incorporate affordability and premium schedules adopted by the Board of Directors for the Commonwealth Health Insurance Connector Authority for 2021. Table 2 sets forth income at 300% of the Federal poverty level and Tables 5 and 6 set forth tax penalties in effect for 2021.
8. According to Table 3 of Schedule HC for 2021, the appellant with no dependents claimed with an adjusted gross income of \$68,465 could afford to pay \$456 per month for health insurance. According to Table 4, Appellant, age 28 and living in Plymouth County, could have purchased insurance for \$263 per month. Individual coverage was affordable for the appellant in 2021 (Schedule HC for 2021, Exhibit 2).
9. According to Table 2 of Schedule HC for 2021, Appellant earning more than \$38,280 per year would have been ineligible for the ConnectorCare program based upon income (Table 2 of Schedule HC-2021, Exhibit 2).
10. Appellant did not incur significant and unexpected increases in essential expenses as a result of domestic violence; the death of a spouse, family member, or partner who shared household expenses; the sudden responsibility for providing full care for an aging parent or other family member; or fire, flood, or other natural or man-made disaster in 2021 (Testimony of Appellant).
11. Appellant did not fall more than thirty days behind in rent or mortgage payments in 2021 (Testimony of Appellant).
12. Appellant did not receive any shut-off notices for basic utilities in 2021 (Testimony of Appellant).
13. Appellant lived with her parents until November, 2021 when she bought a house. Starting in November, Appellant had a mortgage payment of \$2,063 a month. Prior to moving, Appellant paid no rent (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 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.

The issue on appeal is whether the tax penalty assessed by the Massachusetts Department of Revenue for 2021 should be waived, either in whole or in part. Appellant had no health insurance that met the Commonwealth’s minimum creditable coverage standards all year. Appellant has been assessed a penalty for twelve months. Appellant has appealed the penalty. See Exhibits 1 and 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 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.

According to Table 3 of Schedule HC for 2021, the appellant with no dependents claimed with an adjusted gross income of \$68,465 could afford to pay \$456 per month for health insurance. According to Table 4, Appellant, age 28 and living in Plymouth County, could have purchased insurance for \$263 per month. Individual coverage was affordable for the appellant in 2021. See Schedule HC for 2021, Exhibit 2.

Appellant was not offered health insurance through employment in 2021. One of her contractors offered a supplemental plan which Appellant paid for. The plan did not meet the Commonwealth’s minimum creditable coverage standards. See the testimony of the appellant which I find to be credible and Exhibits 5 and 6.

Appellant was not eligible for ConnectorCare coverage. The appellant earned more than the \$38,280, income limit for an individual. See Schedule HC, Table 2 for 2021 and Exhibit 2. There is no evidence in the record that Appellant was eligible for any other government-sponsored program.

Since Appellant had access to affordable insurance through the individual market, we would usually determine if the appellant experienced a financial hardship such the coverage would have been unaffordable for her. See 956 CMR 6.08 et. seq. We can only do this in part because the appellant did not supply evidence of expenses for basic necessities, other than the amount of her mortgage payment for November and December and the cost for the supplemental insurance she carried. Appellant was given a chance to submit evidence of other expenses, but she failed to do so. See Exhibit 7. Appellant did testify that she did not fall behind in rent or mortgage payments, that she did not receive any shut-off notices for basic utilities and that Appellant did not incur significant and unexpected increases in essential expenses as a result of domestic violence; the death of a spouse, family member, or partner who shared household expenses; the sudden responsibility for providing full care for an aging parent or other family member; or fire, flood, or other natural or man-made disaster in 2021. I find her testimony credible.

Based upon the facts summarized above, I determine that the appellant did not have a financial hardship in 2021 such that the cost of health insurance would have been unaffordable for her. See 956 CMR 6.08(1)(a-e).

Pursuant to 956 CMR 6.08(3), I will take into consideration factors raised by the appellant during the hearing. Appellant’s income varied, depending upon the number of contracts she was working on and the number of hours

of work she had. Secondly, Appellant's situation changed once she bought a house. About half of her gross earnings went towards her mortgage payment in November and December. Based upon these facts, I determine that Appellant's penalty for November and December should be waived.

Appellant's penalty is waived in part. The rest of the penalty remains in effect.

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

PENALTY ASSESSED

Number of Months Appealed: 12 Number of Months Assessed: 10

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

NOTIFICATION OF YOUR RIGHT TO APPEAL TO COURT

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

Cc: Connector Appeals Unit

Hearing Officer

Massachusetts Health Connector Appeals Unit

FINAL APPEAL DECISION: PA21-1977

Appeal Decision: Appeal Approved

Hearing Issue: Appeal of the 2021 Tax Year Penalty

Hearing Date: August 25, 2022

Decision Date: October 31, 2022

AUTHORITY

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

JURISDICTION

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

HEARING RECORD

The Appellant appeared at the hearing, which was held by telephone, on August 25, 2022. The Appellant offered testimony under oath or affirmation. At the end of the hearing, the record was left open until September 23, 2022, for the Appellant to submit additional evidence. The Appellant submitted additional evidence on September 16, 2022, 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 2021 Schedule HC (1 page)

Exhibit 2: 4/1/22 Appeal (9 pages)

Exhibit 3: 7/15/22 Hearing Notice (2 pages)

Exhibit 4: 8/25/22 Open-Record Request (1 page)

Exhibit 5: 9/16/22 Open-Record Response (8 pages)

FINDINGS OF FACT

The record shows, and I so find:

1. The Appellant's filing status for 2021 was Single with no dependents. The Appellant's federal AGI in 2021 was \$47,921. The Appellant turned thirty-seven years old in 2021. The Appellant resided in Middlesex County in 2021. (Exhibit 1)
2. The Appellant appealed from the assessment of a four-month penalty on her 2021 income tax return, checking off that purchasing health insurance coverage would have caused her a serious deprivation of basic necessities. (Exhibit 2)
3. The Appellant had health insurance coverage through her employer during the first five months of 2021, until she lost her job and her health insurance coverage in May 2021. (Appellant's testimony)
4. The Appellant could not afford the cost of COBRA coverage. (Appellant's testimony)

5. The Appellant paid \$2,395 monthly for rent during the first eight months of 2021.
6. During August 2021, the Appellant paid over \$700 in vet bills for her dog. (Exhibit 5)
7. In late August 2021, the Appellant moved to a new residence with a monthly rent of \$1,250, but requiring her to pay immediately a total of nearly \$4,000 for the first and last month of her lease and a security deposit, as well as a realtor fee of \$625. (Appellant’s testimony; Exhibit 5)
8. In October 2021, the Appellant’s cost for basic necessities was \$3,518 and her income was \$2,572. (Appellant’s testimony; Exhibit 5)
9. In November 2021, the Appellant’s cost for basic necessities was \$3,119 and her income was \$2,572. (Appellant’s testimony; Exhibit 5)
10. In December 2021, the Appellant’s cost for basic necessities was \$2,888 and her income was \$1,286. (Appellant’s testimony; Exhibit 5)
11. According to Table 3 of the 2021 Schedule HC, the Appellant could have afforded to pay up to \$303 for health insurance coverage in 2021.
12. According to Table 4 of the 2021 Schedule HC, the Appellant could have purchased health insurance coverage in the private market in 2021 for a monthly premium of \$275.

ANALYSIS AND CONCLUSIONS OF LAW

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

As the Appellant had health insurance coverage during the first five months of 2021 and then had a three-month grace period to obtain new health insurance coverage, at issue here is the Appellant’s failure to have coverage during the last four months of 2021.

The Appellant has presented substantial evidence through her testimony and supporting documentary evidence that she could not afford health insurance coverage during the last four months of 2021. Her only income during this period was from the unemployment benefits she was receiving, and her costs for basic necessities far exceeded this income. While she reduced significantly her rental expense for housing for the long term by moving in late August 2021, this required the Appellant to pay substantial upfront expenses in August totaling \$4,625.

Accordingly, the Appellant’s four-month penalty for 2021 shall be waived in full.

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

OR

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

NOTIFICATION OF YOUR RIGHT TO APPEAL TO COURT

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

Hearing Officer

Cc: Connector Appeals Unit

Massachusetts Health Connector Appeals Unit

FINAL APPEAL DECISION: PA21-1987

Appeal Decision: Appeal Approved

Hearing Issue: Appeal of the 2021 Tax Year Penalty

Hearing Date: August 30, 2022

Decision Date: October 31, 2022

AUTHORITY

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

JURISDICTION

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

HEARING RECORD

The Appellant appeared at the hearing, which was held by telephone, on August 30, 2022. The Appellant offered testimony under oath or affirmation. At the end of the hearing, the record was left open until September 16, 2022, for the Appellant to submit additional evidence. The Appellant submitted additional evidence on September 15, 2022, 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 2021 Schedule HC (1 page)
- Exhibit 2: 4/4/22 Appeal (8 pages)
- Exhibit 3: 7/27/22 Hearing Notice (2 pages)
- Exhibit 4: 9/13/22 Amended 2021 Massachusetts Tax Return (4 pages)

FINDINGS OF FACT

The record shows, and I so find:

1. The Appellant's filing status for 2021 was Single with no dependents. The Appellant's federal AGI in 2021 was \$74,562. The Appellant turned fifty-eight years old in 2021. (Exhibit 1)
2. The Appellant appeals from the assessment of a twelve-month penalty on his 2021 income tax return, stating: "My deeply held personal convictions preclude me from participating in the compulsory health insurance program of the State of Massachusetts. Accordingly, I, [the Appellant], claim an exemption from participation in the program, on the grounds of religious conviction and conscience-based compunction." (Exhibit 4)
3. The Appellant did not have health insurance coverage in 2021, due to his religious beliefs causing him to object to all forms of treatment covered by health insurance. (Appellant's testimony)
4. The Appellant did not seek or receive medical services during 2021. (Appellant's testimony)

5. The Appellant neglected to claim a religious exemption when he initially filed his 2021 Massachusetts Income Tax Return. (Appellant’s testimony)
6. On September 13, 2022, the Appellant filed an Amended 2021 Massachusetts Tax Return with the Department of Revenue, claiming a religious exemption from the individual mandate to have health insurance coverage. (Appellant’s testimony; Exhibit 4)

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.

Although the Appellant had not indicated on his original 2021 state tax return why he had not obtained health insurance coverage in 2021, at hearing the Appellant explained why, stating that he held sincere religious objections to all forms of medical treatment provided by health insurance coverage. I find his testimony credible. As the Appellant, following the hearing, filed an amended 2021 state tax return stating his religious exemption from the individual mandate and that he had not received any medical health care in 2021, I conclude that the Appellant was exempt from purchasing health insurance coverage in 2021 and from a 2021 tax penalty under the individual mandate.

Therefore, I conclude that the Appellant has established that he was exempt from the individual mandate to have health insurance coverage in 2021, under 830 CMR 111M.2.1(6)(b)

Accordingly, the Appellant’s twelve-month penalty for 2021 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 2021 for the amount equal to one half of the lowest cost health insurance plan available to you for each month you have been assessed the penalty, as listed above, plus applicable interest back to the due date of the return without regard to extension.

OR

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

NOTIFICATION OF YOUR RIGHT TO APPEAL TO COURT

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

Hearing Officer

Cc: Connector Appeals Unit

Massachusetts Health Connector Appeals Unit

FINAL APPEAL DECISION: PA212036

Appeal Decision: The penalty is overturned in full.

Hearing Issue: Appeal of the 2021 Tax Year Penalty

Hearing Date: September 19, 2022

Decision Date: October 28, 2022

AUTHORITY

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

JURISDICTION

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

HEARING RECORD

The appellant appeared at the hearing which was held by telephone on September 19, 2022. The procedures to be followed during the hearing were reviewed with Appellant. Appellant was then sworn in. Exhibits were marked and admitted in evidence with no objection from the appellant. Appellant testified. At the end of the hearing, the record was left open until October 19, 2022 to give the appellant time to submit additional evidence. Additional evidence was received by the Connector from the appellant on October 13, 2022. It has been marked as an exhibit and admitted in evidence. The record is now closed.

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

- Exhibit 1: Statement of Grounds for Appeal 2021 signed and dated by Appellant on April 11, 2022, with letter from Appellant's employer attached
- Exhibit 2: Appeal Case Information from Schedule HC 2021
- Exhibit 3: Notice of Hearing sent to Appellant dated August 15, 2022 for September 19, 2022 hearing
- Exhibit 4: Appellant's lease for apartment out of the Commonwealth signed January 9, 2021 for 2021

FINDINGS OF FACT

The record shows, and I so find:

1. Appellant, who filed a 2021 Massachusetts tax return as a single person with no dependents claimed, was 52 years old in 2021 (Exhibit 2, Testimony of Appellant).
2. Appellant resided in Rhode Island in 2021. Appellant signed a lease on January 9, 2021 for an apartment in Rhode Island. He resided in that apartment all year (Testimony of Appellant, Exhibits 2, 4).
3. Appellant had a post-office box in Massachusetts and was employed in Massachusetts (Testimony of Appellant).
4. Appellant had no health insurance which met the Commonwealth's minimum creditable coverage standards in 2021 (Exhibit 2).
5. Appellant has been assessed a tax penalty for all of 2021. Appellant has appealed the assessment (Exhibits 1 and 2).

ANALYSIS AND CONCLUSIONS OF LAW

The issue on appeal is whether the tax penalty assessed by the Massachusetts Department of Revenue for 2021 should be waived, either in whole or in part.

G.L c. 111M, § 2, also called the “individual mandate,” requires every adult resident of Massachusetts to obtain insurance coverage which meets the Commonwealth’s minimum creditable coverage standards “[s]o long as it is deemed affordable” under the schedule set by the board of directors for the Commonwealth Health Insurance Connector Authority. Residents who do not obtain insurance are subject to a tax penalty for “each of the months” that the individual did not have health insurance as required by the individual mandate. There is a three-month grace period to allow the taxpayer to obtain health insurance coverage or to make the transition between health insurance policies. See G. L. c. 111M, sec. 2(b) and for Tax Year 2010, Administrative Bulletin 03-10: Guidance Regarding M.G.L. c. 111M and M.G.L. c. 176Q, as implemented by 956 CMR 6.00, which interprets the 63-day gap in coverage to be three months. The Connector’s regulations provide for a waiver of the tax penalty in the case of a 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 resided in Rhode Island all of 2021. He signed a lease for an apartment in Rhode Island in early January, 2021 and resided in that apartment all year. Appellant worked in the Commonwealth in 2021 and maintained a post office box there, but his residence was out of the Commonwealth. See the Testimony of Appellant which I find to be credible. See Exhibit 4 which corroborates the testimony.

Under Massachusetts law, only residents of the Commonwealth are required to have health insurance which meets the state’s minimum creditable coverage standards. See Massachusetts General Laws, Chapter 111M, Section 2. Based upon the testimony of the appellant and the Exhibit 4, I determine that the appellant did not reside in Massachusetts in 2021 and was, therefore, not subject to the requirements of Chapter 111M during this period. The penalty is waived in full.

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

PENALTY ASSESSED

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

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

NOTIFICATION OF YOUR RIGHT TO APPEAL TO COURT

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

cc. Connector Appeals Unit

Hearing Officer

Massachusetts Health Connector Appeals Unit

FINAL APPEAL DECISION: PA21-2060

Appeal Decision: Penalty Overturned in Part

Hearing Issue: Appeal of the 2021 Tax Year Penalty

Hearing Date: October 12, 2022

Decision Date: October 24, 2022

AUTHORITY

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

JURISDICTION

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

HEARING RECORD

The appellant appeared at the hearing which was held by telephone on October 12, 2022, and testified under oath. The hearing record consists of his testimony and the following documents which were admitted into evidence without objection:

- Ex. 1—Statement of Grounds for Appeal—2021
- 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 31-years-old and is married. His wife is 24-years-old. They do not have children. He did not have health insurance in 2021. He resided in Norfolk County in 2021. (Testimony, Ex. 2)
2. The appellant's wife had health insurance in 2021 through her parents' insurance plan. (Testimony)
3. The appellant arrived in the U.S. from Jordan in 2018 and got married at the end of the year. He became a permanent resident alien in August, 2019. He then went back to Jordan and returned to Massachusetts at the beginning of 2020. (Testimony)
4. The appellant did not have health insurance in 2020 and did not investigate insurance options because the pandemic made things too difficult. He was not assessed a penalty for failure to obtain insurance. (Testimony)

¹ Ex. 2 is a computer printout that extracts information submitted by the appellant and his wife on Schedule HC as part of their 2021 Massachusetts income tax return. It also contains information about prior appeals, if any.

5. In 2021, the appellant had two part-time jobs working at a gas station and a hair salon, and was not eligible for health insurance with either employer due to his part-time status. He investigated insurance options through the Health Connector and determined that a monthly premium would have cost \$500.00-\$600.00/month which he could not afford. (Testimony)
6. The appellant has been working for his uncle in 2022 and has not enrolled in health insurance. (Testimony)
7. The appellant and his wife reported an adjusted gross income of \$87,346.00 on their jointly filed 2021 federal tax return, and reported that they were married with no dependents. Of that amount, the appellant's wife's income was much higher than his. (Testimony, Ex. 2)
8. In 2021, the appellant had regular monthly expenses of approximately \$2490.00 for rent which included heat and electricity (\$1000.00), automobile insurance (\$90.00), gasoline (\$600.00) and food (\$800.00). (Testimony)

In addition to the foregoing, I take administrative notice of the 2021 schedule HC Instructions and Worksheets, available at <http://www.mass.gov/dor/docs/dor/health-care/2021>, and in particular, Tables 1-6 which include the Affordability Schedule and other financial information used in making 2021 individual mandate tax penalty determinations.

ANALYSIS AND CONCLUSIONS OF LAW

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

The appellant submitted a statement of grounds for appeal (Ex. 1), claiming that the individual mandate did not apply to him during 2021 because he purchased health insurance that did not meet minimum creditable coverage standards since that is what his employer offered, and he felt that his circumstances prevented him from buying other insurance that met the requirements. ²According 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 2021, Administrative Bulletin 03-10: Guidance Regarding M.G.L. c. 111M and M.G.L. c. 176Q, as implemented by 956 CMR 6.00, interprets the 63-day gap in coverage to be three months. As a result, gaps of three months are not subject to penalty. Since the appellant was uninsured for the entire year, he was assessed and is appealing a penalty of twelve months.

The appellant testified that he did not have health insurance in 2020 due to difficulties posed by the pandemic and was not assessed a penalty for failure to obtain insurance. He testified that he held two part-time jobs in 2021 and was not eligible for insurance due to his part-time status. He testified that he investigated insurance options through the Health Connector and determined that a monthly premium would have cost approximately \$500.00-\$600.00/month which he could not afford. Finally, he testified that he has been employed by his uncle in 2022 and has not enrolled in insurance.

² Since the appellant did not have insurance in 2021, the ground upon which he filed his appeal does not apply. At the hearing, he indicated that he should have filed the appeal based on the fact that the cost of purchasing health insurance would have caused a serious deprivation of food, shelter, clothing or other necessities. Accordingly, his appeal will be analyzed on that ground.

The evidence provided by the appellant established that his joint income for 2021, \$87,346.00, was greater than 300% of the federal poverty level (FPL), which for 2021 was \$51,720.00 for a two-person family. Table 3 of the Affordability Schedule indicates that a married couple filing jointly with a federal adjusted gross income greater than \$68,961.00 is deemed to be able to afford a monthly premium of \$582.31 (8.0% of \$87,346.00/12). Table 4 of the Premium Schedule indicates that a 30-year-old individual (the age of the older of the husband and wife in 2021) in Norfolk County (where the appellant resided in 2021) could have purchased private health insurance for \$526.00 per month, less than the monthly amount deemed affordable from Table 3. Thus, according to the foregoing analysis, the appellant could have purchased affordable private health insurance in 2021.

Even though private health insurance may have been affordable to the appellant under the law, he may nevertheless not be subject to a penalty for failing to get health insurance for the months in question if he can show that he experienced a hardship during 2021. Examples of hardships include being homeless or overdue in rent or mortgage payments, receiving a shut-off notice for utilities, or incurring unexpected increases in basic living expenses due to domestic violence, death of a family member, sudden responsibility for providing care for a family member or fire, flood or natural disaster. In addition, the appellant's tax penalty for 2021 could be waived if he experienced financial circumstances such that the expense of purchasing health insurance would have caused him to experience a serious deprivation of food, shelter, clothing or other necessities. See 956 CMR 6.08.

The 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. The appellant testified that in 2021, he incurred basic monthly expenses of approximately \$2490.00. Those expenses were less than his regular monthly pre-tax income of approximately \$7279.00, thereby making a monthly payment of \$526.00 for private health insurance seemingly manageable. While it is recognized that an approximate difference between income and expenses of \$4789.00/month is not a panacea, it does not appear on its face that the payment of \$526.00 for health insurance would have caused an undue hardship. Furthermore, the premium of \$526.00 is for a married couple pursuant to Table 3. Since the appellant's wife had insurance in 2021, the appellant would only have sought an individual plan thereby reducing the premium amount significantly and making the overall cost more affordable.

Based on the foregoing, it is concluded that the appellant could have afforded private health insurance and failed to establish that he experienced a financial hardship that would entitle him to a waiver of the penalty. Notwithstanding this conclusion, the penalty will be reduced for the following reason. The appellant was a relative newcomer to the country in 2021 and was not familiar with the state mandate to obtain insurance. Since his wife was covered under her parents' plan, he did not have an example to follow. Furthermore, 2020 was the first real opportunity for him to consider insurance and the pandemic greatly complicated circumstances for him and others. He did testify credibly that he investigated insurance options for 2021 and determined that the cost was unaffordable. However, he remains unenrolled for 2022 and does not appear highly motivated to pursue the matter. In order to mitigate the harshness of a full penalty and perhaps incentivize the appellant to obtain insurance going forward, it will be reduced to two months. A reduced penalty makes the point that the appellant is expected to comply with the Legislature's requirement that Massachusetts residents must have compliant health insurance.

Accordingly, based on the totality of the evidence, the appellant's request for a waiver from the penalty is **granted** for ten of the twelve months in question. The determination that the appellant is eligible for a waiver is with respect to 2021, only and is based upon the extent of information submitted by him in this appeal.

PENALTY ASSESSED

Number of Months Appealed: 12

Number of Months Assessed: 2

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

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

NOTIFICATION OF YOUR RIGHT TO APPEAL TO COURT

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

Hearing Officer

Cc: Connector Appeals Unit

ADDENDUM

The appellant is advised to investigate health insurance options for 2023 during the open enrollment period which runs from November 1, 2022 until January 23, 2023, either through **mahealthconnector.org** or by contacting customer service at 1-877-623-6765 for assistance.

Massachusetts Health Connector Appeals Unit

FINAL APPEAL DECISION: PA21-2062

Appeal Decision: Appeal Approved.

Hearing Issue: Appeal of the 2021 Tax Year Penalty

Hearing Date: October 14, 2022

Decision Date: October 18, 2022

AUTHORITY

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

JURISDICTION

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

HEARING RECORD

The Appellant appeared at the hearing, which was held by telephone, on October 14, 2022. 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 15, 2022.
- Exhibit 2: Appeal Case Information from Schedule HC 2021.
- Exhibit 3: The Statement of Grounds for Appeal signed by the Appellant on April 15, 2022.
- Exhibit 4: The Appellant's letter in support of the appeal.

FINDINGS OF FACT

The record shows, and I so find:

1. The Appellant, age 27 in March 2021 filed their Federal Income Tax return as a single person with no dependents claimed (Exhibit 2).
2. The Appellant lived in Worcester County, MA in 2021 (Exhibit 2).
3. The Appellant's Federal Adjusted Gross Income for 2021 was \$88,547 (Exhibit 2).
4. The Appellant had health insurance for the periods of January through March and November through December but did not have health insurance for the period of April through October in tax year 2021 (Exhibit 2 and Appellant Testimony).
5. The Appellant has been assessed a four-month tax penalty for 2021. The Appellant filed an appeal of the assessment in April, 2022 (Exhibits 2, 3, 4).

6. I take administrative notice of the financial information set forth in Tables 1 through 6 in the DOR 2021 Massachusetts Schedule HC Health Care Instructions and Worksheets. Tables 3 and 4 incorporate affordability and premium schedules adopted by the Board of Directors for the Commonwealth Health Insurance Connector Authority for 2021. Table 2 sets forth income at 300% of the Federal poverty level and Tables 5 and 6 set forth tax penalties in effect for 2021.
7. In accordance with Table 3 of Schedule HC for 2021, the Appellant filing the Federal tax return as a single person with no dependents claimed, with an annual adjusted gross income of \$88,547 could afford to pay \$590 per month for health insurance. In accordance with Table 4, the Appellant, age 27, living in Worcester County, could have purchased private insurance for \$263 per month for a plan (Schedule HC for 2021). Private insurance was affordable for the Appellant in 2021.
8. The Appellant would not have been eligible for ConnectorCare coverage in 2021 because the Appellant's income was greater than 300% of the federal poverty level, which was \$38,280 for a household of one in 2021 (See Table 2 of Schedule HC-2021 and 956 CMR 12.04).
9. The Appellant testified that they were employed as a nurse in tax year 2021. The Appellant said that they had employer sponsored health insurance for the first three months of the year but lost coverage when the nurses went on strike. COBRA coverage was offered at a monthly cost of \$700. The Appellant said that they could not afford to pay that premium. The Appellant said that they expected the strike to settle quickly but it unexpectedly went on for months. The Appellant explained that they worked on a per diem basis at another facility and was not eligible for health insurance. The Appellant said that they eventually gave up waiting for the strike to end and took a full-time job in July. There was a ninety-day waiting period for health insurance eligibility. The Appellant said that they enrolled as soon as they were eligible. I found the Appellant to be credible (Exhibit 4 and Appellant Testimony).
10. The COBRA coverage offered to the Appellant for the period beginning April 2021 was not affordable. The monthly cost of \$700 was more than the \$590 deemed affordable to the Appellant in accordance with Table 3 of Schedule HC 2021.
11. The Appellant's 2021 monthly living expenses of \$2,136 included: rent-\$1,000; electricity-\$150; heat-\$150; telephone-\$76; car insurance-\$110, gasoline-\$217; and food \$433 (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 the period of April through October in year 2021 and consequently has been assessed a four-month penalty. The Appellant filed an appeal in April 2022 alleging that the penalty should not apply in this case because of financial hardship and other circumstances.

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 2021, the Appellant filing the Federal tax return as a single person with no dependents claimed with an adjusted gross income of \$88,547 could afford to pay \$590 per month for health insurance. According to Table 4, the Appellant, age 27, living in Worcester County, could have purchased a private insurance plan for \$263 month. See Schedule HC for 2021. Private insurance was affordable for the Appellant in tax year 2021.

The Appellant was employed as a nurse in tax year 2021. The Appellant had access to employer sponsored health insurance for the first three months of tax year 2021 but lost the coverage in April due to a labor strike. The Appellant was offered COBRA coverage at a monthly cost of \$700. This is more than the \$590 deemed affordable for the Appellant in accordance with Table 3 of Schedule HC 2021. For the period of April through October, the Appellant did not have access to employer sponsored health insurance. The Appellant would not have been eligible for ConnectorCare coverage based upon the Appellant's income that was more than 300% of the federal poverty level which was \$38,280 for their household of one. See Table 2 of Schedule HC 2021 and 956 CMR 12.04 for eligibility criteria. Since affordable insurance was available to the Appellant in 2021, it must be determined whether the Appellant experienced a financial hardship pursuant to 956 CMR 6.08 (1).

The Appellant testified that they lost their full-time job in March 2021 due to a nurse's strike at the hospital where they were employed. The Appellant explained that they expected the strike to end quickly and to have their insurance coverage reinstated, but the strike continued for months. The Appellant said that they worked on a per diem basis at other locations in order to pay their living expenses, but health insurance was not available due to their part time status. The Appellant said that they finally gave up on the strike ending and took a full-time job with another hospital in July. There was a ninety-day waiting period for health insurance eligibility and the Appellant enrolled effective November 2021 as soon as they were eligible. The Appellant said that in between full-time jobs their hours were inconsistent, and the Appellant was uncomfortable taking on additional expenses other than their living expenses. Although the Appellant was able to earn a good salary as a per diem employee, the uncertainty of their employment status and income as well as the Appellant's substantial living expenses would have caused the Appellant to experience financial hardship during this period of time. The Appellant's four-month penalty is waived. See 956 CMR 6.08(3).

The Appellant should note that the waiver of their penalty is based upon the facts that I have determined to be true in 2021. 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 2021.

NOTIFICATION OF YOUR RIGHT TO APPEAL TO COURT

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

Cc: Connector Appeals Unit

Massachusetts Health Connector Appeals Unit

FINAL APPEAL DECISION: PA21-2067

Appeal Decision: Appeal Approved.

Hearing Issue: Appeal of the 2021 Tax Year Penalty

Hearing Date: October 14, 2022

Decision Date: October 18, 2022

AUTHORITY

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

JURISDICTION

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

HEARING RECORD

The Appellant appeared at the hearing, which was held by telephone, on October 14, 2022.¹ 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 15, 2022.
- Exhibit 2: Appeal Case Information from Schedule HC 2021.
- Exhibit 3: The Statement of Grounds for Appeal signed by the Appellant on March 11, 2022.
- Exhibit 4: The Appellant's letter in support of the appeal, with attachments.

FINDINGS OF FACT

The record shows, and I so find:

1. The Appellant, age 61 in October 2021 filed their Federal Income Tax return as a single person with no dependents claimed (Exhibit 2).
2. The Appellant lived in Norfolk County, MA in 2021 (Exhibit 2).
3. The Appellant's Federal Adjusted Gross Income for 2021 was \$22,629 (Exhibit 2).
4. The Appellant did not have health insurance for any months in tax year 2021 (Exhibit 2 and Appellant Testimony).

¹ This Appeal was heard in conjunction with Appeal PA20-149. Since two separate penalty periods are at issue, two separate decisions will be issued.

5. The Appellant has been assessed a twelve-month tax penalty for 2021. The Appellant filed an appeal of the assessment in March 2022 (Exhibits 2, 3, 4).
6. I take administrative notice of the financial information set forth in Tables 1 through 6 in the DOR 2021 Massachusetts Schedule HC Health Care Instructions and Worksheets. Tables 3 and 4 incorporate affordability and premium schedules adopted by the Board of Directors for the Commonwealth Health Insurance Connector Authority for 2021. Table 2 sets forth income at 300% of the Federal poverty level and Tables 5 and 6 set forth tax penalties in effect for 2021.
7. In accordance with Table 3 of Schedule HC for 2021, the Appellant filing the Federal tax return as a single person with no dependents claimed, with an annual adjusted gross income of \$22,629 could afford to pay \$55 per month for health insurance. In accordance with Table 4, the Appellant, age 61, living in Norfolk County, could have purchased private insurance for \$401 per month for a plan (Schedule HC for 2021). Private insurance was not affordable for the Appellant in 2021.
8. The Appellant testified that they lost their permanent job in 2020 due to the pandemic. The Appellant explained that they worked for four separate employers in tax year 2021 and was unemployed for several weeks at a time in between jobs. The Appellant said that none of the jobs offered health insurance. The Appellant said that they were not eligible for unemployment compensation in 2021 (Appellant Testimony).
9. The Appellant would have been eligible for ConnectorCare coverage in 2021 because the Appellant's income was less than 300% of the federal poverty level, which was \$38,280 for a household of one in 2021 (See Table 2 of Schedule HC-2021 and 956 CMR 12.04).
10. The Appellant's 2020 monthly living expenses of \$1,830 included: rent-\$1,200; electricity-\$35; telephone-\$85; car insurance-\$185, gasoline-\$108; and food \$217. The Appellant testified that they struggled to meet their living expenses and got behind in their rent. The Appellant said that their landlord worked with them because the Appellant applied for Emergency Rental Assistance that was approved on January 31, 2022. The Appellant said that with limited income they struggled to meet their living expenses and could not afford to pay a monthly health insurance premium (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 of tax year 2021 and consequently has been assessed a twelve-month penalty. The Appellant filed an appeal in March 2022 and testified at the hearing 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 2021, the Appellant filing the Federal tax return as a single person with no dependents claimed with an adjusted gross income of \$22,629 could afford to pay \$55 per month for health insurance. According to Table 4, the Appellant, age 61, living in Norfolk County, could have purchased a private insurance plan for \$401 month. See Schedule HC for 2021. Private insurance was not affordable for the Appellant in tax year 2021.

The Appellant did not have access to employer sponsored health insurance in tax year 2021. The Appellant would have been eligible for ConnectorCare coverage based upon the Appellant's income that was less than 300% of the federal poverty level which was \$38,280 for their household of one. See Table 2 of Schedule HC 2021 and 956 CMR 12.04 for eligibility criteria. Since affordable insurance was available to the Appellant in 2021, it must be determined whether the Appellant experienced a financial hardship pursuant to 956 CMR 6.08 (1).

The Appellant testified that they lost their full-time job in tax year 2020 due to the pandemic. The Appellant explained that they worked for four separate employers in tax year 2021 and had several periods of unemployment between jobs. The Appellant said that they did not qualify for unemployment compensation income. The Appellant testified to substantial monthly living expenses and said that they struggled to meet their monthly living expenses with their limited income. The Appellant was more than thirty days behind in their rent payments, but their landlord worked with them because the Appellant had applied for Emergency Rental Assistance that was ultimately approved on January 31, 2022 (See Exhibit 4). 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)(a)(e).

The Appellant should note that the waiver of their penalty is based upon the facts that I have determined to be true in 2021. 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 2021.

NOTIFICATION OF YOUR RIGHT TO APPEAL TO COURT

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

Cc: Connector Appeals Unit

Massachusetts Health Connector Appeals Unit

FINAL APPEAL DECISION: PA21-2068

Appeal Decision: Penalty Overturned in Full

Hearing Issue: Appeal of the 2021 Tax Year Penalty

Hearing Date: October 12, 2022

Decision Date: October 25, 2022

AUTHORITY

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

JURISDICTION

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

HEARING RECORD

The appellant appeared at the hearing which was held by telephone on October 12, 2022 and testified under oath. The hearing record consists of her testimony and the following documents which were admitted into evidence without her objection:

- Ex. 1—Statement of Grounds for Appeal—2021
- Ex. 2—Appeal Case Information from Schedule HC ¹
- Ex. 3—Notice of Hearing

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

- Ex. 4—2020/2021 Aetna medical benefits

FINDINGS OF FACT

The record shows, and I so find:

1. The appellant is 31-years-old, is single, and does not have children. In 2021, she lived in Middlesex County. In 2021, she had health insurance for the full year. (Testimony, Ex. 2)
2. The appellant has worked for the same employer since 2016 and has been enrolled in employer health insurance throughout her employment. Until 2021, the insurance met state minimum creditable coverage (MCC) requirements. The employer changed insurance providers and advised its employees during the open enrollment period for 2021 that the insurance did not comply with MCC standards because the deductible was higher than permissible under those standards. The employer further indicated that since

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

the insurance did not comply, employees would be assessed a penalty which they would be able to appeal. (Testimony)

3. The appellant felt that she had no choice and enrolled in the base insurance plan, one of the two offered. She did not investigate any other options prior to her enrollment. Her monthly premium was \$220.00 which was less than she paid in 2020. She did not have occasion to use the insurance in 2021. (Testimony)
4. The appellant enrolled in the same plan in 2022. (Testimony)
5. The appellant's health insurance plan offered the following benefits effective January 1, 2021: physician services; preventive care; inpatient hospital services; diagnostic tests and imaging; outpatient surgery; rehabilitative services; newborn routine care; and mental health and substance abuse services. The plan had an overall deductible of \$6900.00/person for in-network providers. There was an out-of-pocket maximum per individual of \$6900.00 for in-network providers. Prescriptions were covered as part of the calendar year deductible. In addition, the insurer offered several supplemental plans, including a hospital indemnity plan in which employees were automatically enrolled if they were already enrolled in a company medical plan. The plan assisted with out-of-pocket medical costs including hospital admissions, ICU costs, ER visits and wellness screening visits, among others. The employer also offered accident insurance to help defray costs related to an injury caused by an accident, and critical illness insurance which provided a cash benefit to employees diagnosed with a serious covered condition. (Ex. 4)
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 reported an adjusted gross income of \$63,065.00 on her 2021 federal tax return, and reported that she was single with no dependents. (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) claiming that the individual mandate did not apply to her during 2021 because she purchased health insurance that did not meet minimum creditable coverage standards since that is what her employer offered, and she felt that her circumstances prevented her from buying other insurance that met the 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 2021, 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 twelve months due to the MCC issue, she was assessed and is appealing a penalty of twelve months.

The appellant testified credibly that she has worked for the same employer since 2016 and that until 2021, she was enrolled in employer provided insurance which met state MCC requirements. She testified that during the open enrollment period for 2021, the employer advised its employees that it changed insurance providers and that the new insurance plans did not comply with MCC standards because the deductible was higher than permissible under those standards. She testified that she did not investigate any other options and enrolled in the base plan for which she paid \$220.00/month. Finally, she testified that she has been enrolled in the same plan in 2022.

The evidence provided by the appellant established that her income for 2021, \$63,065.00, was greater than 300% of the federal poverty level (FPL), which for 2021 was \$38,280.00 for an individual. Table 3 of the Affordability Schedule indicates that an individual with no dependents with a federal adjusted gross income greater than \$51,041.00 is deemed to be able to afford a monthly premium of \$420.43 (8.00% of \$63,065.00/12). Table 4 of the Premium Schedule indicates that a 30-year-old individual (the age of the appellant in 2021) in Middlesex County (where the appellant resided in 2021) could have purchased private health insurance for \$263.00 per month, less than the monthly amount deemed affordable from Table 3. Thus, according to the foregoing analysis, the appellant could have purchased affordable private health insurance in 2021.

A review of the appellant's plan indicates that the overall deductible for an individual plan was \$4900.00 higher than what was permissible under MCC standards. This is a significant deviation. In order to meet MCC standards, a high deductible health plan (HDHP) (which the employer's plan appears to fall under) must comply with all federal requirements under section 223 of the Internal Revenue Code and be offered with a Health Savings Account (HSA) or a Health Reimbursement Arrangement (HRA). In addition, the HDHP must comply with MCC Regulations and (to the extent they are not inconsistent with federal requirements under section 223 of the Internal Revenue Code) and:

- Provide some coverage for a "broad range of medical benefits" 956 CMR 5.03(2)(a);
- Offer preventive care visits prior to the deductible 956 CMR 5.03(2)(h);
- Not impose an annual limit on covered services, core services, or prescription drug coverage 956 CMR 5.03(2)(f); and
- Not impose a dollar limit on what will be paid for core services 956 CMR 5.03(2)(g).

If the HDHP meets all of the requirements under MCC Regulation 956 CMR 5.03(2)(k)2, it may be deemed as meeting MCC standards and does not need to be submitted to the Connector for MCC Certification. An analysis of the plan demonstrates that it offered comprehensive coverage and covered a "broad range of medical benefits" as specified in the Massachusetts regulations. In addition, the supplemental plans which were offered (hospital indemnity, accident insurance and critical illness insurance) appear to qualify as a HRA pursuant to the aforementioned section 223 of the Internal Revenue Code. See [mahealthconnector.org](https://www.mahealthconnector.org) –Minimum Creditable Coverage—A note about High Deductible Plans.

The appellant paid a monthly premium of approximately \$220.00 for her employer's plan. Her only alternative would have been to reject the plan and buy private insurance which would have cost approximately \$263.00/month, according to the application of the foregoing Affordability and Premium Schedules. Since the appellant established that the plan substantially conformed to MCC requirements, there was little reason to pay more for private insurance.

Based on the totality of the evidence, it is concluded that the appellant should not be subject to a penalty for the months for which she was assessed. His request for a waiver from the penalty is **granted**. The determination that she is eligible for a waiver is with respect to 2021, 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 2021 for the amount equal to one half of the lowest cost health insurance plan available to you for each month you have been assessed the penalty, as listed above, plus applicable interest back to the due date of the return without regard to extension.

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

NOTIFICATION OF YOUR RIGHT TO APPEAL TO COURT

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

Hearing Officer

Cc: Connector Appeals Unit

Massachusetts Health Connector Appeals Unit

FINAL APPEAL DECISION: PA21-2069

Appeal Decision: Penalty Overturned in Full

Hearing Issue: Appeal of the 2021 Tax Year Penalty

Hearing Date: October 12, 2022

Decision Date: October 31, 2022

AUTHORITY

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

JURISDICTION

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

HEARING RECORD

The appellant appeared at the hearing which was held by telephone on October 12, 2022 and testified under oath. The hearing record consists of her testimony and the following documents which were admitted into evidence without her objection:

- Ex. 1—Statement of Grounds for Appeal—2021
- Ex. 2—Appeal Case Information from Schedule HC ¹
- Ex. 3—Notice of Hearing

FINDINGS OF FACT

The record shows, and I so find:

1. The appellant is 57–years-old, is single and has one adult child. In 2021, she had health insurance for the months of February through October. (Testimony, Ex. 2)
2. Prior to 2021, the appellant last had employer provided health insurance in 2020. She was unemployed from January through August, and October through December, 2021, and received unemployment insurance benefits for the year. (Testimony)
3. The appellant enrolled in health insurance for 2021 through a provider she located on her own. She paid \$272.00 to enroll and a monthly premium of \$173.00 thereafter. When she used the insurance during the year, she discovered that none of the services or tests were covered. She spoke with the insurer about coverage and submitted claims for reimbursement, most of which were not paid. She was enrolled from February through August. (Testimony)

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

4. The appellant got a job in September, 2021, and enrolled in employer health insurance for the months of September and October. She left the job after three weeks. (Testimony, Ex. 1)
5. Following her job separation, the appellant contacted the Health Connector about her eligibility for insurance and has been enrolled with MassHealth since January, 2022. (Testimony)
6. The appellant received a 2021 Form 1095-B showing she had minimum essential coverage (MEC) for the months of September and October, 2021. Both the employer and the health insurer listed on the form are based in Massachusetts. She did not receive any other forms indicating coverage for any other month. (Ex. 1)
7. The appellant's 2021 tax returns were prepared by H & R Block in early 2022. She was advised that the insurance in which she was enrolled in 2021 did not comply with state minimum creditable coverage (MCC) requirements and was assessed a twelve-month penalty for non-conforming insurance which she paid. This was the first notice the appellant received that her insurance did not meet state standards. (Testimony)
8. The appellant reported an adjusted gross income of \$35,288.00 on her 2021 federal tax return, and reported that she was single with no dependents. (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) claiming that the individual mandate did not apply to her during 2021 for "other" reasons.

The appellant did not have any insurance for the months of January, and November and December, and did not have MCC compliant insurance from February through October. 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 2021, 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 twelve months, she was assessed and is appealing a penalty of twelve months.

The appellant testified credibly that prior to 2021, she last had health insurance through an employer in 2020. She testified that except for the month of September, she was unemployed for the rest of the year and received unemployment compensation benefits. She testified that she enrolled in health insurance through a provider she found on her own for the months of February through August. She testified that upon using the insurance, she discovered that services and tests were not covered and had to submit claims for reimbursement, most of which were not paid. She testified that she got a job for the month of September, and was able to enroll in employer health insurance for the months of September and October. She testified that following her separation from that job, she contacted the Health Connector, and has been enrolled in insurance with MassHealth since January, 2022. Finally, she testified that when her 2021 tax returns were prepared in early 2022, she was advised

that all of the insurance in which she enrolled in 2021 was not MCC-compliant, and she was assessed a twelve-month penalty which she paid.

With the exception of the months of September and October, the appellant was enrolled in a health insurance plan from February through August that did not meet MCC standards. She established through credible evidence that she was completely unaware the plan did not meet state MCC requirements until her 2021 tax returns were prepared, at which point there was no remedy to cure the problem. As for the months of September and October, the appellant submitted a Form 1095-B which indicates coverage for the months of September and October issued by Health New England which is based in Massachusetts. The form also indicates that she worked for a Massachusetts-based employer. The form in question is used to report certain information to the Internal Revenue Service (IRS) and to taxpayers about individuals who are covered by minimum essential coverage (MEC). On its own, the form does not establish that the appellant was enrolled in minimum creditable coverage (MCC) insurance, the standard required by the state for all residents who obtain health insurance. Insurance that meets MEC standards under the Affordable Care Act does not necessarily meet with MCC standards. However, information on the forms establish that the insurance was issued by a state insurer and that the employer is based in the state. As such, since most state insurers issue plans in compliance with MCC standards, it is almost certain that her insurance complied with state requirements. Hence, it is concluded that the appellant provided substantial and credible evidence which established that she was enrolled in MCC health insurance for the months of February through August.

As for the remaining months of January, November and December, since the appellant had coverage immediately prior to January, 2021, and immediately before November, she is entitled to the application of the aforesaid three-month gap, as a result of which she is not subject to a penalty for those months.

Based on the totality of the evidence, it is concluded that the appellant should not be subject to a penalty for the months for which she was assessed based on her lack of knowledge of the MCC deviation and the application of the three-month gap. In reaching this conclusion, consideration was given to the fact that the appellant was enrolled in insurance in 2020 and has been enrolled since January, 2022, thereby demonstrating that the mandate to obtain insurance was not lost on her. Her request for a waiver from the penalty is **granted**. The determination that she is eligible for a waiver is with respect to 2021, 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 2021 for the amount equal to one half of the lowest cost health insurance plan available to you for each month you have been assessed the penalty, as listed above, plus applicable interest back to the due date of the return without regard to extension.

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

NOTIFICATION OF YOUR RIGHT TO APPEAL TO COURT

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

Hearing Officer

Cc: Connector Appeals Unit

ADDENDUM

In light of this decision, the appellant is advised to contact the Department of Revenue about a credit for the penalty she testified that she paid with her 2021 tax return.

Massachusetts Health Connector Appeals Unit

FINAL APPEAL DECISION: PA21-2070

Appeal Decision: Penalty Overturned in Full

Hearing Issue: Appeal of the 2021 Tax Year Penalty

Hearing Date: October 12, 2022

Decision Date: October 31, 2022

AUTHORITY

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

JURISDICTION

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

HEARING RECORD

The appellant appeared at the hearing which was held by telephone on October 12, 2022, and testified under oath. The hearing record consists of his testimony and the following documents which were admitted into evidence without objection:

- Ex. 1—Statement of Grounds for Appeal—2021
- Ex. 2—Appeal Case Information from Schedule HC ¹
- Ex. 3—Notice of Hearing

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

- Ex. 4—2021 Form 1095-C

FINDINGS OF FACT

The record shows, and I so find:

1. The appellant is 25-years-old, is single, and does not have children. (Testimony, Ex. 2)
2. The appellant lived in New York from January 1, 2021, until he moved to Massachusetts on June 15, 2021, for employment. He remained in the state for the rest of the year. (Testimony, Ex. 1)
3. The appellant has been insured under his father’s insurance plan for his entire life. When he began his new job in Massachusetts, he declined employer health insurance because he had coverage through his father’s plan. (Testimony, Ex. 1)

¹ Ex. 2 is a computer printout that extracts information submitted by the appellant on Schedule HC as part of his 2021 Massachusetts income tax return. It also contains information about prior appeals, if any.

4. In early 2022, the appellant received a 2021 Form 1095-C which indicated that he was covered under his father's health insurance for the whole year. The form also indicates that his father was employed by a New York-based employer. (Testimony, Ex. 4)
5. The appellant prepared his 2021 tax returns using Turbo Tax and was unable to indicate on his state Schedule HC that he had health insurance for any part of the year. (Testimony, Ex. 2)
6. The appellant indicated on his 2021 Schedule HC that he was a part-year resident of Massachusetts from June 15, 2021 through December 31, 2021. (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) claiming that the individual mandate did not apply to him during 2021 for "other" reasons.

The appellant had health insurance for all of 2021, and indicated on his Schedule HC that he was a part-year resident of Massachusetts from June 15, 2021 until December 31, 2021. 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 2021, 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. Based on the information in his Schedule HC regarding his part-year residence, the appellant was assessed and is appealing a penalty of four months (using the application of the part-year resident rule set forth in the Schedule HC Instructions).

The appellant testified credibly that he lived in New York from January 1, 2021 until June 15, 2021, when he moved to Massachusetts for a job. He testified that he has been insured under his father's health insurance plan for all of his life. He testified that he was offered health insurance by his employer, but declined because he had coverage through his father. Finally, he testified that he received a 2021 Form 1095-C in early 2022 and prepared his 2021 taxes using Turbo Tax which would not permit him to indicate on his Schedule HC that he had insurance for any part of the year

With respect to the appellant's residence in the state, he testified credibly that he began to reside in Massachusetts on June 15, 2021. The instructions on the 2021 Schedule HC (page HC-2) set forth the following relevant information for part-year residents: "If you moved into Massachusetts during 2021, the mandate to obtain and maintain health insurance applies to you beginning on the first day of the third month following the month you became a resident of [the state]." Accordingly, the mandate applies to the appellant beginning on September 1, 2021.

With regard to the months of September through December, the appellant submitted a Form 1095-C which indicated that he and other family members had insurance coverage for twelve months in 2020. The form in question is used to report certain information to the Internal Revenue Service (IRS) and to taxpayers about individuals who are covered by minimum essential coverage (MEC). On its own, the form does not establish that the appellant was enrolled in minimum creditable coverage (MCC) insurance, the standard required by the state

for all residents who obtain health insurance. Insurance that meets MEC standards under the Affordable Care Act does not necessarily meet MCC standards. Since the employer is based in New York, it is unlikely that the insurance met Massachusetts standards. Nonetheless, at the very least the appellant complied with the spirit of the mandate with his full-year coverage. As a newcomer to the state, he was not familiar with the specific MCC requirements of health insurance and it would be unnecessarily harsh to penalize him for having insurance that may not have met state requirements.

Based on the totality of the evidence, it is concluded that the appellant is not subject to the penalty for the months of January through August based on the application of the part-year resident rule and should not be subject to a penalty for the remainder of the year based on the foregoing analysis. His request for a waiver from the penalty is **granted** for the months for which he was assessed. The determination that the appellant is eligible for a waiver is with respect to 2021, only and is based upon the extent of information submitted by him in this appeal.

PENALTY ASSESSED

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

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

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

NOTIFICATION OF YOUR RIGHT TO APPEAL TO COURT

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

Hearing Officer

Cc: Connector Appeals Unit

Massachusetts Health Connector Appeals Unit

FINAL APPEAL DECISION: PA21-2078

Appeal Decision: Appeal Approved.

Hearing Issue: Appeal of the 2021 Tax Year Penalty

Hearing Date: October 17, 2022

Decision Date: October 24, 2022

AUTHORITY

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

JURISDICTION

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

HEARING RECORD

The Appellant appeared at the hearing, which was held by telephone, on October 17, 2022. 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 19, 2022.
- Exhibit 2: Appeal Case Information from Schedule HC 2021.
- Exhibit 3: The Statement of Grounds for Appeal signed by the Appellant on April 12, 2022.
- Exhibit 4: The Appellant's letter in support of the Appeal, with attachments.

FINDINGS OF FACT

The record shows, and I so find:

1. The Appellant, age 28 in December 2021, filed their Federal Income Tax return as a single person with no dependents claimed (Exhibit 2).
2. The Appellant lived in Barnstable County, MA in 2021 (Exhibit 2).
3. The Appellant's Federal Adjusted Gross Income for 2021 was \$50,329 (Exhibit 2).
4. The Appellant did not have insurance for the period of January through June but was insured for the period of July through December in tax year 2021 (Exhibit 2 and Appellant Testimony).
5. The Appellant has been assessed a three-month tax penalty for 2021. The Appellant filed an appeal of the assessment in April, 2022 (Exhibits 2, 3, 4).

6. I take administrative notice of the financial information set forth in Tables 1 through 6 in the DOR 2021 Massachusetts Schedule HC Health Care Instructions and Worksheets. Tables 3 and 4 incorporate affordability and premium schedules adopted by the Board of Directors for the Commonwealth Health Insurance Connector Authority for 2021. Table 2 sets forth income at 300% of the Federal poverty level and Tables 5 and 6 set forth tax penalties in effect for 2021.
7. In accordance with Table 3 of Schedule HC for 2021, the Appellant filing the Federal tax return as a single person with no dependents claimed, with an annual adjusted gross income of \$50,329 could afford to pay \$319 per month for health insurance. In accordance with Table 4, the Appellant, age 28, living in Barnstable County, could have purchased private insurance for \$263 per month for a plan (Schedule HC for 2021). Private insurance was affordable for the Appellant in 2021.
8. The Appellant testified that their employer offered health insurance with a weekly premium of \$105.78. The monthly premium of \$458.34 is more than the \$319 deemed affordable for the Appellant in accordance with Table 3 of Schedule HC for 2021.
9. The Appellant would not have been eligible for ConnectorCare coverage in 2021 because the Appellant's income was more than 300% of the federal poverty level, which was \$38,280 for a household of one in 2021. (See Table 2 of Schedule HC-2021 and 956 CMR 12.04).
10. The Appellant testified that the \$50,329 adjusted gross income figure does not adequately reflect their financial circumstances for the entire year. The Appellant explained that when they began their full-time job at their current employer, they were paid \$16 per hour for 40 hours and could not afford to pay a health care premium. Some weeks the Appellant had access to overtime. The Appellant said that they received a raise in May 2021 to \$18 per hour and they were able to enroll in health insurance as of June 2021. The Appellant's credible testimony is supported by a wage stub dated May 25, 2021 reflecting the Appellant's increased wages effective May 16, 2022 (Exhibit 4 and Appellant Testimony).
11. The Appellant's 2021 monthly living expenses of \$2,252 included: rent-\$1,000, electricity and heat; telephone service and cost of telephone-\$301; car payment-\$307; car insurance- \$67; excise tax on car-\$79; gasoline-\$173; and food \$325 (Exhibit 4 and Appellant Testimony). 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.

The Appellant did not have health insurance for the period of January through June in tax year 2021 and consequently has been assessed a three-month penalty. The Appellant filed an appeal in April 2022 citing financial hardship as the reason for their failure to have health insurance.

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 2021, the Appellant filing the Federal tax return as a single person with no dependents claimed with an adjusted gross income of \$50,329 could afford to pay \$319 per month for health insurance. According to Table 4, the Appellant, age 28, living in Barnstable County, could have purchased a private insurance plan for \$263 month. See Schedule HC for 2021. Private insurance appeared affordable for the Appellant in tax year 2021.

The Appellant had access to employer sponsored health insurance with a monthly premium of \$458.34. This is more than the \$319 deemed affordable to the Appellant in accordance with Table 3 of Schedule HC for 2021. The Appellant would not have been eligible for ConnectorCare coverage based upon the Appellant's income that was more than 300% of the federal poverty level which was \$38,280 for their household. See Table 2 of Schedule HC 2021 and 956 CMR 12.04 for eligibility criteria. Since affordable insurance was available to the Appellant in 2021, it must be determined whether the Appellant experienced a financial hardship pursuant to 956 CMR 6.08(1).

The Appellant testified credibly that their adjusted gross income figure of \$50,329 does not adequately reflect their income for the period of January through May in tax year 2021. The Appellant explained that they were paid \$16 per hour until May 2021 when their hourly rate was increased to \$18. The Appellant enrolled in a health insurance plan effective July 2021 after receiving the raise that made insurance affordable for them. The Appellant's pretax monthly income for the period of January through May was approximately \$2,773. Given the Appellant's monthly living expenses of \$2,252, and the fact that the Appellant would have had to pay a minimum of \$319 for a private plan (See Table 4 Schedule HC 2021), the Appellant has demonstrated that the cost of purchasing health insurance would have caused the Appellant to experience a significant financial hardship during the period of January through May in tax year 2021. The Appellant's three-month penalty is waived. See 956 CMR 6.08(3).

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

PENALTY ASSESSED

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

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

NOTIFICATION OF YOUR RIGHT TO APPEAL TO COURT

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

cc: Health Connector Appeals Unit

Massachusetts Health Connector Appeals Unit

FINAL APPEAL DECISION: PA21-2079

Appeal Decision: Appeal Approved.

Hearing Issue: Appeal of the 2021 Tax Year Penalty

Hearing Date: October 17, 2022

Decision Date: October 24, 2022

AUTHORITY

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

JURISDICTION

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

HEARING RECORD

The Appellant appeared at the hearing, which was held by telephone, on October 17, 2022. 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 19, 2022
- Exhibit 2: Appeal Case Information from Schedule HC 2021.
- Exhibit 3: The Statement of Grounds for Appeal signed by the Appellant on April 15, 2022.
- Exhibit 4: The Appellant's letter in support of the appeal, with attachments.

FINDINGS OF FACT

The record shows, and I so find:

1. The Appellant, age 54 in June 2021 filed their Federal Income Tax return as a single person with no dependents claimed (Exhibit 2).
2. The Appellant lived in Plymouth County, MA in 2021 (Exhibit 2).
3. The Appellant's Federal Adjusted Gross Income for 2021 was \$25,598 (Exhibit 2).
4. The Appellant did not have health insurance that met Massachusetts minimum creditable coverage requirements (MCC) for the months of January through August in tax year 2021 (Exhibits 2, 3, 4 and Appellant Testimony).
5. The Appellant has been assessed a five-month tax penalty for 2021. The Appellant filed an appeal of the assessment in April 2022 (Exhibits 2, 3, 4).

6. I take administrative notice of the financial information set forth in Tables 1 through 6 in the DOR 2021 Massachusetts Schedule HC Health Care Instructions and Worksheets. Tables 3 and 4 incorporate affordability and premium schedules adopted by the Board of Directors for the Commonwealth Health Insurance Connector Authority for 2021. Table 2 sets forth income at 300% of the Federal poverty level and Tables 5 and 6 set forth tax penalties in effect for 2021.
7. In accordance with Table 3 of Schedule HC for 2021, the Appellant filing the Federal tax return as a single person with no dependents claimed, with an annual adjusted gross income of \$25,598 could afford to pay \$90 per month for health insurance. In accordance with Table 4, the Appellant age 54, living in Plymouth County, could have purchased private insurance for \$390 per month for a plan (Schedule HC for 2021). Private insurance was not affordable for the Appellant in 2021.
8. The Appellant testified credibly that they were employed as a Personal Care Attendant (PCA) for two clients in tax year 2021 and did not have access to employer sponsored health insurance (Exhibit 4 and Appellant Testimony).
9. The Appellant would have been eligible for ConnectorCare coverage in 2021 because the Appellant's income of \$25,598 was less than 300% of the federal poverty level, which was \$38,280 for a household of one in 2021 (See Table 2 of Schedule HC-2021 and 956 CMR 12.04).
10. It is unclear if the Appellant was aware of the ConnectorCare program. The Appellant testified that they searched online for health insurance at the end of tax year 2020 after being informed their monthly premium would be increased to \$300. The Appellant enrolled in Evolve Health Plan offered by First Continental Life and Accident Insurance Company and paid \$208.95 per month for the period of January through August. The Appellant said that they began preparing their tax return and contacted the company to find out why they had not received the tax forms to verify their health insurance enrollment and were then told that the insurance did not meet the requirements of the Affordable Care Act (ACA) or Massachusetts requirements. The Appellant said that they cancelled this insurance on September 9, 2021 and enrolled in a Massachusetts compliant plan. The Appellant's credible testimony was supported by documentation submitted with their appeal request (Exhibit 4 and Appellant Testimony).
11. The Appellant testified that they did not pay for a mortgage but had considerable monthly living expenses for homeowner's insurance, utilities, car expenses and food. The Appellant struggled to meet these expenses with limited income (Appellant Testimony).
12. In accordance with Table 3 of HC 2021, the Appellant was determined financially able to pay \$90 monthly for health care. The Appellant paid \$208.95 monthly for the Evolve health insurance coverage that did not meet MCC requirements. This is more than the \$90 deemed affordable to the Appellant (Schedule HC-2021 and Exhibits 4, 5).
13. The Appellant testified that they are currently enrolled in health insurance through MassHealth (Appellant Testimony).

ANALYSIS AND CONCLUSIONS OF LAW

The tax penalty was enacted by the Massachusetts Legislature to encourage compliance with G.L.c. 111M, § 2, also called the "individual mandate". The mandate requires every adult resident of Massachusetts to obtain

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

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

The Appellant purchased health insurance that did not meet MCC requirements for the period of January through August in tax year 2021 and consequently has been assessed a five-month penalty. The Appellant assert that the penalty should not apply in this case because of financial hardship and the fact that they were unaware until September 2021 that the plan they purchased did not meet ACA or Massachusetts requirements.

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 2021, the Appellant filing the Federal tax return as a single person with no dependents claimed with an adjusted gross income of \$25,598 could afford to pay \$90 per month for health insurance. According to Table 4, the Appellant, age 54, living in Plymouth County, could have purchased a private insurance plan for \$390 month. See Schedule HC for 2021. Private insurance was not affordable for the Appellants in tax year 2021.

The Appellant would have been eligible for ConnectorCare coverage based upon the Appellant’s income that was less than 300% of the federal poverty level which was \$38,280 for their household of one. See Table 2 of Schedule HC 2021 and 956 CMR 12.04 for eligibility criteria. Since affordable insurance was available to the Appellant in 2021, it must be determined whether the Appellant experienced a financial hardship pursuant to 956 CMR 6.08 (1).

The Appellant testified credibly that they searched for health insurance on the internet after being advised that their tax year 2020 monthly health insurance premium would be increased to \$300 in tax year 2021. The Appellant found the Evolve Health Plan and paid \$208.95 monthly for coverage for the months of January through August in tax year 2021. The Appellant explained that they contacted the insurance company in September to request that they be sent the appropriate tax forms to verify their health insurance coverage and were advised that their health plan did not meet ACA or MCC requirements. The Appellant cancelled the insurance on September 9, 2021 and enrolled in a MA compliant plan.

The Appellant paid \$208.95 monthly for the Evolve Health Plan coverage that did not meet MCC requirements. This is more than the \$90 deemed affordable for the Appellant in accordance with Table 3 of Schedule HC for 2021. (This would indicate that the Appellant may not have been aware of the ConnectorCare program given that

Health Connector would have offered the Appellant a plan with a monthly cost of less than \$90 based on the Appellant's income). Given the Appellant's limited income and the fact that they had substantial monthly living expenses, purchasing additional health insurance would have caused the Appellant to experience a significant financial hardship. The Appellant's five-month penalty is waived. See 956 CMR 6.08(2)(c),(3).

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

NOTIFICATION OF YOUR RIGHT TO APPEAL TO COURT

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

Cc: Connector Appeals Unit

Massachusetts Health Connector Appeals Unit

FINAL APPEAL DECISION: PA21-2080

Appeal Decision: Appeal Approved.

Hearing Issue: Appeal of the 2021 Tax Year Penalty

Hearing Date: October 17, 2022

Decision Date: October 24, 2022

AUTHORITY

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

JURISDICTION

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

HEARING RECORD

The Appellant appeared at the hearing, which was held by telephone, on October 17, 2022. 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 19, 2022.
- Exhibit 2: Appeal Case Information from Schedule HC 2021.
- Exhibit 3: Statement of Grounds for Appeal dated April 14, 2022.
- Exhibit 4: The Appellant's letter in support of this appeal, with attachments.

FINDINGS OF FACT

The record shows, and I so find:

1. The Appellant age 53 in July 2021, filed their 2021 Federal Income Tax return as a Head of Household with no dependents claimed (Exhibit 2).
2. The Appellant lived in Norfolk County, MA in 2021 (Exhibit 2).
3. The Appellant's Federal Adjusted Gross Income for 2021 was \$44,611 (Exhibit 2).
4. The Appellant did not have health insurance for any months in tax year 2021 and consequently has been assessed a twelve-month tax penalty (Exhibit 2).
5. The Appellant filed an appeal of the assessment in April 2022 (Exhibits 3, 4).
6. I take administrative notice of the financial information set forth in Tables 1 through 6 in the DOR 2021 Massachusetts Schedule HC Health Care Instructions and Worksheets. Tables 3 and 4

incorporate affordability and premium schedules adopted by the Board of Directors for the Commonwealth Health Insurance Connector Authority for 2021. Table 2 sets forth income at 300% of the Federal poverty level and Tables 5 and 6 set forth tax penalties in effect for 2021.

7. In accordance with Table 3 of Schedule HC for 2021, the Appellant filing the Federal tax return as a Head of Household with no dependents claimed, with an annual adjusted gross income of \$44,611 could afford to pay \$277 per month for health insurance. In accordance with Table 4, the Appellant age 53, living in Norfolk County, could have purchased private insurance for \$390 per month for a plan (Schedule HC for 2021). Private insurance was not affordable for the Appellant in tax year 2021.
8. The Appellant testified that they were employed by a small restaurant that did not offer health insurance (Appellant Testimony).
9. The Appellant would not have been eligible for ConnectorCare coverage in 2021 because the Appellant's income of \$44,611 was greater than 300% of the federal poverty level, which was \$38,280 for a tax household of one in 2021 (See Table 2 of Schedule HC-2021 and 956 CMR 12.04) (Exhibit 2).
10. In tax year 2021 the Appellant did not have access to affordable health insurance through the private market, their employer, or a government sponsored program. See Tables 3 and 4 of Schedule HC-2021 (Exhibits 2, 3, 4 and Appellant Testimony).
11. The Appellant testified that their child lives with them but the child's other parent, who does not live with the Appellant claims the child as a dependent for tax purposes. The Appellant submitted documentation with their appeal request verifying substantial monthly living expenses and indicated that purchasing health insurance would have caused the Appellant to experience substantial hardship. (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 filed their 2021 tax return as a Head of Household with no dependents claimed. The Appellant did not have health insurance for any months in tax year 2021 and consequently has been assessed a twelve-month penalty. The Appellant appealed the penalty citing 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 2021, the Appellant filing the Federal tax return as a Head of Household with no dependents claimed, with an adjusted gross income of \$44,611 could afford to pay \$277 per month for health insurance. In accordance with Table 4, the Appellant age 53 living in Norfolk County, could have purchased private insurance for \$390 per month (Schedule HC for 2020). Private insurance was not affordable for the Appellant in 2021.

The Appellant's employer did not offer employer sponsored health insurance in tax year 2021. The Appellant would not have been eligible for ConnectorCare coverage in 2021 because the Appellant's income of \$44,611 was greater than 300% of the federal poverty level, which was \$38,280 for a tax household of one in 2021.

The Appellant had no affordable health insurance available to them in tax year 2021 through employment, the private market or through a government program such as ConnectorCare. Because of this, the twelve-month penalty for the Appellant must be waived in full. See Massachusetts General Laws, Chapter 111M, Section 2. Since the penalty is waived, there is no need to determine if Appellant experienced a financial hardship in 2021.

The Appellant should note that the waiver of their penalty is based upon the facts that I have determined to be true in 2021. The Appellant should not assume that a similar determination will be made for subsequent tax years should they again be assessed a 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 2020.

NOTIFICATION OF YOUR RIGHT TO APPEAL TO COURT

If you disagree with this decision, you have the right to appeal to Court in accordance with Chapter 30A of the 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: PA21-2082

Appeal Decision: Appeal Denied.

Hearing Issue: Appeal of the 2021 Tax Year Penalty

Hearing Date: October 17, 2022

Decision Date: October 24, 2022

AUTHORITY

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

JURISDICTION

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

HEARING RECORD

The Appellant appeared at the hearing, which was held by telephone, on October 17, 2022. 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 19, 2022.
- Exhibit 2: Appeal Case Information from Schedule HC 2021.
- Exhibit 3: Statement of Grounds for Appeal, with attachments, signed by the Appellant on April 16, 2022.
- Exhibit 4: Final Appeal Decision of Tax Penalty 2020 dated May 25, 2021.

FINDINGS OF FACT

The record shows, and I so find:

1. The Appellant, age 38 in January 2021, filed their Federal Income Tax return as a single person with no dependents (Exhibit 2).
2. The Appellant lived in Worcester County, MA in 2021 (Exhibit 2 and Appellant Testimony).
3. The Appellant's Federal Adjusted Gross Income for 2021 was \$73,971 (Exhibit 2).
4. The Appellant did not have health insurance for any months of tax year 2021 (Exhibit 2 and Appellant Testimony).
5. The Appellant has been assessed a twelve-month tax penalty for 2021. The Appellant filed an appeal of the assessment in April 2022 citing financial hardship (Exhibits 2, 3).

6. I take administrative notice of the financial information set forth in Tables 1 through 6 in the DOR 2021 Massachusetts Schedule HC Health Care Instructions and Worksheets. Tables 3 and 4 incorporate affordability and premium schedules adopted by the Board of Directors for the Commonwealth Health Insurance Connector Authority for 2021. Table 2 sets forth income at 300% of the Federal poverty level and Tables 5 and 6 set forth tax penalties in effect for 2021.
7. In accordance with Table 3 of Schedule HC for 2021, the Appellant filing the Federal tax return as a single person with no dependents, with an annual adjusted gross income of \$73,971 could afford to pay \$493 per month for health insurance. In accordance with Table 4, the Appellant, age 38, living in Worcester County, could have purchased private insurance for \$275 per month (Schedule HC for 2021). Private insurance was affordable for the Appellant.
8. The Appellant testified that their employer did not offer health insurance. The Appellant was not financially eligible for ConnectorCare in tax year 2021 because their income of \$73,971 exceeded 300% of the federal poverty level which was \$38,280 for a household of one (Table 2 of Schedule HC-2021).
9. The Appellant submitted documentation verifying that as of December 1, 2021 they had mortgage payment arrearages of \$34,086. The Appellant's monthly mortgage payment was \$1,637.46 (Exhibit 3).
10. The Appellant was asked about the approximate 21 missed mortgage payments and testified that they put their mortgage in forbearance to catch up on bills including credit card debt that was backed up. No evidence was submitted to identify these bills. The Appellant said that their partner lives with them but is not employed. The Appellant said that their partner's claims of disability have been denied. The Appellant said that they have negotiated a payment plan for their mortgage (Appellant Testimony).
11. The Appellant's monthly living expenses of \$2,425 (excluding the mortgage obligation of \$1,637.46) included: heat-\$700; telephone-\$167; car payment-\$483; car insurance-\$150; gasoline-\$175; food-\$650 and internet-\$100 (Appellant Testimony).
12. As of the date of the hearing, October 17, 2022 the Appellant does not have health insurance (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 2021. The Appellant has consequently been assessed a twelve-month penalty. The Appellant submitted a statement of grounds for this appeal and checked the box indicating that purchasing health insurance would have caused the Appellant to experience a serious deprivation of food, shelter, clothing, or other necessities.

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 2021, the Appellant filing the Federal tax return as a single person with no dependents claimed, with an adjusted gross income of \$73,971 could afford to pay \$493 per month for health insurance. In accordance with Table 4, the Appellant, age 38, living in Worcester County, could have purchased private insurance for \$275 per month (Schedule HC for 2021). Private insurance was affordable for the Appellant in 2021.

The Appellant did not have access to employer sponsored health insurance in tax year 2021. The Appellant would not have been eligible for ConnectorCare because their income of \$73,971 exceeded 300% of the federal poverty level, which was \$38,280 for a tax household of one in 2021. Since affordable insurance was available to the Appellant in 2021, it must be determined whether the Appellant experienced a financial hardship pursuant to 956 CMR 6.08 (1).

In support of their appeal, the Appellant submitted documentation verifying that as of December 1, 2021 their monthly mortgage payments of \$1,637.46 were \$34,086 in arrears. Although being more than thirty days behind in rent or mortgage payments may be considered when determining financial hardship, the totality of the Appellant's financial circumstances must be considered. 956 CMR 6.08 (1)(a).

The Appellant testified that they did not pay their mortgage payments because they were trying to catch up on bills, including credit card debt. No evidence was submitted to identify these bills. The Appellant testified to monthly living expenses of \$2,425 for utilities, car expenses and food. Even if the Appellant had been paying their monthly mortgage payment of \$1,637.46, given the Appellant's income of \$73,971 and the fact that the Appellant could have purchased private health insurance at a cost of \$275 per month, the Appellant has failed to demonstrate that the cost of purchasing health insurance for 2021 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 2021 for the amount equal to one half of the lowest cost health insurance plan available to you for each month you have been assessed the penalty, as listed above, plus applicable interest back to the due date of the return without regard to extension.

NOTIFICATION OF YOUR RIGHT TO APPEAL TO COURT

If you disagree with this decision, you have the right to appeal to Court in accordance with Chapter 30A of the 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: PA21-2083

Appeal Decision: Appeal Approved.

Hearing Issue: Appeal of the 2021 Tax Year Penalty

Hearing Date: October 17, 2022

Decision Date: October 24, 2022

AUTHORITY

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

JURISDICTION

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

HEARING RECORD

The Appellant and their Spouse appeared at the hearing, which was held by telephone, on October 17, 2022. The procedures to be followed during the hearing were reviewed with the Appellants who were then sworn in. Exhibits were marked and admitted into evidence with no objection from the Appellants. The hearing record consists of the Appellants' testimony and the following documents which were admitted into evidence:

- Exhibit 1: Health Connector Appeals Unit Notice of Hearing dated September 19, 2022.
- Exhibit 2: Appeal Case Information from Schedule HC 2021.
- Exhibit 3: The Statement of Grounds for Appeal signed by the Appellants on April 19, 2022.
- Exhibit 4: The Appellants' letter in support of the appeal, with attachments.

FINDINGS OF FACT

The record shows, and I so find:

1. The Appellant Primary Taxpayer, age 66 in 2021 and their Spouse age 61 in 2021 filed their Federal Income Tax return as a married couple with no dependents claimed (Exhibit 2).
2. The Appellants lived in Barnstable County, MA in 2021 (Exhibit 2).
3. The Appellants' Federal Adjusted Gross Income for 2021 was \$48,113 (Exhibit 2).
4. The Appellant had Medicare coverage in tax year 2021 and is not being assessed a penalty (Exhibit 2 and Spouse's testimony).
5. The Appellant Spouse did not have insurance for any months in tax year 2021 and consequently is being assessed a twelve-month penalty (Exhibit 2 and Appellant Testimony).
6. The Appellants filed an appeal of the assessment in April 2022 (Exhibits 2, 3, 4).

7. I take administrative notice of the financial information set forth in Tables 1 through 6 in the DOR 2021 Massachusetts Schedule HC Health Care Instructions and Worksheets. Tables 3 and 4 incorporate affordability and premium schedules adopted by the Board of Directors for the Commonwealth Health Insurance Connector Authority for 2021. Table 2 sets forth income at 300% of the Federal poverty level and Tables 5 and 6 set forth tax penalties in effect for 2021.
8. In accordance with Table 3 of Schedule HC for 2021, the Appellants filing the Federal tax return as a married couple with no dependents claimed, with an annual adjusted gross income of \$48,113 could afford to pay \$305 per month for health insurance. In accordance with Table 4, the Appellants with one partner age 66, living in Barnstable County, could have purchased private insurance for \$802 per month for a plan (Schedule HC for 2021). Private insurance was not affordable for the Appellant Spouse in 2021.
9. The Spouse testified that they did not have access to affordable employer sponsored health insurance in 2021. The Spouse would have been eligible for ConnectorCare coverage in 2021 because the Appellants' income of \$48,113 was less than 300% of the federal poverty level, which was \$51,720 for a household of two in 2021. (See Table 2 of Schedule HC-2021 and 956 CMR 12.04) (Spouse Testimony).
10. The Spouse testified that the Appellant required two hip surgeries and was unable to work in tax year 2021. In addition, the Appellant's parent, age 90, lived with them until she passed in October 2021. The Spouse testified that they were supporting the household with their income and the Appellant's Social Security income (Spouse Testimony).
11. The Appellant testified that they tried to apply for health insurance online but was unable to successfully navigate the system (Appellant Testimony).
12. The Appellants' monthly living expenses of \$3,569 included: mortgage, taxes, and insurance \$1,800; heat-\$400; electricity-\$200; telephone-\$74; car insurance-\$158; gasoline-\$87; internet-\$200; and food \$650. The Spouse testified that while their parent was with them, they had to keep the room temperature higher due to their parent's age and medical condition. The Appellants stated that purchasing health insurance would have caused them to experience a deprivation of food, shelter, and other necessities, I found the Appellant and their Spouse to be credible (Exhibit 3 and Appellants' Testimony).
13. As of the date of the Hearing, October 17, 2022 the Appellant Spouse remains uninsured. The couple was given the contact information for Health Connector Customer Service and encouraged to apply for health insurance over the telephone.

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 Medicare coverage in tax year 2021 and is therefore not subject to a tax penalty. The Appellant Spouse did not have health insurance for any months of tax year 2021 and consequently has been assessed a twelve-month penalty. The Appellants filed an appeal in April 2022 citing financial hardship as the reason for the Spouse’s failure to have health insurance.

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 Spouse 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 Spouse because the Appellants experienced a financial hardship as defined in 956 CMR 6.08.

In accordance with Table 3 of Schedule HC for 2021, the Appellants filing the Federal tax return as a married couple with no dependents claimed with an adjusted gross income of \$48,113 could afford to pay \$305 per month for health insurance. According to Table 4, the Appellants with one person, age 61, living in Barnstable County, could have purchased a private insurance plan for \$802 month. See Schedule HC for 2021. Private insurance was not affordable for the Appellant Spouse in tax year 2021.

The Appellant was unemployed in tax year 2021. The Appellant Spouse did not have access to affordable employer sponsored health insurance in tax year 2021. The Spouse would have been eligible for ConnectorCare coverage based upon the Appellants’ income that was less than 300% of the federal poverty level which was \$51,720 for their household of two. See Table 2 of Schedule HC 2021 and 956 CMR 12.04 for eligibility criteria. Since affordable insurance was available to the Appellant Spouse in 2021, it must be determined whether the Appellants experienced a financial hardship pursuant to 956 CMR 6.08(1).

The Appellant and Spouse testified credibly that their parent, age 90, lived in their home for the period of January through October in tax year 2021 until sadly their parent passed away. The Spouse explained that there were additional food and utility expenses to care for their aging parent. 956 CMR 6.08(1)(d)(3). The Appellants identified substantial monthly living expenses for the household and have demonstrated that the cost of purchasing health insurance for the Spouse would have caused the Appellants to experience a significant financial hardship in tax year 2021. The Spouse’s twelve-month penalty is waived. See 956 CMR 6.08(1).

The Appellants should note that the waiver of the Spouse’s penalty is based upon the facts that I have determined to be true in 2021. The Appellants should not assume that a similar determination will be made for subsequent tax years should they again be assessed a penalty for the Spouse’s failure to have health insurance.

PENALTY ASSESSED

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

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

NOTIFICATION OF YOUR RIGHT TO APPEAL TO COURT

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

cc: Health Connector Appeals Unit

ADDENDUM

The Appellants are reminded that they may contact Health Connector Customer Service at 1-877-623-6765 to apply for health insurance for the Spouse for the remainder of tax year 2022 and tax year 2023.

Massachusetts Health Connector Appeals Unit

FINAL APPEAL DECISION: PA212022

Appeal Decision: Penalty Overturned in Full
Hearing Issue: Appeal of the 2021 Tax Year Penalty
Hearing Date: September 13, 2022
Decision Date: October 21, 2022

AUTHORITY

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

JURISDICTION

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

HEARING RECORD

Appellant appeared at the hearing, which was held by telephone, on September 13, 2022. Also present was a duly sworn interpreter. 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: Schedule HC for Healthcare from DOR
- Exhibit 2: Notice of Appeal and supporting documents, dated April 5, 2021
- Exhibit 3: Correspondence from Health Connector, dated August 11, 2022

FINDINGS OF FACT

The record shows, and I so find:

1. Appellant was 39 years old in 2021 and resided in Middlesex County (Exhibit 1).
2. Appellant filed a Massachusetts 2021 tax return as single with no dependents claimed (Exhibit 1).
3. Appellant had an Adjusted Gross Income for 2021 of \$52,652 (Exhibit 1).
4. Appellant moved to Massachusetts in October 2021 (Testimony of Appellant).
5. Appellant began a job in November 2021 (Testimony of Appellant).
6. Appellant was told that employer sponsored health insurance coverage would begin in November 2021 (Testimony of Appellant).
7. I take administrative notice of the financial information set forth in Tables 1 through 6 in the DOR 2021 Massachusetts Schedule HC Health Care Instructions and Worksheets. Tables 3 and 4 incorporate affordability and premium schedules adopted by the Board of Directors for the Commonwealth Health Insurance Connector Authority for 2021. Table 2 sets forth income at 300% of the Federal poverty level and Tables 5 and 6 set forth tax penalties in effect for 2021.
8. According to Table 3 of Schedule HC for 2021 a person filing as single with no dependents claimed with an adjusted gross income of \$52,652 could afford to pay \$351 per month for private insurance. According to Table 4,

Appellant, who was 39 years old and lived in Middlesex county could have purchased private insurance for a cost of \$275 per month.

- 9. Private insurance was considered affordable for Appellant in 2021 (Schedule HC for 2021).
- 10. Appellant has been assessed a penalty for twelve months for 2021 (Exhibit 1).
- 11. Appellant filed a hardship Appeal on April 5, 2022 (Exhibit 2).

ANALYSIS AND CONCLUSIONS OF LAW

G.L.c. 111M, § 2, also called the “individual mandate,” requires every adult resident of Massachusetts to obtain health insurance that meets minimum creditable coverage standards “[s]o long as it is deemed affordable” under the schedule set by the board of directors for the Commonwealth Health Insurance Connector Authority. Residents who do not obtain insurance or who do not obtain insurance that meets the minimum creditable coverage standard are subject to a tax penalty for “each of the months” that the individual did not have health insurance as required by the individual mandate. There is a three-month grace period to allow the taxpayer to obtain health insurance coverage or to make the transition between health insurance policies. See G. L. c. 111M, sec. 2(b) and for Tax Year 2021, 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 moved to Massachusetts in October 2021 and began working in November 2021. Appellant was within the three month grace period to obtain health insurance. I find that the penalty for 2021 should be waived in its entirety. See 956 CMR 6.00 and Testimony of Appellant, which I find to be credible.

PENALTY ASSESSED

Number of Months Appealed: 12

Number of Months Assessed: 0

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

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

NOTIFICATION OF YOUR RIGHT TO APPEAL TO COURT

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

ADDENDUM

Appellant was covered by employer sponsored health insurance at the time of the hearing. Appellant should check with Appellant’s employer to see that the health insurance coverage meets Massachusetts Creditable Coverage Standards.