

FINAL APPEAL DECISION: PA21-2614

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

Hearing Issue: Appeal of the 2021 Tax Year Penalty

Hearing Date: July 13, 2023

Decision Date: August 22, 2023

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 1 and Appellant 2 are husband and wife who filed their 2021 tax return jointly as married with dependents. Appellant 1, the husband appeared at the hearing, and represented that he speaks on behalf of his wife- Appellant 2. The Hearing was held by telephone, on July 13, 2023. The procedures to be followed during the hearing were reviewed with Appellant 1 who was then sworn in. Exhibits were marked and admitted into evidence with no objection from Appellant 1. 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 June 20, 2023.

Exhibit 2: Appeal Case Information from Schedule HC 2021.

Exhibit 3: Statement of Grounds for Appeal, with attachments, signed by the Appellant on August 3, 2022.

Exhibit 4: Summary Plan Description of Appellant 1's employer health care plan (7 pages), received July 14, 2023 as a result of an Open Records Form from the Hearing Officer.

FINDINGS OF FACT

The record shows, and I so find:

1. Appellant 1 was age 47 and Appellant 2 was age 49 in January 2021, and they filed their Federal Income Tax return as Joint, Married with Dependents (Exhibit 2).
2. The Appellants lived in Middlesex County in 2021 (Exhibit 2, 3 and Appellant Testimony).
3. The Appellants' Federal Adjusted Gross Income for 2021 was \$297,438 (Exhibit 2).

4. The Appellants did not have health insurance for all months of tax year 2021 (Exhibit 2 and Appellant Testimony).
5. The Appellants has been assessed a twelve-month tax penalty for 2021 (Exhibit 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 Appellants filing their Federal tax return jointly as a married couple with dependents, with an annual adjusted gross income of \$297,438 could afford to pay \$1,983 per month for health insurance. In accordance with Table 4, Appellant 2 (older spouse), age 49, living in Middlesex County, could have purchased private insurance for \$820 per month. Private insurance was affordable for the Appellant.
8. Appellant 1 testified that his spouse - Appellant 2, was laid off in the later part of 2020 and the family's health insurance from her employer was no longer available. He further stated that he obtained a policy from his employer in 2021 that he later learned was not compliant with Massachusetts law- in that it did not satisfy the Massachusetts "minimum creditable coverage standards" (MCC). Appellant 1 stated that it was several months into paying for the policy that he was made aware it was not compliant with Massachusetts Law. He added that his wife did receive unemployment insurance benefits in 2021 for an estimated two months (Appellant Testimony and Exhibits 3 and 4).
9. The Appellants income of \$297,438 was more than 300% of the federal poverty level, which was \$78,600 for a household of four in 2021 (See Table 2 of Schedule HC-2021 and 956 CMR 12.04). Appellant 1 credibly testified that when he was made aware that his health care did not meet the MCC required by state law he inquired with the ConnectorCare and the family policies quotes he received were too expensive (Appellant Testimony).
10. Appellant 1 estimated he and his wife had monthly living expenses of up to \$2,700 including rent and other necessities. Appellant 1 did not provide any other evidence, either testimony or documents, of expenses he and his wife were obligated to pay, nor of any other circumstances that would create a hardship and prevent purchasing health insurance. (Appellant Testimony).

ANALYSIS AND CONCLUSIONS OF LAW

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

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

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

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

In accordance with Table 3 of Schedule HC for 2021, the Appellants filing their Federal tax return as married with dependents claimed and with an adjusted gross income of \$ 297,438 could afford to pay \$1,983 per month for health insurance. According to Table 4, Appellant 2, age 49, living in Middlesex County, could have purchased a private insurance plan (Family) for \$820 a month. See Schedule HC for 2021. Private insurance was affordable for the Appellants in tax year 2021. Although the Appellant's had a health insurance policy, it did not meet MCC standards. Appellant stated in his documents that he paid \$447 per month for his non-compliant policy.

The Appellants would not have been eligible for ConnectorCare coverage based upon their income that was more than 300% of the federal poverty level which was \$78,600 for a household of four in 2021. See Table 2 of Schedule HC 2021 and 956 CMR 12.04 for eligibility criteria. The fact that Appellant 2 was collecting unemployment insurance for some months of 2021 may have changed her eligibility for subsidies for premiums with ConnectorCare.

Appellant 1 did not testify to any circumstances which would create a financial hardship precluding the purchasing of a health insurance policy that met MCC standards The Appellants made a good faith effort to obtain health insurance, but were put on notice that the plan was not MCC compliant (Exhibit 3). The Appellants did not provide any evidence to support that a financial hardship which would resulted by obtaining a MCC Compliant plan. The health care plan they did purchase deviated significantly from the requirements of an MCC compliant plan. In addition, their income was at a significant level and their financial situation would have allowed them to purchase a policy on the private market that met MCC standards.

However, Appellant 1's testimony and the documents he presented were credible and they purchased a health care policy in good faith to become insured. In light of these facts, which include the mistaken belief for some period by Appellants' that their policy met MCC requirements and being unaware that they may have been eligible for a reduced or no premium policy through ConnectorCare in 2021 as a result of Appellant 2 collecting unemployment insurance, I am exercising my discretion and waiving 12 months of the penalty for both Appellants.

The Appellants 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:

Appellant 1 12 Number of Months Assessed: 0
Appellant 2 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

Appeal Decision: Appeal granted in part; the tax penalty is waived for Appellant 1 who appeared at the hearing and denied for Appellant 2 who failed to appear.

Hearing Issue: Appeal of the 2021 Tax Year Penalty

Hearing Date: April 6, 2023

Decision Date: April 24, 2023

AUTHORITY

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

JURISDICTION

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

HEARING RECORD

One of the Appellants (herein Appellant 1) appeared at the hearing, which was held by telephone, on April 6, 2023. Appellant 2 (Appellant 1's former spouse) failed to appear for the hearing. The procedures to be followed during the hearing were reviewed with Appellant 1, who was then sworn in. Exhibits were marked and admitted into evidence with no objection from Appellant 1. Also present at the Hearing was a Witness for the Appellant, who identified himself as Appellant 1's tax preparer who was also sworn in. The hearing record consists of Appellant 1's and the Witness' testimony and the following documents which were admitted into evidence:

Exhibit 1: Health Connector Appeals Unit Notice of Hearing dated March 9, 2023.

Exhibit 2: Appeal Case Information from Schedule HC 2021.

Exhibit 3: Statement of Grounds for Appeal, with attachments, signed by Appellant 1 on May 17, 2022, with additional documentation.

FINDINGS OF FACT

The record shows, and I so find:

1. The Appellants were a married couple in Tax Year 2021 and filed their joint Federal Income Tax return as a married couple (Exhibit 2). Appellants were divorced in 2022 and only Appellant 1 appeared at the hearing (Appellant Testimony and Exhibit 3).
2. The Appellants lived in Barnstable County in 2021 (Exhibit 2 and Appellant Testimony).
3. The Appellant's Federal Adjusted Gross Income for 2021 was \$95,477 (Exhibit 2).

4. The Appellant did not have health insurance for any months of tax year 2021 (Appellant 1 Testimony and Exhibit 2).
5. Appellants have been assessed a twelve-month tax penalty for 2021 (Exhibit 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 Appellants filing their Federal tax return as a married couple with no dependents, with an annual adjusted gross income of \$95, 477 could afford to pay \$636 per month for health insurance. In accordance with Table 4, Appellant 1, age 33, living in Barnstable County, could have purchased private insurance for \$535 per month. Private insurance was affordable for the Appellant.
8. Appellant 1 testified credibly that in May of 2021 she managed a coffee store in full-time and worked part-time as a waitress in the Summer months. She stated she was not aware of any health insurance offered by her employer. She added that her marriage broke down and she was forced to move out of the home she shared with her husband in 2021. She further added that finding housing in Provincetown was a great challenge (Appellant Testimony and Exhibit 3).
9. Appellant 1 stated she attempted in 2021 to get health care insurance at her local hospital through both Mass Health and the Mass Health Connector and was not able to obtain coverage. She further stated that she has no contact with her ex-husband and the divorce was finalized in June of 2022 (Appellant 1 Testimony and Exhibit 3).
10. Appellant 1 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 \$51,720 for a household of two in 2021 (See Table 2 of Schedule HC-2021 and 956 CMR 12.04).
11. Appellant 1 credibly testified that her estimated monthly expenses for Tax year 2021 were as follows: Rent- \$1,00 rent (which she contributed to substantially; \$2,200 for the new apartment starting June 1, 2021) , which she added that she had to pay \$3,300 up front for first and last months' rent and a security deposit; Utilities- \$220; Food-\$500; Phone-\$53; various legal fees for the pending divorce throughout 2021; and additional support in different amounts to her family in Bulgaria.
12. Appellant 1 said she obtained health care insurance in December 2022 through the Health Connector.

13. The Witness testified that Appellant 1 contributed approximately \$58,000 towards the couple's Adjusted Gross Income for Tax Year 2021.

ANALYSIS AND CONCLUSIONS OF LAW

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

Any health insurance policy must also satisfy the Massachusetts "minimum 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).

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

Appellant 1 testified credibly that her employers did not provide health care insurance. Based on this credible testimony of Appellant 1 – a plan that met MCC was not available to Appellant through his employer.

In accordance with Table 3 of Schedule HC for 2021, Appellant 1 filing her Federal tax return as a married person with no dependents claimed and with an adjusted gross income of \$95,477, could afford to pay \$636 per month for health insurance. According to Table 4, the Appellant, age 33, living in Barnstable County, could have purchased a private insurance plan for \$535 a month. See Schedule HC for 2021. Private insurance was affordable for the Appellant in tax year 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 a household of one. See Table 2 of Schedule HC 2021 and 956 CMR 12.04 for eligibility criteria.

Appellant did testify to circumstances which would create a financial hardship precluding her from purchasing a health insurance policy that met MCC standards. She stated that she was in need of new

living arrangements as a result of a pending divorce as of June 1, 2021, and her rent increased substantially as a result. In addition, she testified that she provides economic support to her family in her native country. Her monthly expenses are substantial coupled with the fact that she was undergoing a divorce and searching for a new place to live.

In light of these facts, it is determined that Appellant experienced significant financial hardship as defined in 956 CMR 6.08, making obtaining health care insurance a financial burden. Appellant 1's request to waive the penalty assessed against her of 12 months in Tax Year 2021 is granted.

Appellant 2 did not appear for the hearing and provided no evidence for the file thus, his penalty will remain.

Appellant 1 should note that the granting of a waiver of their penalty is based upon the facts that I have determined to be true in 2021. Appellant 1 should not assume that a similar determination will be made for subsequent tax years should they again be assessed a penalty for failure to have health insurance.

PENALTY ASSESSED

Appellant 1:

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

Appellant 2:

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

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

NOTIFICATION OF YOUR RIGHT TO APPEAL TO COURT

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

Cc: Connector Appeals Unit

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

Hearing Issue: Appeal of the 2021 Tax Year Penalty

Hearing Date: June 15, 2023

Decision Date: July 21, 2023

AUTHORITY

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

JURISDICTION

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

HEARING RECORD

The Appellant appeared at the hearing, which was held by telephone, on June 15, 2023. 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 May 12, 2023.
- Exhibit 2: Appeal Case Information from Schedule HC 2021.
- Exhibit 3: Statement of Grounds for Appeal, with attachments, signed by the Appellant on June 2, 2022.
- Exhibit 4: Copy of Renewal Notice from MassHealth dated July 27, 2022 and copy of letter from Mass Brigham General notifying Appellant of renewal requirements for Medicaid

FINDINGS OF FACT

The record shows, and I so find:

1. The Appellant, age 27 in January 2021, filed her Federal Income Tax return as a single person with no dependents (Exhibit 2).
2. The Appellant lived in Essex County in 2021 (Exhibit 2, 3 and Appellant Testimony).
3. The Appellant's Federal Adjusted Gross Income for 2021 was \$43,587 (Exhibit 2).
4. According to her Schedule HC for Tax Year 2021, the Appellant did not have health insurance for all months of tax year 2021 (Exhibit 2 and Appellant Testimony).

5. The Appellant has been assessed a twelve-month tax penalty for 2021 (Exhibit 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 Single with no dependents, with an annual adjusted gross income of \$43,587 could afford to pay \$271 per month for health insurance. In accordance with Table 4, the Appellant, age 27, living in Essex County, could have purchased private insurance for \$263 per month. Private insurance was affordable for the Appellant.
8. The Appellant testified she was covered by Medicaid for at least part of Tax Year 2021 time and her employers did not offer health insurance (Appellant Testimony). Appellant would not have been eligible for ConnectorCare coverage in 2021, because the Appellant's income of \$43,587 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). She testified that she inquired into MassHealth Connector, but found the system too confusing and ended her inquiry.
9. Appellant testified credibly she had to move from her current apartment to a cheaper building and paid \$850 rent and had other estimated recurring monthly expenses of \$1,040. She believably testified that her automobile required major repair work in 2021 costing over \$2,000 of her income and she paid tuition for a higher education course of \$2,000 in 2021 (Appellant Testimony).
10. The Appellant testified that she recently received a renewal notice for Medicaid enrollment and had paperwork to support her enrollment in 2021. Appellant produced two documents regarding Medicaid: one dated July 27, 2022 addressed to her from MassHealth requesting her to renew her enrollment in MassHealth for the coming year; and the other an undated letter addressed to Appellant from Mass General Brigham explaining the Medicaid renewal process (Appellant Testimony and Exhibit 4).
11. Appellant testified believably that she obtained full time employment and health care insurance through her new employer in 2022.

ANALYSIS AND CONCLUSIONS OF LAW

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

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

Any health insurance policy must also satisfy the Massachusetts "minimum 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).

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

Appellant testified credibly that she was employed by different part-time employers in 2021 and they did not offer a health care plan for employees. In accordance with Table 3 of Schedule HC for 2021, the Appellant filing her Federal tax return as Single with no dependents claimed and with an adjusted gross income of \$43,587, could afford to pay \$271 per month for health insurance. According to Table 4, the Appellant, age 27, living in Essex County, could have purchased a private insurance plan for \$263 a month. See Schedule HC for 2021. Private insurance was affordable for the Appellant in tax year 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 a household of one. See Table 2 of Schedule HC 2021 and 956 CMR 12.04 for eligibility criteria. She testified credibly to confusion regarding applying for a ConnectorCare plan. In addition, confusion exists as to Appellant's enrollment in MassHealth. She testified and provided documents demonstrating her enrollment and testified to her enrollment for at least part of the year. Her testimony and her documents concerning her enrollment in MassHealth were both credible as far as they went – but were not conclusive.

In addition, Appellant testified to many circumstances which would create a financial hardship precluding her from purchasing a health insurance policy that met MCC standards. Appellant testified credibly that she paid out \$4,000 dollars for education and car repair expenses in Tax Year 2021. She stated she was forced to move apartments to a less expensive building in 2021 as well.

In light of these facts, it is determined that Appellant would have sustained a financial hardship as defined in 956 CMR 6.08. Appellant's request to waive the penalty assessed against her of 12 months in Tax Year 2021 is granted.

To ensure the Massachusetts Department of Revenue has the most accurate information on Appellant she can re-file her 2021 taxes to address this omission and show her Medicaid/MassHealth enrollment.

The Appellant should note that the granting of a 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

Appeal Decision: Appeal Granted in part; six months of the tax penalty is waived.

Hearing Issue: Appeal of the 2021 Tax Year Penalty

Hearing Date: June 20, 2023

Decision Date: July 30, 2023

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 June 20, 2023. 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 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 May 17, 2023.

Exhibit 2: Appeal Case Information from Schedule HC 2021.

Exhibit 3: Statement of Grounds for Appeal, with attachments, signed by the Appellant on May 10, 2022.

FINDINGS OF FACT

The record shows, and I so find:

1. The Appellants, age 21 in January 2021, filed her Federal Income Tax as Single with no dependents (Exhibit 2).
2. The Appellant lived in Plymouth County in 2021 (Exhibit 2, 3 and Appellant Testimony).
3. The Appellant's Federal Adjusted Gross Income for 2021 was \$46,626 (Exhibit 2).
4. The Appellants did not have health insurance for all months of tax year 2021 (Exhibit 2 and Appellant Testimony).
5. The Appellant has been assessed a twelve-month tax penalty for 2021 (Exhibit 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 Appellants filing as Single, with no dependents, with an annual adjusted gross income of \$46,626 could afford to pay \$293 per month for health insurance. In accordance with Table 4, the Appellant, age 21, living in Plymouth County, could have purchased private insurance for \$263 per month. Private insurance was affordable for the Appellant.
8. Appellant testified credibly that she was not eligible for health insurance from an employer in 2021, she added that she worked in the restaurant business. Appellant would not have been eligible for ConnectorCare coverage in 2021, because the Appellants' income of \$46,626 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). Appellant believably testified that she began the process of applying to ConnectorCare, but was confused by the process and the premium quotes received were not affordable.
9. Appellant testified credibly that she was removed from her father's health care insurance in 2020 and her mother was unemployed and did not have a plan that would cover her. She added that her mother did obtain a health care insurance policy that offered coverage for Appellant in 2022.

ANALYSIS AND CONCLUSIONS OF LAW

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

Any health insurance policy must also satisfy the Massachusetts "minimum 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).

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

In accordance with Table 3 of Schedule HC for 2021, the Appellants filing her Federal tax return as Single, with no dependents claimed and with an adjusted gross income of \$46,626, could afford to pay \$295 per month for health insurance. According to Table 4, the Appellant 1, age 21, living in Plymouth County, could have purchased a private insurance plan (Single no dependents) for \$263 a month in Tax year 2021. See Schedule HC for 2021. Private insurance was affordable for the Appellants in tax year 2021.

The Appellant would not have been eligible for ConnectorCare coverage based upon the Appellants' income that was more than 300% of the federal poverty level which was \$38,280 for a household of one. See Table 2 of Schedule HC 2021 and 956 CMR 12.04 for eligibility criteria. Credible testimony was received from Appellant regarding researching and beginning an application for ConnectorCare. Appellant would not have qualified for MassHealth based on the income guidelines of 2021.

Appellants did not testify or offer documents to establish circumstances which would create a financial hardship per se, if a health insurance policy that met MCC standards was purchased. She did credibly testify that she provided financial support to her mother when needed. In addition, she testified to the sudden estrangement of her father - who provided her health care insurance through his plan, which provided an economic shock to her and her mother in 2021.

In light of these facts and in the interests of fairness I am exercising my discretion in waiving 6 months of the imposed penalty for Tax Year 2021.

The Appellants should note that the granting of a partial 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 : 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 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

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

Hearing Issue: Appeal of the 2021 Tax Year Penalty

Hearing Date: July 6, 2023

Decision Date: July 30, 2023

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 6, 2023. The procedures to be followed during the hearing were reviewed with Appellant who was then sworn in. Exhibits were marked and admitted into evidence with no objection from 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 June 12, 2023.

Exhibit 2: Appeal Case Information from Schedule HC 2021.

Exhibit 3: Statement of Grounds for Appeal, with attachments, signed by the Appellant on June 30, 2022.

FINDINGS OF FACT

The record shows, and I so find:

1. The Appellant, age 23 in January 2021, filed a Federal Income Tax return as Married with no dependents (Exhibit 2).
2. The Appellant lived in Essex County in 2021 (Exhibit 2, 3 and Appellant Testimony).
3. The Appellant's Federal Adjusted Gross Income for 2021 was \$63,665 (Exhibit 2).
4. According to his Schedule HC for Tax Year 2021, the Appellant did not have health insurance for twelve months of tax year 2021 (Exhibit 2 and Appellant Testimony).
5. The Appellant has been assessed a twelve-month tax penalty for 2021 (Exhibit 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 Married with no dependents, with an annual adjusted gross income of \$63,665 could afford to pay \$403 per month for health insurance. In accordance with Table 4, the Appellant, age 23, living in Essex County, could have purchased private insurance for \$263 per month (Individual). Appellant testified his wife had health insurance through her parent's plan in 2021. Private insurance was affordable for the Appellant.
8. The Appellant testified Tax Year 2021 was he and his wife's first full year living in Massachusetts and he was not aware of the Massachusetts law requiring residents to have health insurance. He said he moved from a state that did not have this requirement. In addition, he stated his current employer offers a health care insurance plan for approximately \$300 per month (Appellant Testimony).
9. Appellant would not have been eligible for ConnectorCare coverage in 2021, because the Appellant's income of \$63,665 was more 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). Appellant said he inquired into ConnectorCare plans and these were too expensive (Appellant Testimony).
10. Appellant testified that he and his wife had monthly living expenses that exceeded \$2,500 a month. In addition, he testified credibly to expenses related to his wife's higher education and he was the sole income provider for his family.
11. Appellant stated that he obtained health insurance earlier this year.

ANALYSIS AND CONCLUSIONS OF LAW

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

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

Any health insurance policy must also satisfy the Massachusetts "minimum 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).

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

Appellant testified credibly that he was employed full time in sales and was the sole income earner in his family in 2021. In accordance with Table 3 of Schedule HC for 2021, the Appellant filing his Federal tax return as Married with no dependents claimed and with an adjusted gross income of \$63,665 could afford to pay \$403 per month for health insurance. According to Table 4, the Appellant, age 23, living in Essex County, could have purchased a private insurance plan (Individual plan since his wife was covered by her parent's plan) for \$263 a month. See Schedule HC for 2021. Private insurance was affordable for the Appellant in tax year 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 \$51,720 for a household of two. See Table 2 of Schedule HC 2021 and 956 CMR 12.04 for eligibility criteria. He testified credibly to inquiring into a ConnectorCare plan and he felt that it was too expensive. Although according to his testimony, his employer did offer a health care plan for \$300 per month - his lack of knowledge about the Massachusetts requirement for health care insurance and his inability to afford this plan prevented him from obtaining coverage.

Appellant testified to circumstances which would create a financial hardship precluding him from purchasing a health insurance policy that met MCC standards. Appellant testified credibly that he and his wife incurred expenses in excess of \$2,500 including education and general living expenses in Tax Year 2021. His credible testimony regarding a higher standard of living, his lack of understanding of Massachusetts law after moving from another state, and his sole income earner status in the household was taken into consideration when making this decision.

In light of these facts, it is determined that Appellant would have sustained a financial hardship as defined in 956 CMR 6.08. Appellant's request to waive the penalty assessed against him of 12 months in Tax Year 2021 is granted.

The Appellant should note that the granting of a 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

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

Hearing Issue: Appeal of the 2021 Tax Year Penalty

Hearing Date: July 6, 2023

Decision Date: July 30, 2023

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 Ch. 111M, Section 4 and 956 CMR 6.07.

HEARING RECORD

Appellant appeared at the hearing which was held by telephone on July 6, 2023. 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 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 June 12, 2023.

Exhibit 2: Appeal Case Information from Schedule HC 2021.

Exhibit 3: Statement of Grounds for Appeal, with attachments, signed by the Appellant on July 20, 2022.

FINDINGS OF FACT

The record shows, and I so find:

1. The Appellants, age 46 in January 2021, filed her Federal Income Tax as Single with no dependents (Exhibit 2).
2. The Appellant lived in Norfolk County in 2021 (Exhibit 2, 3 and Appellant Testimony).
3. The Appellant's Federal Adjusted Gross Income for 2021 was \$46,639 (Exhibit 2).
4. The Appellants did not have health insurance for 11 months of tax year 2021 (Exhibit 2 and Appellant Testimony).
5. The Appellant has been assessed an eight-month tax penalty for 2021 (Exhibit 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 a tax return as Single with no dependents, with an annual adjusted gross income of \$46,639 could afford to pay \$295 per month for health insurance. In accordance with Table 4, the Appellants, age 46, living in Norfolk County, could have purchased private insurance for \$336 per month. Private insurance was not affordable for the Appellant.
8. Appellant testified credibly that she changed employers and her new employer did offer health insurance in 2021. She said her previous employer did offer health care insurance and she was enrolled in their program, but the new employer's plan was too expensive and her new salary was less - making it unaffordable (Appellant Testimony). Appellant would not have been eligible for ConnectorCare coverage in 2021, because the Appellant's income of \$46,639 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). Appellant would not have been eligible for MassHealth by the income standards for Tax Year 2021.
9. She credibly testified that she had health concerns causing her to miss work and that she paid out of pocket expenses for this illness in 2021 and offered documents to support this. (Appellant Testimony and Exhibit 3). Appellant testified credibly that her monthly expenses exceeded \$2,500, including support for her grandchildren and other family members. She added that she received a quote for premiums from ConnectorCare and this was not affordable considering her expenses.
10. Appellant testified that in 2022 she obtained health care insurance through her employer.

ANALYSIS AND CONCLUSIONS OF LAW

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

Any health insurance policy must also satisfy the Massachusetts “minimum 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).

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

In accordance with Table 3 of Schedule HC for 2021, the Appellants filing her Federal tax return as Single, with no dependents claimed and with an adjusted gross income of \$46,639, could afford to pay \$295 per month for health insurance. According to Table 4, the Appellant 1, age 46, living in Norfolk County, could have purchased a private insurance plan for \$336 a month in Tax year 2021. See Schedule HC for 2021. Private insurance was not affordable for the Appellants in tax year 2021.

The Appellants would not have been eligible for ConnectorCare coverage based upon the Appellants’ income that was more than 300% of the federal poverty level which was \$38,280 for a household of one. See Table 2 of Schedule HC 2021 and 956 CMR 12.04 for eligibility criteria. Credible testimony was received from Appellant regarding her obtaining premium quotes from ConnectorCare. Appellant would not have qualified for MassHealth based on the income guidelines of 2021.

Appellants did testify to circumstances which would create a financial hardship, if a health insurance policy that met MCC standards was purchased. She did credibly testify to expenses that consumed most of her net income including support for a disabled relative and grandchildren. Purchasing a health care insurance plan in the private market or through ConnectorCare would have caused Appellant a financial hardship. Appellant’s testimony was further bolstered by the fact that she obtained health insurance in 2022.

In light of these facts Appellant’s penalty of 8 months for Tax Year 2021 is waived in its entirety.

The Appellant should note that the granting of a 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: 8 Number of Months Assessed : 0

If the number of months assessed is zero (0) because your penalty has been overturned, the Connector has notified the Department of Revenue that you should NOT be assessed a penalty for Tax Year 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 Ch. 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: PA21-2599

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

Hearing Issue: Appeal of the 2021 Tax Year Penalty

Hearing Date: July 6, 2023

Decision Date: July 30, 2023

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 Ch. 111M, Section 4 and 956 CMR 6.07.

HEARING RECORD

Appellant appeared at the hearing which was held by telephone on June 6, 2023. The procedures to be followed during the hearing were reviewed with the Appellant who was 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 June 12, 2023.
- Exhibit 2: Appeal Case Information from Schedule HC 2021.
- Exhibit 3: Statement of Grounds for Appeal, with attachments, signed by the Appellant on July 24, 2022.

FINDINGS OF FACT

The record shows, and I so find:

1. The Appellants, age 31 in January 2021, filed his Federal Income Tax as Single with no dependents (Exhibit 2).
2. The Appellant lived in Bristol County in 2021 (Exhibit 2, 3 and Appellant Testimony).
3. The Appellant's Federal Adjusted Gross Income for 2021 was \$34,163 (Exhibit 2).
4. The Appellants did not have health insurance for all months of tax year 2021 (Exhibit 2 and Appellant Testimony).
5. The Appellant has been assessed a twelve-month tax penalty for 2021 (Exhibit 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 Appellants, filing a tax return as Single with no dependents, with an annual adjusted gross income of \$34,163 could afford to pay \$142 per month for health insurance. In accordance with Table 4, the Appellants, age 31, living in Bristol County, could have purchased private insurance for \$268 per month. Private insurance was not affordable for the Appellant.
8. Appellant testified credibly that he was employed full-time and his employer did not offer health insurance in 2021. Appellant would have been eligible for ConnectorCare coverage in 2021, because the Appellants' income of \$34,163 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). He stated he applied for ConnectorCare and found the options provided too expensive for his budget.
9. Appellant testified credibly that his monthly expenses exceeded \$2,500 which consumed most of his take home salary. He said he had health issues in 2021 and would seek treatment from a chiropractor that he would see at least once a month which he had to pay for.
10. Appellant testified that in March of 2023 he obtained health insurance through his new full-time employer.

ANALYSIS AND CONCLUSIONS OF LAW

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

Any health insurance policy must also satisfy the Massachusetts "minimum 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).

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

In accordance with Table 3 of Schedule HC for 2021, the Appellants filing his Federal tax return as Single, with no dependents claimed and with an adjusted gross income of \$34,163, could afford to pay \$142 per month for health insurance. According to Table 4, the Appellant 1, age 31, living in Bristol County, could have purchased a private insurance plan for \$268 a month in Tax year 2021. 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 more than 300% of the federal poverty level which was \$38,280 for a household of one. See Table 2 of Schedule HC 2021 and 956 CMR 12.04 for eligibility criteria. Credible testimony was received from Appellant regarding researching and beginning an application for ConnectorCare. Appellant would not have qualified for MassHealth based on the income guidelines of 2021.

Appellant did testify to circumstances which would create a financial hardship, if a health insurance policy that met MCC standards was purchased. He did credibly testify to expenses that consumed most of his net income. Purchasing a health care insurance plan in the private market or through ConnectorCare was not affordable.

In light of these facts, Appellant's penalty of 12 months for Tax Year 2021 is waived in its entirety.

The Appellant should note that the granting of a 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 Ch. 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

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

Hearing Issue: Appeal of the 2021 Tax Year Penalty

Hearing Date: July 6, 2023

Decision Date: July 30, 2023

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 July 6, 2023. 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 June 12, 2023.

Exhibit 2: Appeal Case Information from Schedule HC 2021.

Exhibit 3: Email requesting appeal hearing from Appellant dated July 28, 2022.

FINDINGS OF FACT

The record shows, and I so find:

1. The Appellant, age 27 in January 2021, filed his Federal Income Tax return as a single person with no dependents (Exhibit 2).
2. The Appellant lived in Essex County in 2021 (Exhibit 2, 3 and Appellant Testimony).
3. The Appellant's Federal Adjusted Gross Income for 2021 was \$36,192 (Exhibit 2).
4. According to her Schedule HC for Tax Year 2021, the Appellant did not have health insurance for five months of tax year 2021 (Exhibit 2 and Appellant Testimony).
5. The Appellant has been assessed a two-month tax penalty for 2021 (Exhibit 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 his Federal tax return as Single with no dependents, with an annual adjusted gross income of \$36,192 could afford to pay \$151 per month for health insurance. In accordance with Table 4, the Appellant, age 27, living in Essex County, could have purchased private insurance for \$263 per month. Private insurance was not affordable for the Appellant.
8. The Appellant testified credibly that he left his full-time employer and applied for unemployment insurance in 2021. He believed his health care insurance was active throughout the year while he appealed his denial of unemployment insurance. 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). He testified that he obtained premium quotes from ConnectorCare and said these were too expensive since he was unemployed (Appellant Testimony). Appellant would not have qualified for MassHealth based on the 2021 income requirements.
9. Appellant testified credibly that his monthly expenses exceeded \$2,200 a month. In addition, he stated that he essentially depleted his savings in Tax Year 2021 paying for living expenses. (Appellant Testimony).
10. Appellant testified believably that obtained full time employment and health care insurance through his new employer in 2022. (Appellant Testimony)

ANALYSIS AND CONCLUSIONS OF LAW

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

Any health insurance policy must also satisfy the Massachusetts “minimum 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).

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

In accordance with Table 3 of Schedule HC for 2021, the Appellant filing his Federal tax return as Single with no dependents claimed and with an adjusted gross income of \$36,192, could afford to pay \$151 per month for health insurance. According to Table 4, the Appellant, age 27, living in Essex County, could have purchased a private insurance plan for \$263 a month. See Schedule HC for 2021. Private insurance was not affordable for the Appellant 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 a household of one. See Table 2 of Schedule HC 2021 and 956 CMR 12.04 for eligibility criteria. He credibly testified that he applied for unemployment insurance and was denied and appealed this decision and did eventually receive it in 2022 (Appellant Testimony)¹.

In addition, Appellant testified to circumstances which would create a financial hardship precluding him from purchasing a health insurance policy that met MCC standards. Appellant testified credibly that he paid out over \$2,400 dollars for monthly living expenses in Tax Year 2021. He added that he used his savings to pay these expenses after he left his full-time employment; could not find employment; and was denied unemployment insurance. Finally, Appellant convincingly testified that he believed that his health insurance continued after he left his employer in 2021.

In light of these facts, it is determined that Appellant would have sustained a financial hardship as defined in 956 CMR 6.08. Appellant’s request to waive the penalty assessed against him of 2 months in Tax Year 2021 is granted.

The Appellant should note that the granting of a 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.

¹ Appellant should note that if he received unemployment insurance, he might have been eligible for a no or low cost monthly ConnectorCare health insurance plan, even if he would not otherwise qualify based on income.

PENALTY ASSESSED

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

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

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

Hearing Issue: Appeal of the 2021 Tax Year Penalty

Hearing Date: July 13, 2023

Decision Date: August 21, 2023

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 July 13, 2023. 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 June 20, 2023.

Exhibit 2: Appeal Case Information from Schedule HC 2021.

Exhibit 3: Letter signed by the Appellant received by Connector Authority on August 17, 2022.

FINDINGS OF FACT

The record shows, and I so find:

1. The Appellant, age 63 in January 2021, filed his Federal Income Tax return as a single person with no dependents (Exhibit 2).
2. The Appellant lived in Middlesex County in 2021 (Exhibit 2, 3 and Appellant Testimony).
3. The Appellant's Federal Adjusted Gross Income for 2021 was \$50,249 (Exhibit 2).
4. According to his Schedule HC for Tax Year 2021, the Appellant did not have health insurance for six months of tax year 2021 (Exhibit 2 and Appellant Testimony).
5. The Appellant has been assessed a three-month tax penalty for 2021 (Exhibit 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 Single with no dependents, with an annual adjusted gross income of \$50,249 could afford to pay \$318 per month for health insurance. In accordance with Table 4, the Appellant, age 63, living in Middlesex County, could have purchased private insurance for \$401 per month. Private insurance was not affordable for the Appellant.
8. Appellant would not have been eligible for ConnectorCare coverage in 2021, because the Appellant's income of \$50,249 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).
9. Appellant testified credibly that he was not certain if his full-time employer offered a health insurance plan. He said he worked full time in 2021, had Health Insurance through the HealthConnector (although he was above the 300% of the Federal poverty line threshold) in 2021 and eventually got coverage through Medicare in 2022 (Appellant Testimony).
10. Appellant testified believably that he had significant monthly expenses in 2021-including: a mortgage payment; food; utilities; and dental expenses out-of-pocket totaling \$2,500 (Appellant Testimony).

ANALYSIS AND CONCLUSIONS OF LAW

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

Any health insurance policy must also satisfy the Massachusetts "minimum 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).

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

Appellant testified credibly that he was employed by different full and part-time employers in 2021 and was not sure if they offered health care plans for employees. In accordance with Table 3 of Schedule HC for 2021, the Appellant filing his Federal tax return as Single with no dependents claimed and with an adjusted gross income of \$50,249, could afford to pay \$318 per month for health insurance. According to Table 4, the Appellant, age 63, living in Middlesex County, could have purchased a private insurance plan for \$401 a month. See Schedule HC for 2021. Private insurance was not affordable for the Appellant in tax year 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 a household of one (See Table 2 of Schedule HC 2021 and 956 CMR 12.04 for eligibility criteria). However, he testified credibly that he did obtain a policy via ConnectorCare in July of 2021, and to confusion regarding which year and what he applied for (ConnectorCare, Medicaid and/or Social Security). Appellant testified that he currently has health insurance through Medicaid (Appellant Testimony).

In addition, Appellant testified to many circumstances which would create a financial hardship precluding him from purchasing a health insurance policy that met MCC standards. Appellant testified credibly that he paid \$2,500 per month for living expenses in Tax Year 2021. He stated he also had to pay out-of-pocket for dental work performed in 2021.

In light of these facts, it is determined that Appellant would have sustained a financial hardship as defined in 956 CMR 6.08. Appellant's request to waive the penalty assessed against him of 3 months in Tax Year 2021 is granted.

The Appellant should note that the granting of a 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: Connector Appeals Unit

FINAL APPEAL DECISION: PA21-2619

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

Hearing Issue: Appeal of the 2021 Tax Year Penalty

Hearing Date: July 13, 2023

Decision Date: August 25, 2023

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 July 13, 2023. 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 June 20, 2023.

Exhibit 2: Appeal Case Information from Schedule HC 2021.

Exhibit 3: Statement of Grounds for Appeal dated August 16, 2022.

FINDINGS OF FACT

The record shows, and I so find:

1. The Appellant, age 63 in January 2021, filed his Federal Income Tax return as Married Filing a Joint return with no dependents. His wife was not penalized for Tax year 2021 (Exhibit 2).
2. The Appellant lived in Hampden County in 2021 (Exhibit 2, 3 and Appellant Testimony).
3. The Appellant's Federal Adjusted Gross Income for 2021 was \$206,023 (Exhibit 2).
4. According to his Schedule HC for Tax Year 2021, the Appellant did not have health insurance for eight months of tax year 2021 (Exhibit 2 and Appellant Testimony).
5. The Appellant has been assessed a five-month tax penalty for 2021 (Exhibit 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 his Federal tax return as Married Filing a Joint Return with no dependents, with an annual adjusted gross income of \$206,023 could afford to pay \$1,373 per month for health insurance. In accordance with Table 4, the Appellant, age 63, living in Hampden County, could have purchased private insurance for \$425 per month. Private insurance was affordable for the Appellant.
8. 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 \$51,720 for a household of two in 2021 (See Table 2 of Schedule HC-2021 and 956 CMR 12.04).
9. Appellant testified credibly that he was employed in a contracting position and the employment arrangement was confusing due to his reporting through a third-party administrator. He further credibly testified that he was made aware when he went for medical treatment in October of 2021, that his health insurance plan was terminated at the end of March 2021. He stated that he went directly to the plan administrator and told them that he wanted to immediately get back on the health insurance plan, but was told it was too late in the policy year. He further testified that his wife was on Medicare in 2021. He said he was forced to obtain health care insurance on the private market beginning in 2022. He stated that he now has health insurance through Medicare (Appellant Testimony).
10. Appellant testified that that he had no significant financial impediments that would make the purchase of health insurance a financial hardship. He stated that due to the circumstances explained he did not have insurance (Appellant Testimony).

ANALYSIS AND CONCLUSIONS OF LAW

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

Any health insurance policy must also satisfy the Massachusetts “minimum 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).

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

Appellant testified credibly that he was employed full-time in 2021 as a contract employee. In accordance with Table 3 of Schedule HC for 2021, the Appellant filing his Federal tax return as Married filing Joint with no dependents claimed and with an adjusted gross income of \$206,023, could afford to pay \$1,373 per month for health insurance. According to Table 4, the Appellant, age 63, living in Hampden County, could have purchased a private insurance plan for \$425 a month (he testified that his wife had health care via Medicare). See Schedule HC for 2021. Private insurance was affordable for the Appellant in tax year 2021.

Although 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 \$51,720 for a household of two (See Table 2 of Schedule HC 2021 and 956 CMR 12.04 for eligibility criteria). He testified credibly that he did obtain a policy via ConnectorCare in 2022. He testified that he currently has health insurance through Medicaid.

In addition, Appellant testified that he has no circumstances which would create a financial hardship precluding him from purchasing a health insurance policy that met MCC standards. Appellant testified credibly that he discovered in October 2021, after being told by a health care provider, that his employer (via a third-party administrator) cancelled his health insurance coverage. He testified, believably, that he tried in vain to get reinstated in the plan, but was told it was too late in the policy year.

Appellant was on notice in October 2021 that he was uninsured. He had the economic means to pay for a health care insurance plan on the private market and did not do so. His testimony about his lack of knowledge of non-coverage from May to October 2021 was credible and he should not be penalized for these months for being uninsured. However, for the months of November and December 2021 he was on notice and chose not to be insured. The penalty for these two months should not be waived.

In light of these facts, I am exercising my discretion as the Hearing Officer and waiving the penalty in part to account for Appellant’s lack of knowledge about being uninsured for the months of May through October 2021. A penalty will remain for two months to account for the months when he was on notice and did not get health insurance.

The Appellant should note that the granting of a partial 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: 2

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

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

Hearing Issue: Appeal of the 2021 Tax Year Penalty

Hearing Date: August 8, 2023

Decision Date: August 21, 2023

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 8, 2023. 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 July 7, 2023.
- Exhibit 2: Appeal Case Information from Schedule HC 2021.
- Exhibit 3: Statement of Grounds for Appeal dated September 6, 2022 with attachments.

FINDINGS OF FACT

The record shows, and I so find:

1. The Appellant, age 43 in January 2021, filed her Federal Income Tax return as Single with no dependents (Exhibit 2).
2. The Appellant lived in Berkshire County from May through December of 2021 (Exhibit 2, 3 and Appellant Testimony).
3. The Appellant's Federal Adjusted Gross Income for 2021 was \$93,558 (Exhibit 2).
4. According to her Schedule HC for Tax Year 2021, the Appellant did not have health insurance for twelve months of tax year 2021 (Exhibit 2 and Appellant Testimony).

5. The Appellant has been assessed a five-month tax penalty for 2021 (Exhibit 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 Single with no dependents, with an annual adjusted gross income of \$93,558 could afford to pay \$624 per month for health insurance. In accordance with Table 4, the Appellant, age 43, living in Berkshire County, could have purchased private insurance for \$311 per month. Private insurance was affordable for the Appellant.
8. Appellant testified that she went through the processes of applying for a HealthConnector policy, but claimed she was not allowed to apply - since she was under the impression she had missed the open enrollment period.
9. 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. Appellant testified credibly that she lost her full-time employment and then her health care insurance in May of 2021, shortly after moving to Massachusetts. She added that she obtained employment in Massachusetts as a consultant and a health care plan was not available from the employer. (Appellant Testimony).
11. Appellant believably testified that she had significant monthly expenses in 2021-including: housing costs; food; utilities; financial support for elderly parents and medical expenses out-of-pocket totaling \$5,000 (Appellant Testimony).
12. Appellant testified that she moved to Washington State in 2022 and obtained health Insurance (Appellant Testimony).

ANALYSIS AND CONCLUSIONS OF LAW

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

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

Any health insurance policy must also satisfy the Massachusetts "minimum 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).

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

Appellant testified credibly that she was employed by different full and part-time employers in 2021 and was not sure if they offered health care plans for employees. In accordance with Table 3 of Schedule HC for 2021, the Appellant filing her Federal tax return as Single with no dependents claimed and with an adjusted gross income of \$93,558, could afford to pay \$626 per month for health insurance. According to Table 4, the Appellant, age 43, living in Berkshire County, could have purchased a private insurance plan for \$311 a month. See Schedule HC for 2021. Private insurance was affordable for the Appellant in tax year 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 a household of one (See Table 2 of Schedule HC 2021 and 956 CMR 12.04 for eligibility criteria). She testified credibly that she went through the process of applying for a ConnectorCare plan in 2021, but was denied due to being out of the open enrollment period. She did not offer testimony whether or not she appealed this denial based on a significant life event or otherwise. Appellant testified that she currently has health insurance in her new state of residence.

In addition, Appellant testified to circumstances which would create a financial hardship precluding her from purchasing a health insurance policy that met MCC standards. Appellant testified credibly that she paid over \$5,000 per month for living expenses in Tax Year 2021. She stated he also had to pay out-of-pocket for medical expenses in 2021.

In light of these facts, it is determined that Appellant would have sustained a financial hardship as defined in 956 CMR 6.08. Appellant's request to waive the penalty assessed against her of 5 months in Tax Year 2021 is granted.

The Appellant should note that the granting of a 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

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

Hearing Issue: Appeal of the 2021 Tax Year Penalty

Hearing Date: August 8, 2023

Decision Date: August 25, 2023

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 July 13, 2023. 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 July 7, 2023.

Exhibit 2: Appeal Case Information from Schedule HC 2021.

Exhibit 3: Letter signed by the Appellant received by Connector Authority on September 30, 2022.

FINDINGS OF FACT

The record shows, and I so find:

1. The Appellant, age 33 in January 2021, filed his Federal Income Tax return as Married Filing Separate with no dependents (Exhibit 2).
2. The Appellant lived in Suffolk County in 2021 (Exhibit 2, 3 and Appellant Testimony).
3. The Appellant's Federal Adjusted Gross Income for 2021 was \$138,898 (Exhibit 2).
4. According to his Schedule HC for Tax Year 2021, the Appellant did not have health insurance for five months of tax year 2021 (Exhibit 2 and Appellant Testimony).
5. The Appellant has been assessed a two-month tax penalty for 2021 (Exhibit 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 his Federal tax return as Married Filing Separately with no dependents, with an annual adjusted gross income of \$138,898 could afford to pay \$926 per month for health insurance. In accordance with Table 4, the Appellant, age 33, living in Suffolk County, could have purchased private insurance for \$268 per month (He testified his wife was employed full time and had her own health care insurance). Private insurance was affordable for the Appellant.
8. Appellant testified credibly that he was employed full time in 2021 and his employer did offer health insurance to employees. He added that through a series of miscommunications and missteps with and by his employer - he was not added to the plan although he should have been. He said this was during the Covid epidemic, thus all communication was remote. He added that he did know he did not have health insurance until he learned he was not covered in June of 2021. He said his employer said it he could not get back on the plan, but he found a loophole and re-enrolled in the employer health care plan (Appellant Testimony and Exhibit 3).
9. Appellant's income of \$138,898 was more 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). Appellant would not have been eligible for ConnectorCare coverage in 2021.
10. Appellant testified credibly that the vast majority of his adjusted income was from his wife's position since he made a very low salary in higher education. He added that his wife had health care insurance through her employer in 2021 (Appellant Testimony).

ANALYSIS AND CONCLUSIONS OF LAW

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

Any health insurance policy must also satisfy the Massachusetts “minimum 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).

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

In accordance with Table 3 of Schedule HC for 2021, the Appellant filing his Federal tax return as Married Filing Separately with no dependents claimed and with an adjusted gross income of \$138,898, could afford to pay \$926 per month for health insurance. According to Table 4, the Appellant, age 33, living in Suffolk County, could have purchased a private insurance plan for \$268 a month (he testified that his wife had health care via her employer). See Schedule HC for 2021. Private insurance was affordable for the Appellant in tax year 2021.

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 \$51,720 for a household of two (See Table 2 of Schedule HC 2021 and 956 CMR 12.04 for eligibility criteria). Appellant would not have been eligible for MassHealth in accordance with the income guidelines in 2021. Appellant testified that he currently has health insurance through his full-time employer.

No testimony was solicited from Appellant as to circumstances which would create a financial hardship, precluding him from purchasing a health insurance policy that met MCC standards. Appellant convincingly testified that he did not seek a quote on policies through the HealthConnector, nor did he inquire into a plan through MassHealth. He testified, believably, that a series of miscommunications and errors from his employer resulted in his being unenrolled from the employer’s health care plan. He stated when he learned of his un-enrollment and through his own initiative, he was re-enrolled and obtained MCC compliant health care coverage for the remainder of 2021. This adequately explains why he did not have health insurance for the months of January through May of 2021. Since Appellant’s testimony was credible on why he did not have health care (mistakes by his employer) - no analysis is required as to a financial hardship which would result by purchasing a health care plan.

In light of these facts, it is determined that Appellant did not have health insurance for the months in question due to an error on his employer’s part. Appellant’s request to waive the penalty assessed against him of 2 months in Tax Year 2021 is granted.

The Appellant should note that the granting of a 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: 2 Number of Months Assessed: 0

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

FINAL APPEAL DECISION: PA 22-727

Appeal Decision: The penalty is upheld in part.

Hearing Issue: Appeal of the 2022 Tax Year Penalty

Hearing Date: August 14, 2023

Decision Date: September 21, 2023

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 14, 2023. The procedures to be followed during the hearing were reviewed with the Appellant who was then sworn in. Exhibits were marked and admitted in evidence with no objection from the Appellant. The Appellant testified.

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

- | | | |
|---------------|---|---------|
| Exhibit 1: | Appeal Case Information from Schedule HC. | (1 P). |
| Exhibit 2: | Statement of Grounds for Appeal 2022 Signed by Appellant on 3/10 /2023. | (2 PP). |
| Exhibit 2(a): | Statement Submitted by the Appellant with Appeal3/10 /2023. | (1P). |
| Exhibit 3: | Health Connector’s Notice of Hearing dated 7/12/2023 | (2 PP). |

The record was left open until September 15, 2023, for the Appellant to submit proof of of medical and hospital expenses and payment plan. The Appellant did not submit any documents.

The record shows, and I so find:

1. Appellant, who filed a 2022 Massachusetts tax return filed single with a family size of 1, was age 32 in 2022, lived in Bristol County, and had zero (0) dependents. (Exhibit 1).
2. Appellant’s Federal Adjusted Gross Income for 2022 was \$74,135. (Exhibit 1).

3. Appellant testified he had insurance through the Connector for part of 2021 through a reimbursement arrangement where his employer made the payment via his portal. (Appellant's Testimony).
4. Appellant did not realize he lost insurance until January 2022 after receiving bills for unpaid medical expenses in the amount of approximately \$7,000. (Appellant's Testimony, Exhibits 1, 2).
5. Appellant did not investigate obtaining insurance through the Connector because he was not confident that he would be reimbursed through the prior arrangement and that premiums would be paid. (Appellant's Testimony, Exhibits 1 and 2).
6. Appellant testified that he could not afford the cost of the premiums as he was paying \$300 a month in medical debt and because his rent increased in 2022 after his fiancé who was assisting with rent payments moved out. (Appellant's Testimony).
7. According to Table 3 Appellant could have afforded \$494.23 per month for health insurance in 2022. According to Table 4 Appellant could have purchased insurance for \$290.00 per month.
8. The Appellant would not have been eligible for ConnectorCare coverage in 2022 because the Appellant's income was more than 300% of the poverty level, which was \$38,640.00. (See Table 2 of Schedule HC 2022, Appellant's Testimony).
9. The Appellant Employer did not offer Employer Sponsored Insurance ("ESI"). (Exhibit 1, Appellant Testimony).
10. The Appellant's monthly living expenses in 2022 included: Rent: \$1,300, Utilities: \$250, Car Payment: \$300, Car Insurance: \$300, Cell Phone: \$150, Internet: \$80, Food \$800, Credit Cards: \$600, Medical Expenses \$300, totaling \$ 4,080. (Appellant's Testimony).
11. The Appellant has health insurance in 2023 which is approximately \$350-400 a month. (Appellant's Testimony).
12. The Appellant testified his net take home pay was \$800 a week during the time he was being penalized. (Appellant Testimony).
13. In addition to the foregoing, I take administrative notice of the 2022 Schedule HC Instructions and Worksheets, available at <http://www.mass.gov/dor/docs/dor/health-care/2022>, and in particular, Tables 1-6 which, as discussed below, include the Affordability Schedule and other financial information used in making 2022 individual mandate tax penalty determinations.

ANALYSIS AND CONCLUSIONS OF LAW

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

The Appellant adduced evidence at the hearing submitted a statement of grounds for appeal (Ex. 2) with the appeal and checked that during 2022 that the individual mandate did not apply to him because the expense of purchasing health insurance during 2022 would have caused him a deprivation of food and other necessities and that applying the HC affordability tables to him would have been inequitable. (Exhibit 2 and Appellants' Testimony).

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

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

The evidence provided by the Appellant established that his income for 2022, \$74,135 was more than 300% of the federal poverty level, which for 2022 was \$38,640.00 for a single person. According to Table 3 of Schedule HC for 2022, the Appellant could have afforded \$494.23 per month. According to Table 4, Appellant, age and living 32 living in Bristol County during the time he was being penalized for not having insurance, could have purchased insurance for \$290 per month. Individual coverage was affordable through the individual market for the Appellant in 2022 (Schedule HC for 2022).

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

has an actuarial value of at least 60 percent. In this case, as referenced above, the Appellant did not have access to ESI since it was not offered by his employer. (Appellant's Testimony, Exhibit 6).

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

The Appellant's adjusted gross income was \$74,135. His monthly living expenses totaled \$4,080 including payment of medical debt. The Appellant did not substantiate and corroborate proof of said medical expenses. I do not give substantial weight that the Appellant's net income was \$800 a week where his annual adjusted gross income was \$74,135. (Exhibit 1, see par. 12 above). Accordingly, I conclude that purchasing health insurance during 2022 at \$494.23 per month, given the Appellant's adjusted gross income of \$74,135, would not have caused the Appellant to experience a financial hardship. 956 CMR 6.08 (1)(e) & (3). However, because the importance of the mandate has not been most on the Appellant where he testified, he has health insurance in 2023, and in order to mitigate the harshness of a full penalty, I reduce the Appellant's assessed tax penalty from twelve (12) months to six (6) months.

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

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

PENALTY ASSESSED

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

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

NOTIFICATION OF YOUR RIGHT TO APPEAL TO COURT

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

Cc: Connector Appeals Unit

Hearing Officer

ADDENDUM

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

Massachusetts Health Connector Appeals Unit

Tax Penalty Appeal Decision—Docket No. PA22-785

Appeal Decision: Appeal Approved -- 2022 tax penalty overturned.

Hearing Issue: Appeal of the 2022 Tax Year Penalty

Hearing Date: October 4, 2023

Decision Date: October 9, 2023

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 – 2022;
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 2022. The basis for the penalty was that the Appellant was not insured at

any time in 2022. 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 2022 as a single person with no dependents. The Appellant's federal adjusted gross income (AGI) for 2022 was \$31,372. Exhibit 1.
3. The Appellant was 48 years old at the beginning of 2022 and resided in [name of city or town omitted] in Bristol County, Massachusetts. Exhibit 1.
4. The Appellant's 2022 AGI (\$31,372) was less than 300% of the federal poverty level (\$38,640 for a one person household). DOR Table 2. On this basis I infer that it is likely that the Appellant would satisfy the financial eligibility requirements for government-subsidized health insurance.
5. Based on DOR Table 3 the Appellant could afford to pay 4.20% of his income -- or \$110 per month -- for health insurance coverage in 2022. (The calculation is 4.20% multiplied by \$31,372 AGI = \$1,317.64 per year divided by 12 months = \$109.80 per month.)
6. Based on DOR Table 4 (Region 2) the Appellant could obtain individual health insurance coverage at his age and location for \$364 per month in 2022.
7. I find that DOR Table 3 (see above) does not provide an accurate picture of the Appellant's financial condition because it does not take into account his child support payments (his former Wife claims the children as dependents on her tax return). The Appellant pays \$150 per week to the DOR child support unit, an amount that is now increased to \$210 per week to cover arrearages. Testimony.
8. Until he was laid off in February 2021 the Appellant was a long-term employee (19 years) of a major electronics/department store where he worked full-time. The Appellant continued his health insurance coverage under COBRA after his layoff, and he collected unemployment insurance benefits. Testimony.
9. The Appellant started a new job as a landscaper in August 2021 at a decreased pay level. The new job did not offer health insurance as a job benefit. Testimony.

10. The Appellant applied to the Health Connector for health insurance coverage in connection with his new landscaping job, but his application was denied. Appellant believes that the severance pay that he received from his former employer is the reason that his Health Connector application was denied. Testimony.
11. The Appellant's new landscaping job is seasonal. He does not get paid during the winter months. The Appellant also does not get paid if rain or other conditions keep the landscaping crew from working outdoors. Testimony.
12. The Appellant's living expenses include an \$8,000 credit card balance, \$420 per month for car payment, \$130 per month for car insurance, and \$1,000 per month for rent. Testimony.
13. Except as set forth in the foregoing findings of fact, I adopt the facts set forth in Exhibit 1 as my own findings of fact. Exhibit 1 is a computer printout prepared by the Massachusetts Department of Revenue (DOR) that extracts information submitted by the Appellant on Schedule HC as part of the Appellant's 2022 Massachusetts income tax return.
14. I take administrative notice of the financial information set forth in Tables 1 through 6 of the DOR 2022 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 2022. (The DOR instructions are published online at <http://www.mass.gov/dor/2022ScheduleHCInstructions> 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 2022.)

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 2022. 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 – 2022 that the Appellant signed and filed in this case. See Exhibit 2.

In this case, the Appellant is recovering from his February 2021 layoff from a retail job that he held for 19 years and that provided health insurance as a job benefit. The Appellant extended his health insurance under COBRA (an uncommon choice since it is expensive). The Appellant got a new job as a landscaper in August 2021 (a prompt job change during the coronavirus pandemic), but his new employer does not provide health

insurance coverage as a job benefit. The Appellant applied for coverage through the Health Connector, but his application was denied.

The DOR assessed a 12 month penalty because the Appellant did not have health insurance coverage in 2022. The objective affordability standards in DOR Tables 3 and 4 support the Appellant’s assertion that he cannot afford health insurance based on his income from the landscaping job. The Appellant can afford to pay \$110 per month for insurance but that coverage would cost \$364 per month. See Findings of Fact, Nos. 5 and 6, above. In addition, under DOR Table 2, the Appellant’s \$31,372 federal adjusted gross income in 2022 is less than 300% of the federal poverty level. See Findings of Fact, No. 4, above.

The Appellant’s child support obligation – which is not reflected in Exhibit 1 or in DOR Tables 3 and 4 above – is further evidence that the Appellant could not afford health insurance in 2022. The Appellant was required to pay \$150 per week to the DOR child support unit, an amount that has increased to \$210 per week because the Appellant was behind in his support payments. See Findings of Fact, No. 7, above. For other living expenses see Findings of Fact, No. 12, above.

After considering all the circumstances, I conclude that it is appropriate to waive the entire penalty assessed against the Appellant for 2022. See, e.g., 956 Code Mass. Regs. 6.08 (1) (e) ([The Appellant] experienced financial circumstances such that the expense of purchasing health insurance that met minimum creditable coverage standards would have caused him to experience a serious deprivation of food, shelter, clothing or other necessities.”).

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 2022 for the amount equal to one half of the lowest cost health insurance plan available to you for each month you have been assessed the penalty, as listed above, plus applicable interest back to the due date of the return without regard to extension.

OR

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

NOTIFICATION OF YOUR RIGHT TO APPEAL TO COURT

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

Hearing Officer

Cc: Massachusetts Health Connector Appeals Unit

RECOMMENDATION. There has been a substantial change in your employment and finances since your layoff, and I believe that you should take further steps to obtain health insurance.

- November 1 is the beginning of the Health Connector's open enrollment period that will apply new financial guidelines to determine eligibility and premium costs for new health insurance policies starting January 1, 2024. You should submit a new application that provides up-to-date information about your current financial situation. You can use the Health Connector website at www.mahealthconnector.org or call 1-877-623-6765.
- You may wish to seek advice and help outside the Health Connector from Health Care For All, a private, non-profit organization. You can use the free consumer helpline at 1-800-272-4232 or the website at www.hcfama.org.

This process is likely to take some time and many people will be applying so I suggest that you get started right away.

Massachusetts Health Connector Appeals Unit

Tax Penalty Appeal Decision—Docket No. PA22-815

Appeal Decision: Appeal Approved -- 2022 tax penalty overturned.

Hearing Issue: Appeal of the 2022 Tax Year Penalty

Hearing Date: October 11, 2023

Decision Date: October 26, 2023

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 – 2022);
3. Health Connector’s Notice of Hearing (2 pages);
4. Appellant’s Handwritten Letter in Support of Appeal (1 page);
5. Apartment Lease Renewal;
6. ECSI Payments;
7. YES Utility Charges;
8. Capitol One Credit Card; and
9. Gmail College Loan Payment.

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 2022. The basis for the penalty was that the Appellant was not insured at any time in 2022. 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 2022 as a single person with no dependents. The Appellant's federal adjusted gross income (AGI) for 2022 was \$21,435. Exhibit 1.
3. The Appellant was 26 years old at the beginning of 2022 and resided in [name of city or town omitted] in Plymouth County, Massachusetts. Exhibit 1.
4. The Appellant's 2022 AGI (\$ 21,435) was substantially less than 300% of the federal poverty level (\$38,640 for a one person household). DOR Table 2. On this basis I infer that it is likely that the Appellant would satisfy the financial eligibility requirements for government-subsidized health insurance.
5. Based on DOR Table 3 the Appellant could afford to pay 2.90 % of his income -- or \$52 per month -- for health insurance coverage in 2022. (The calculation is 2.90% multiplied by \$21,435 AGI = \$621.61 per year divided by 12 months = \$ 51.80 per month.)
6. Based on DOR Table 4 (Region 2) the Appellant could obtain individual health insurance coverage at his age and location for \$277 per month in 2022.
7. The Appellant was insured under his parents' health insurance policy in 2021. He was no longer eligible for coverage under his parents' plan in January 2022 because he had reached the age of 26 years. The Appellant was not insured at any time in 2022. Testimony.
8. The Appellant lost jobs on multiple occasions in 2022, chiefly due to issues around the coronavirus pandemic (COVID-19), as reflected in his low income (\$21,435

AGI). See Exhibit 4. The Appellant applied for – but did not receive – unemployment insurance benefits. Testimony.

9. The Appellant applied to the Health Connector for health insurance coverage. The Appellant could not afford the \$250 per month premium quotations, and he did not enroll in a health insurance plan. Testimony. See Findings of Fact, No. 5, above (afford \$52 per month for health insurance). (Note that the hearing record does not contain any information from the Health Connector.)
10. The Appellant also produced other evidence to support his appeal, including his rent (\$2,125 per month); student loan payments; and credit card balance (\$3,142). Exhibits 5, 6, 7, 8, and 9.
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 2022 Massachusetts income tax return.
12. I take administrative notice of the financial information set forth in Tables 1 through 6 of the DOR 2022 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 2022. (The DOR instructions are published online at <http://www.mass.gov/dor/2022ScheduleHCInstructions> 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 2022.)

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 2022. 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 – 2022 that the Appellant signed and filed in this case. See Exhibit 2.

The Appellant in this case has presented persuasive evidence that he could not afford health insurance in 2022 after he could not continue coverage under his parents' health insurance policy and he lost multiple jobs in 2022 during the coronavirus pandemic. In addition to the evidence presented by the Appellant the objective standards set forth in the DOR Tables establish that the Appellant could not afford health insurance in 2022. The Appellant could afford to pay only \$52 per month for health

insurance under DOR Table 3 but insurance would cost \$277 per month under DOR Table 4. See Findings of Fact, Nos. 5 and 6, above.

After considering all the circumstances, I conclude that it is appropriate to waive the entire penalty assessed against the Appellant for 2022. See, e.g., 956 Code Mass. Regs. 6.08 (1) (e) ([The Appellant] experienced financial circumstances such that the expense of purchasing health insurance that met minimum creditable coverage standards would have caused him to experience a serious deprivation of food, shelter, clothing or other necessities.”).

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 2022 for the amount equal to one half of the lowest cost health insurance plan available to you for each month you have been assessed the penalty, as listed above, plus applicable interest back to the due date of the return without regard to extension.

OR

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

NOTIFICATION OF YOUR RIGHT TO APPEAL TO COURT

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

Hearing Officer

Cc: Massachusetts Health Connector Appeals Unit

RECOMMENDATION. The reasons that supported my decision to waive the DOR penalty assessment for 2022 will not necessarily apply to 2023 or 2024.

The Health Connector's open enrollment period will begin in November 2023 for insurance coverage that takes effect in January 2024. I recommend that you file a new application that presents up-to-date Information about your situation. That should enable you to find a health insurance plan to meets your needs. Alternatively, you may obtain information to show that you cannot afford health insurance for a future appeal.

You can apply online at www.mahealthconnector.org or by phone at 1-800-841-2900. There are also some walk-in centers if you want to seek one near you.

Massachusetts Health Connector Appeals Unit

Tax Penalty Appeal Decision—Docket No. PA22-820

Appeal Decision: Appeal Approved -- 2022 tax penalty overturned

Hearing Issue: Appeal of the 2022 Tax Year Penalty

Hearing Date: October 11, 2023

Decision Date: October 27, 2023

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 – 2022);
3. Health Connector’s Notice of Hearing (2 pages); and
4. Appellant’s Letter in Support of Appeal (1 page).

FINDINGS OF FACT

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

1. The Appellant appealed from the Department of Revenue's assessment of a 12 month penalty for 2022. The basis for the penalty was that the Appellant was not insured at any time in 2022. Exhibits 1 and 2. Based on Exhibit 1, the Appellant's hearing testimony, and Exhibit 4, I find that the penalty assessment is accurate.
2. The Appellant filed a Massachusetts personal income tax return for 2022 as a single person with no dependents. The Appellant's federal adjusted gross income (AGI) for 2022 was \$26,266. Exhibit 1.
3. The Appellant was 29 years old at the beginning of 2022 and resided in [name of city or town omitted] in Franklin County, Massachusetts. Exhibit 1.
4. The Appellant's 2022 AGI (\$26,266) was less than 300% of the federal poverty level (\$38,640 for a one person household). DOR Table 2. On this basis I infer that it is likely that the Appellant would satisfy the financial eligibility requirements for government-subsidized health insurance.
5. Based on DOR Table 3 the Appellant could afford to pay 4.2 % of her income -- or \$92 per month -- for health insurance coverage in 2022. (The calculation is 4.20% multiplied by \$26,266 AGI = \$1,103.17 per year divided by 12 months = \$91.93 per month.)
6. Based on DOR Table 4 (Region 1) the Appellant could obtain individual health insurance coverage at her age and location for \$295 per month in 2022.
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 2022 Massachusetts income tax return.
8. I take administrative notice of the financial information set forth in Tables 1 through 6 of the DOR 2022 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 2022. (The DOR instructions are published online at <http://www.mass.gov/dor/2022ScheduleHCInstructions> 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 2022.)

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 2022. 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 – 2022 that the Appellant signed and filed in this case. See Exhibit 2.

The appeal in this case may be resolved by the objective affordability standards set forth in DOR Tables 3 and 4.

Based on the Appellant’s federal adjusted gross income reported on her 2022 state income tax return (\$26,266 AGI), the Appellant could afford to pay only \$92 per month for health insurance. By comparison, health insurance would cost the Appellant \$295 per month. See Findings of Fact, Nos. 5 and 6, above. See also Exhibit 1.

Since the affordability issue is clear, it is not necessary to base my decision on the personal reasons that the Appellant set forth in Exhibit 4 (her letter supporting her appeal), although I did find her reason credible based on her testimony at the appeal hearing. In addition, I note that the Appellant testified that she obtained health insurance coverage in 2023 after working with a counselor.

After considering all the circumstances, I conclude that it is appropriate to waive the entire penalty assessed against the Appellant for 2022. See, e.g., 956 Code Mass. Regs. 6.08 (1) (e) (“[The Appellant] experienced financial circumstances such that the expense of purchasing health insurance that met minimum creditable coverage standards would have caused [her] to experience a serious deprivation of food, shelter, clothing or other necessities.”).

Since the Health Connector’s **open enrollment period** for health insurance coverage begins on November 1, 2023 (approximately when you will receive this appeal decision in the mail), I remind you that you must take appropriate steps now to renew your health insurance coverage that will take effect in January 2024. You can renew your existing coverage with your current insurer or apply to the Health Connector to shop for coverage from other insurers. To apply, you can use the Health Connector’s website at www.mahealthconnector.org or by telephone at 1-877-523-6765. Alternatively, you could also get help from Health Care For All, a private, non-profit organization, on its website (www.hcfama.org) or by calling its free consumer helpline at 1-800-272-4232.

PENALTY ASSESSED

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

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

OR

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

NOTIFICATION OF YOUR RIGHT TO APPEAL TO COURT

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

Hearing Officer

Cc: Massachusetts Health Connector Appeals Unit

Massachusetts Health Connector Appeals Unit

Tax Penalty Appeal Decision—Docket No. PA22-828

Appeal Decision: Appeal Approved -- 2022 tax penalty overturned.

Hearing Issue: Appeal of the 2022 Tax Year Penalty

Hearing Date: October 4, 2023

Decision Date: October 18, 2023

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 – 2022);
3. Health Connector’s Notice of Hearing (2 pages);
4. First Employer’s Letter;
5. Second Employer’s Letter;
6. Multiple Apartment Lease Documents (Massachusetts);
7. Multiple Apartment Lease Payment Documents (Massachusetts);
8. Tenants’ Lease Payment Documents; and
9. Appellant’s Apartment Credit Card Purchases.

FINDINGS OF FACT

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

1. The Appellant appealed from the Department of Revenue's assessment of a 3 month penalty for 2022. The basis for the penalty was that the Appellant was insured for the months of January – June 2022 but was not insured for the months of July—December 2022. Exhibits 1 and 2. Based on Exhibit 1 and the Appellant's hearing testimony, I find that the penalty assessment is accurate. (The calculation is 12 months minus 6 months insured = 6 months uninsured minus 3-month administrative grace period = 3penalty months.)
2. I find, based on the evidence in the hearing record, that the Appellant was a part-year Massachusetts resident in 2022. The Appellant resided in Rhode Island January – May 2022, and she resided in Massachusetts June – December 2022. Testimony and Exhibits 6, 7, and 8. (The Appellant did not check the part-year resident block on Exhibit 1.)
3. I find that the Appellant was insured for the months of January – June 2022 in Rhode Island. She was not insured in Massachusetts for the remaining months in 2022 (July – December). Testimony and Exhibits 1, 4 and 5.
4. The Appellant was employed by a dental practice in Massachusetts that was in the process of being sold (Employer No. 1). The expectation was that the Appellant would be insured as a job benefit when the sale was completed. The sale was not completed until October 2022 (somewhat later than anticipated), and the Appellant was offered health insurance by Employer No. 2 on January 25, 2023, after a 90 day wait period imposed by Employer No. 2 and/or its insurer. Testimony and Exhibits 4 and 5.
5. On January, 25, 2023, the Appellant enrolled in the health plan offered by Employer No. 2. The Appellant has maintained health insurance coverage since January 2023. Testimony. See also Exhibit 5.
6. The Appellant was not insured in Massachusetts for the months of July – December 2022 while she was awaiting the completion of the dental practice sale by

Employer No. 1 and the 90 day wait period imposed by Employer No. 2 after the sale was completed.

7. The Appellant sustained substantial expenses in her move to Massachusetts to work for the dental practice. The rent was \$3,600 per month, which she shared equally with a roommate plus first and last months rent payable up front as a security deposit. The Appellant's moving expenses also included purchases for her new apartment (e.g., Ikea). Testimony and Exhibits 6 – 9.
8. 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 2022 Massachusetts income tax return.
9. I take administrative notice of the financial information set forth in Tables 1 through 6 of the DOR 2022 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 2022. (The DOR instructions are published online at <http://www.mass.gov/dor/2022ScheduleHCInstructions> 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 2022.)

ANALYSIS AND CONCLUSIONS OF LAW

The case is before me on the Appellant's appeal from the state Department of Revenue's (DOR) assessment of a 3 month tax penalty because the Appellant did not have health insurance coverage during the months of July – December 2022 that she resided in Massachusetts. 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 – 2022 that the Appellant signed and filed in this case. See Exhibit 2.

The Appellant in this case was assessed a penalty by the Massachusetts Department of Revenue (DOR) while she was in transition between jobs and between residences in different states.

The Appellant expected to be enrolled in health insurance coverage in Massachusetts as soon as the dental practice where she started to work in Massachusetts was sold. The sale, over which the Appellant had no control, was delayed. Consequently, the Appellant was not insured until January 25, 2023, after the 90 day wait period required by her new employer had expired. The Appellant enrolled in her employer-sponsored health insurance on the first day that she was eligible. In the meantime she sustained moving expenses in 2022 to relocate to her new job in Massachusetts.

After considering all the circumstances, I conclude that it is appropriate to waive the entire penalty assessed against the Appellant for 2022. See, e.g., 956 Code Mass. Regs. 6.08 (1) (e) ([The Appellant] experienced financial circumstances such that the expense of purchasing health insurance that met minimum creditable coverage standards would have caused her] to experience a serious deprivation of food, shelter, clothing or other necessities.”).

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 2022 for the amount equal to one half of the lowest cost health insurance plan available to you for each month you have been assessed the penalty, as listed above, plus applicable interest back to the due date of the return without regard to extension.

OR

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

NOTIFICATION OF YOUR RIGHT TO APPEAL TO COURT

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

Hearing Officer

Cc: Massachusetts Health Connector Appeals Unit

Appeal Decision: Appeal Denied.

Hearing Issue: Appeal of the 2021 Tax Year Penalty

Hearing Date: January 30, 2023

Decision Date: February 17, 2023

AUTHORITY

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

JURISDICTION

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

HEARING RECORD

The Appellant appeared at the hearing, which was held by telephone, on January 30, 2023. 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 January 12, 2023.
- Exhibit 2: Appeal Case Information from Schedule HC 2021.
- Exhibit 3: Statement of Grounds for Appeal, with attachments, signed by the Appellant on April 26, 2022.

FINDINGS OF FACT

The record shows, and I so find:

1. The Appellant, age 41 in January 2021, filed his Federal Income Tax return as a single person with no dependents (Exhibit 2).
2. The Appellant lived in Plymouth County, MA in 2021 (Exhibit 2, 3 and Appellant Testimony).
3. The Appellant's Federal Adjusted Gross Income for 2021 was \$48,760 (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 (Exhibit 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 \$48,760 could afford to pay \$309 per month for health insurance. In accordance with Table 4, the Appellant, age 41, living in Plymouth County, could have purchased private insurance for \$294 per month. Private insurance was affordable for the Appellant.
8. The Appellant testified he had no health insurance for the Tax Year 2021. Appellant would not have been eligible for ConnectorCare coverage in 2021, because the Appellant's income of \$48,760 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).
9. The Appellant testified credibly that he was employed full time for all of the tax year 2021. He further testified that his employer did not offer health care coverage. Appellant provided a handwritten letter signed by him and dated April 26, 2022, stating that he had no need for health insurance, since when he uses health care providers he pays directly. He said if he does not want insurance, he should not have to have it and the penalty should not apply to him. He further testified that he has saved money and has no debt (Appellant Testimony and Exhibit 3).
10. The Appellant testified that he works 57 hours per week, has no bills and has saved a substantial amount of money. He added that he has "done the math" and purchasing even the lowest premium payment health care plan available would be "throwing away" money. He further testified that he has no expenses that would create a financial hardship. (Appellant Testimony and Exhibit 3).
11. As of the date of the hearing, January 30, 2023, 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 M.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.

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.

Appellant testified that his employer does not offer health insurance to its employees. Based on this testimony, employer supplied health insurance which would meet minimum creditable coverage was not an option.

In accordance with Table 3 of Schedule HC for 2021, the Appellant filing his Federal tax return as a single person with no dependents claimed and with an adjusted gross income of \$48,760, could afford to pay \$309 per month for health insurance. According to Table 4, the Appellant, age 41, living in Plymouth County, could have purchased a private insurance plan for \$294 a month. See Schedule HC for 2021. Private insurance was affordable for the Appellant in tax year 2021.

The Appellant would not 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 a 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). I conclude that such grounds do not exist in this case. Appellant presented no evidence of financial hardship that would constitute grounds for waiving the penalty in the form of testimony and/or documents. He testified to the contrary, that the expense of health insurance is not an issue. Rather, he testified he feels the Massachusetts mandatory requirement for insurance is not intended for people like himself - who have no debt. His decision not to buy health insurance was not based on economic factors, rather it was based on a principle of disagreement with the current law (Appellant testimony).

The Appellant's testimony, which was credible, demonstrates that he could afford private insurance and that purchasing health insurance would not result in any financial hardship as defined in 956 CMR 6.08. In light of these facts, Appellant's request to waive the penalty assessed against him of 12 months in Tax Year 2021 is denied.

The Appellant should note that the denial of a 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: 12

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

NOTIFICATION OF YOUR RIGHT TO APPEAL TO COURT

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

Cc: Connector Appeals Unit

Massachusetts Health Connector Appeals Unit

FINAL APPEAL DECISION: PA212532

Appeal Decision : Penalty waived in part

Hearing Issue: Appeal of the 2021 Tax Year Penalty

Hearing Date: June 13, 2023

Decision Date: August 28, 2023

AUTHORITY

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

JURISDICTION

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

HEARING RECORD

The appellant appeared at the hearing which was held by telephone on June 13, 2023. The procedures to be followed during the hearing were reviewed with the appellant. The appellant was sworn in. Exhibits were marked and admitted in evidence with no objection from the appellant. Appellant testified. At the end of the hearing, the record was left open until July 11, 2023 to give the appellant time to submit additional evidence. Document were received from the appellant on July 7, 2023. They have been marked as exhibits and admitted in evidence. The record is now closed.

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

- Exhibit 1: Statement of Grounds for Appeal 2021 signed and dated by Appellant on May 30, 2022 with 1095C and 5/22 paystub attached
- Exhibit 2: Appeal Case Information from Schedule HC 2021
- Exhibit 3: Notice of Hearing sent to Appellant dated May 12, 2023 for hearing on June 13, 2023
- Exhibit 4: Summary of Benefits and Coverage for Appellant's health plan, 2020 and 2021
- Exhibit 5: Letter from Appellant's Employer showing Appellant had coverage all of 2021
- Exhibit 6: Appeals Unit letter to Appellant regarding Open Record Request

FINDINGS OF FACT:

The record shows, and I so find:

1. Appellant was 37 years old in 2021. The appellant filed a 2021 Massachusetts tax return as a single person with no dependents claimed (Exhibit 2, Testimony of Appellant).
2. Appellant lived in Middlesex County, MA in 2021 (Exhibit 2).
3. Appellant had a Federal Adjusted Gross Income of \$66,502 in 2020 (Testimony of Appellant, Exhibit 2).
4. Appellant had the same job all of 2021. His employer, a company, offered health insurance. Appellant had coverage all year; Appellant knew that the plan he enrolled in did not meet the Commonwealth's minimum creditable coverage standards. He has talked with his employer about offering a plan that does meet the

Commonwealth's standards. Appellant understands the importance of such coverage (Testimony of Appellant, Exhibit 5, Exhibit 1 attachment).

5. Appellant's Medical health insurance plan had a \$6,900 deductible and an out-of-pocket maximum of the same amount. The summary of benefits indicates that certain coverage is equal to the plan's deductible. Inpatient and outpatient hospitalization, advanced imaging, lab work and x-rays, urgent care, and emergency room visits are capped at that amount. There was no coverage for mental health or substance abuse services, or for maternity and newborn care (Exhibit 4).
6. In addition to the Medical Plan, the appellant had a Hospital Plan, an Accident Plan, and Critical Illness Plan. The Hospital Plan assisted with out-of-pocket medical expenses and provided a \$500 a day benefit for one hospitalization per year. The Accident Plan filled in gaps in coverage and provided such coverage as \$500-\$1,500 for up to three fractures per accident. The Critical Illness Plan provided for a one-time payment per year for certain conditions. For example, it would pay up to \$5,000 a year if the covered individual suffered a heart attack or stroke. It covered only one condition per year (Exhibit 4).
7. Since the appellant had insurance in 2021 that did not meet the Commonwealth's standards, the appellant has been assessed a penalty for twelve months. Appellant has appealed this assessment (Exhibits 1 and 2, 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, the appellant with no dependents claimed with an adjusted gross income of \$66,502 could afford to pay \$443 per month for health insurance. According to Table 4, Appellant, 37 years old and living in Middlesex County, could have purchased insurance for \$275 per month for a plan for an individual. Insurance on the individual market was affordable for the appellant (Schedule HC for 2021 Tables 3 and 4, Exhibit 2).
10. According to Table 2 of Schedule HC for 2021, Appellant, who earned more than \$38,280 per year, would have been ineligible for the ConnectorCare program based upon income (Table 2 of Schedule HC-2021, and Exhibit 2).
11. Appellant did not incur significant and unexpected increases in essential expenses as a result of domestic violence; the death of a spouse, family member, or partner who shared household expenses; the sudden responsibility for providing full care for an aging parent or other family member, or a natural or human-caused event which caused substantial personal damage in 2021 (Testimony of Appellant).
12. Appellant did not receive any shut-off notices for utilities in 2021 (Testimony of Appellant).
13. Appellant was not homeless in 2021. He did not fall more than 30 days behind in his rent. Appellant lived with family until the beginning of August; he did not pay any rent for the first seven months of the year (Testimony of Appellant).
14. Appellant's monthly expenses for basic necessities never exceeded \$2,800 in 2021. From August through December, when his expenses were the greatest, Appellant paid \$1,100 for rent, \$600 for food, \$385 for utilities, \$20 for clothing, and \$650 for transportation (Testimony of Appellant).

ANALYSIS AND CONCLUSIONS OF LAW

Appellant had health insurance during 2021 offered by his employer. The insurance, however, did not meet the Commonwealth's minimum creditable coverage standards. The appellants has been assessed a penalty for the whole year. The appellant have appealed the penalty. See Exhibit 1 and 2. The issue on appeal is whether the tax penalty should be waived, either in whole or in part.

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

To determine if the penalty should be waived in whole or in part, we must first consider whether the insurance the appellant had in 2021 substantially met the Commonwealth's minimum creditable coverage standards as set out in 956 CMR 5.00 et. seq. See also 956 CMR 6.08(2)(d). If the coverage did not substantially meet the Commonwealth's standards, we must then consider whether the appellant had access to affordable coverage which did meet the Commonwealth's standards. If he did have access to such coverage, we must then consider whether the appellant experienced a financial hardship such that no coverage was affordable for him. See 956 CMR 6.08 (1-3).

Appellant's health insurance plan had limited coverage with a high deductible of \$6,900 a year. The deductible was more than \$4,000 over the limit set in 956 CMR 5.03(2)(b)(1). The plan offered no coverage for mental health or substance abuse services, or for any medical care related to pregnancy, maternity and newborn care. See Exhibit 4. Based upon these facts alone, I determine that the appellant's plan did not substantially meet the Commonwealth's standards. I also note that the appellant knew that the plan did not meet the Commonwealth's standards. See the testimony of the appellant.

We now need to determine if other health insurance which met the Commonwealth's standards and was affordable was available to the appellant. According to Table 3 of Schedule HC for 2021, the appellant with no dependents claimed with an adjusted gross income of \$66,502 could afford to pay \$443 per month for health insurance. According to Table 4, Appellant, 37 years old and living in Middlesex County, could have purchased insurance for \$275 per month for a plan for an individual. Insurance on the individual market was affordable for the appellant (Schedule HC for 2021 Tables 3 and 4, Exhibit 2). Appellant could have purchased insurance through the Connector.

Since affordable insurance which met the Commonwealth's standards was available to the appellant, we need to consider if the appellant had a financial hardship pursuant to 956 CMR 6.08.

Appellant had no financial hardship as defined in 956 CMR 6.08 (1)(a, b, d). See the testimony of the appellant which I find to be credible, summarized in the Findings of Fact above.

Appellant also had no financial hardship as defined in 956 CMR 6.08(1)(e) or 6.08(3). His monthly income came to over \$5,000 a month; his expenses for basic necessities never exceeded \$2,800. See the testimony of Appellant

which I find to be credible. The cost of purchasing health insurance would not have caused the appellant to experience a serious deprivation of basic necessities. Appellant did not raise any other financial matters to consider during the hearing.

Though Appellant could have purchased affordable health insurance which met the Commonwealth's standards, and though Appellant had no financial hardship, I determine that the Appellant's penalty should be waived for six of the twelve months for 2021. Appellant did enroll in the plan offered to him at work. He has since talked with his employer about the fact that the offered plan does not meet the Commonwealth's standards in hopes of having his employer offer plans that do. Appellant clearly understands the need for coverage. Based upon these facts, I determine that his penalty should be partially waived.

Appellant should note that this partial waiver of the penalty is based upon the facts that I have determined to be true for this 2021 appeal. Appellant 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 standards.

PENALTY ASSESSED

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

The Connector has notified the Department of Revenue that, pursuant to its decision, you should be assessed a penalty for Tax Year 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 a penalty, as listed above, plus the applicable interest back to the due date of the return without regard to extension.

NOTIFICATION OF YOUR RIGHT TO APPEAL TO COURT

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

Hearing Officer

Cc: Connector Appeals Unit

Massachusetts Health Connector Appeals Unit

Tax Penalty Appeal Decision—Docket No. PA22-814

Appeal Decision: Appeal Approved -- 2022 tax penalty overturned.

Hearing Issue: Appeal of the 2022 Tax Year Penalty

Hearing Date: October 11, 2023

Decision Date: October 26, 2023

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 – 2022);
3. Health Connector’s Notice of Hearing (2 pages); and
4. Appellant’s 2022 IRS Form 1095-C.

FINDINGS OF FACT

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

1. The Appellant appealed from the Department of Revenue's assessment of a 6 month penalty for 2022. The basis for the penalty was that the Appellant was a part-year resident in Massachusetts for the period April 1, 2022 through December 31, 2022 and was not insured during this period. Exhibit 1. I will make further findings below concerning the Appellant's residence and health insurance coverage based on other evidence in the hearing record, including the Appellant's testimony under oath at the appeal hearing before me.
2. The Appellant added the following handwritten statement to the pre-printed Statement of Grounds for Appeal that she filed to initiate her appeal: "I have had insurance my entire time in Massachusetts." Exhibit 2.
3. The Appellant, who was 26 years old in 2022, applied for jobs in Massachusetts while she still resided in her birth state. The Appellant obtained a job in Massachusetts starting on March 14, 2022. Initially the Appellant worked remotely from her birth state. She then moved to Massachusetts at the beginning of April 2022, as reported on her Massachusetts state income tax return. Exhibit 1. I find that the facts set forth in this paragraph were accurately stated in the Appellant's appeal hearing testimony, which I found credible.
4. The Appellant enrolled in the health insurance coverage provided by her Massachusetts employer as a job benefit effective in March 2022, and she was insured in Massachusetts through her employer for the remainder of 2022. The Appellant's testimony is supported by the 2022 IRS Form 1095-C where her employer reports that she was insured starting in March and continuing to the end of 2022. Exhibit 4. See also the Appellant's handwritten statement set forth at Findings of Fact, No. 2, above.
5. Based on the evidence presented at the appeal hearing I find that the Appellant was insured for the entire period in 2022 that she was a Massachusetts resident. The pre-printed statement on Exhibit 1 that the Appellant was uninsured for all of 2022 is not accurate.
6. 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 2022 Massachusetts income tax return.

7. I take administrative notice of the financial information set forth in Tables 1 through 6 of the DOR 2022 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 2022. (The DOR instructions are published online at <http://www.mass.gov/dor/2022ScheduleHCInstructions> 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 2022.)

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 6 month tax penalty because the Appellant did not have health insurance coverage for the period in 2022 that she resident in Massachusetts. 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 – 2022 that the Appellant signed and filed in this case. See Exhibit 2.

In this case the credible evidence presented at the appeal hearing does not support the penalty that was assessed by the state DOR. The Appellant was a part-year Massachusetts resident, starting in April 2022. The Appellant had started a new job with a Massachusetts employer in March 2022, and she was insured through her new employer for the months of March through December, as set forth in Exhibit 4 (the 2022 IRS Form 1095-C).

I vacate the six month penalty assessed by the DOR because the evidence shows that the Appellant was insured throughout the period in 2022 that the Appellant was a Massachusetts resident. See Mass. Gen. Law c. 111M, sec. 2 (a), above.

PENALTY ASSESSED

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

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

OR

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

NOTIFICATION OF YOUR RIGHT TO APPEAL TO COURT

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

Hearing Officer

Cc: Massachusetts Health Connector Appeals Unit

Massachusetts Health Connector Appeals Unit

FINAL APPEAL DECISION: PA20-1263

Appeal Decision: Penalty Overturned in Full

Hearing Issue: Appeal of the 2020 Tax Year Penalty

Hearing Date: October 18, 2023

Decision Date: October 27, 2023

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 18, 2023, and testified under oath. The hearing record consists of the appellant's testimony and the following documents which were admitted into evidence without his objection:

Ex. 1—Statement of Grounds for Appeal—2020

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 42-years-old, is married, and does not have children. ² He resided in Suffolk County, MA in 2020. (Testimony, Ex. 2)
2. The appellant was employed from January through mid-March, 2020, during which time he had employer provided health insurance. (Testimony, Ex. 2)
3. In or around mid-March, 2020, the appellant's employer closed its office due to the pandemic. The appellant was laid off from his job at that time and his health insurance ended on March 31, 2020. (Testimony)
4. Subsequent to his layoff, the appellant applied for health insurance through the Health Connector and received a denial based on the fact that he was outside of the open enrollment period. He was

¹ Ex. 2 is a computer printout that extracts information submitted by the appellant on Schedule HC as part of his 2020 Massachusetts income tax return. It also contains information about prior appeals, if any.

² The appellant was single in 2020. He got married in June, 2022.

advised to apply to the Office of Patient Protection (OPP) for a waiver of the open enrollment period. He filed an application for a waiver along with the denial letter and never received a response from the OPP. (Testimony)

5. The appellant applied for health insurance coverage for 2021 when the open enrollment period began in November, 2020, and has been enrolled since January 1, 2021. Prior to 2020, the appellant had been continuously enrolled in employer health insurance. (Testimony)
6. The appellant reported an adjusted gross income of \$71,603.00 on his 2020 federal tax return, and reported that he was single with no dependents. (Ex. 2)

In addition to the foregoing, I take administrative notice of the 2020 Schedule HC Instructions and Worksheets, available at <http://www.mass.gov.dor/docs/dor/health-care/2020>, and in particular, Tables 1-6 which, as discussed below, include the Affordability Schedule and other financial information used in making 2020 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 2020 for “other” reasons.

The appellant did not have insurance from April 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 2020, 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 nine months, he was assessed and is appealing a penalty of six months (i.e. the months of uninsurance less the gap period of three months).

The appellant testified credibly that he was employed from January through mid-March, 2020, during which time he had employer health insurance. He testified that his employer closed its office in mid-March due to the pandemic after which he was laid off and lost his health insurance. He testified that he applied for insurance through the Health Connector and was denied coverage because he was outside of the open enrollment period. He testified that he was advised to apply to the OPP for a waiver of the open enrollment period. He testified that he applied for the waiver and included a copy of the Connector’s denial letter and never received a response from the OPP. Finally, he testified that he has been enrolled in insurance since January, 2021, and was continuously enrolled in employer health insurance prior to 2020.

It is not clear why the appellant was not granted a special enrollment period (SEP) when he applied for insurance through the Connector. Pursuant to 956 CMR 12.10 (5), an individual may enroll in a health plan outside of the open enrollment period during a SEP established by the Connector only for one of the following reasons: (a) the enrollee experiences a triggering event, as set forth in 45 CFR 155.420 and applicable state law; (b) a qualified individual is determined newly eligible for a ConnectorCare plan in accordance with 956 CMR 12.08; (c) the enrollee changes plan types in accordance with 956 CMR 12.04(3); or (d) the enrollee has been approved for a hardship waiver in accordance with 956 CMR 12:11; or (e) the enrollee’s hardship waiver period has ended.

Enrollees have sixty (60) days to enroll in a health plan from the date of one of the aforesaid events. Outside of open enrollment an individual may be granted a SEP, during which the individual can enroll in coverage, because s/he experiences a qualifying life event, such as a change in household composition or loss of coverage. The appellant's loss of employer insurance should have been treated as a qualifying life event unless he was beyond the 60-day period when he applied for coverage. It is also possible that the unprecedented disruption of the pandemic caused numerous administrative oversights at various government agencies resulting in an incorrect determination for the appellant at the Connector and a lack of response from the OPP.

Accordingly, based on the totality of the evidence, it is concluded that the appellant should not be subject to a penalty for the months of April through December. It is also noted that the appellant was enrolled in insurance prior to 2020, and has been continuously enrolled since 2021, thereby demonstrating that the mandate to obtain insurance has not been lost on him.

Based on the foregoing, the appellant's request for a waiver from the penalty is **granted** for the months in question. The determination that the appellant is not subject to a penalty is with respect to 2020, only and is based upon the extent of information submitted by him in this appeal.

PENALTY ASSESSED

Number of Months Appealed: 6

Number of Months Assessed: 0

The Connector has notified the Department of Revenue that, pursuant to its decision, you should be assessed a penalty for Tax Year 2020 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 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: PA20-1267

Appeal Decision: Penalty Overturned in Full

Hearing Issue: Appeal of the 2020 Tax Year Penalty

Hearing Date: October 18, 2023

Decision Date: October 29, 2023

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 18, 2023, and testified under oath. The hearing record consists of the appellant's testimony and the following documents which were admitted into evidence without his objection:

Ex. 1—Statement of Grounds for Appeal—2020

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 39-years-old, is married, and does not have children. ² In 2020, he resided in Plymouth County, MA from January through June, and in Norfolk County from July through December. He did not have health insurance in 2020. (Testimony, Ex. 2)
2. Prior to 2020, the last time the appellant had health insurance was from January through August, 2019, at which time he left his job. He did not pay a penalty for the remaining months of the year during which he did not have insurance. (Testimony)
3. The appellant started a new job as a restaurant manager in December, 2019. He was advised by the employer that he would be eligible for health insurance and other benefits following a 60-day probationary period. In or around February, 2020, the appellant inquired about his benefits and was told that they would be provided, but no specific time frame was given. (Testimony)

¹ Ex. 2 is a computer printout that extracts information submitted by the appellant on Schedule HC as part of his 2020 Massachusetts income tax return. It also contains information about prior appeals, if any.

² The appellant was single in 2020. He got married in March, 2021.

4. In mid-March, 2020, the employer closed the restaurant due to the pandemic and the appellant was laid off from his position. (Testimony)
5. Subsequent to his layoff, the appellant contacted the Health Connector to inquire about his eligibility for health insurance. He was advised that he was not eligible for MassHealth because his income was too high. He determined that a monthly premium through the Connector would have cost approximately \$500.00/month which was not affordable. (Testimony)
6. The appellant began a part-time position as a shift manager with another food provider several months after his layoff. He was not eligible for employer insurance due to his part-time status. (Testimony)
7. In addition to his employment income, the appellant received unemployment compensation after he lost his job for the remainder of the year. (Testimony)
8. The appellant lived in an apartment in Plymouth County from January through June, 2020. He then moved in with his mother in Norfolk County because of the disruption caused by the pandemic and the uncertainty over when he would return to full-time employment. He gave his mother \$400.00/month for household expenses including food. (Testimony)
9. The appellant has been enrolled in health insurance continuously since January, 2021. (Testimony)
10. The appellant reported an adjusted gross income of \$49,099.00 on his 2020 federal tax return, and reported that he was single with no dependents. (Ex. 2)
11. From January through June, 2020, the appellant had regular monthly expenses of approximately \$2961.00 for rent (\$1875.00), heat and electricity (\$125.00), cell phone (\$86.00), automobile insurance (\$135.00), gasoline (\$240.00), and food (\$500.00). In addition, he paid approximately \$120.00/month in credit card debt. From July through December, 2020, the appellant had regular monthly expenses of \$861.00 for household expenses including food (\$400.00) and the foregoing listed expenses for his cell phone, automobile insurance and gasoline. (Testimony)

In addition to the foregoing, I take administrative notice of the 2020 Schedule HC Instructions and Worksheets, available at <http://www.mass.gov.dor/docs/dor/health-care/2020>, and in particular, Tables 1-6 which, as discussed below, include the Affordability Schedule and other financial information used in making 2020 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 2020 because the expense of purchasing health insurance would have caused a serious deprivation of food, clothing, shelter or other necessities. He also submitted a letter with his statement in which he stated in part that he was promised health insurance and other benefits by his employer following a 60-day

probationary period which never materialized. He further stated that he was laid off from his job in mid-March due to the pandemic and could not afford the added expense of a health insurance premium given the uncertainty of when he would be able to return to full-time work. He testified that he lost his job in mid-March due to the pandemic and received unemployment compensation for the rest of the year. He testified that he began a part-time position for another restaurant, but was not eligible for health insurance due to his part-time status. He testified that he investigated health insurance options through the Health Connector subsequent to his layoff and was advised that he was not eligible for MassHealth because his income was too high. He testified that he was advised that the monthly cost for insurance through the Connector would have cost approximately \$500.00 which he could not afford. Finally, he testified that he has been continuously enrolled in health insurance since January, 2021.

The appellant did not have insurance from January through December. According to M.G.L. c. 111M, s. 2, residents are permitted a 63-day gap between periods of coverage without facing a tax penalty; for Tax Year 2020, 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 credibly that he began a new job in December, 2019, and was promised health insurance and other benefits by his employer following a 60-day probationary period which never materialized. He testified that he lost his job in mid-March due to the pandemic and received unemployment compensation for the rest of the year. He testified that he began a part-time position for another restaurant but was not eligible for health insurance due to his part-time status. He testified that he investigated health insurance options through the Health Connector subsequent to his layoff and was advised that he was not eligible for MassHealth because his income was too high. He testified that he was advised that the monthly cost for insurance through the Connector would have cost approximately \$500.00 which he could not afford. Finally, he testified that he has been continuously enrolled in health insurance since January, 2021.

The evidence provided by the appellant established that his income for 2020, \$49,099.00, was greater than 300% of the federal poverty level (FPL), which for 2020 was \$37,470.00 for an individual. Table 3 of the Affordability Schedule indicates that an individual filing separately with no dependents with a federal adjusted gross income between \$43,716.00 and \$49,960.00 is deemed to be able to afford a monthly premium of \$310.96 (7.60% of \$49,099.00/12). Table 4 of the Premium Schedule indicates that a 36-year-old individual (the age of the appellant in 2020) in Plymouth and Norfolk Counties (where the appellant resided in 2020) could have purchased private health insurance for \$298.00 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 2020.³

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 2020. 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 2020 could be waived

³ Based on these figures, it is unclear how the appellant determined that a monthly premium through the Health Connector would have cost in the vicinity of \$500.00.

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 from January through June, 2020, he incurred basic monthly expenses of approximately \$3081.00 including credit card debt payments, and from July through December, 2020, he incurred basic monthly expenses of approximately \$981.00 including credit card debt payments. Those expenses were less than his regular monthly pre-tax income of approximately \$4091.00, thereby making a private health insurance premium of \$298.00/month seemingly manageable, particularly for the second part of the year. While it is recognized that an approximate difference between income and expenses of \$1010.00/month (January through June) and \$3110.00 (July through December) is not a panacea, it does not appear on its face that the payment of \$298.00 for health insurance would have caused an undue hardship.

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 waived for the following reason. The appellant offered credible testimony that he was anxious about the duration of the pandemic and how it would impact his ability to return to work on a full-time basis. His fear was not unfounded given the historic and unprecedented events of 2020, underscored by his decision to move in with his mother for the second part of the year to minimize his expenses. As such, it is not unreasonable to apply a different standard to review to those unique circumstances. In addition to the foregoing, the appellant indicated that he has been continuously enrolled in health insurance since January, 2021, thereby demonstrating that the mandate to obtain insurance was not lost on him.

Accordingly, based upon the totality of the evidence, the appellant's request for a waiver from the penalty is **granted** for the months in question. The determination that the appellant is eligible for a waiver is with respect to 2020, only and is based upon the extent of information submitted by him in this appeal.

PENALTY ASSESSED

Number of Months Appealed: 12

Number of Months Assessed: 0

The Connector has notified the Department of Revenue that, pursuant to its decision, you should be assessed a penalty for Tax Year 2020 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 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: PA22-803

Appeal Decision: Penalty Overturned in Full

Hearing Issue: Appeal of the 2022 Tax Year Penalty

Hearing Date: October 2, 2023

Decision Date: October 15, 2023

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 2, 2023, 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—2022
- 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—2022 Form MA 1099-HC

FINDINGS OF FACT

The record shows, and I so find:

1. The appellant is 65-years-old, is separated and has four minor children. He had minimum creditable coverage (MCC) health insurance for all of 2022. (Testimony, Ex. 4)
2. The appellant has worked for the same employer since 1999 and has had employer health insurance throughout the course of his employment. In 2022, he was enrolled in employer health insurance. (Testimony, Ex. 4)

¹ Ex. 2 is a computer printout that extracts information submitted by the appellant on Schedule HC as part of his 2022 Massachusetts income tax return. It also contains information about prior appeals, if any.

3. The appellant prepared his tax returns for 2022 using Turbo Tax and mistakenly indicated on his Schedule HC that he did not have MCC health insurance for the entire year. (Testimony, Ex. 2)

ANALYSIS AND CONCLUSIONS OF LAW

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

The appellant submitted a statement of grounds for appeal (Ex. 1) but did not specify a ground for his appeal. He also submitted a letter with his statement in which he stated in part that he advised his employer that he accepted health insurance coverage for 2022.

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 2022, Administrative Bulletin 03-10: Guidance Regarding M.G.L. c. 111M and M.G.L. c. 176Q, as implemented by 956 CMR 6.00, interprets the 63-day gap in coverage to be three months. As a result, gaps of three months are not subject to penalty. Although the appellant had MCC insurance for the entire year, he was assessed and is appealing a penalty of twelve months based on the information he provided on his Schedule HC.

The appellant testified credibly that he was enrolled in employer health insurance for all of 2022 and that he mistakenly indicated on his Schedule HC that he was uninsured for the entire year.

The appellant’s testimony was corroborated by a 2022 Form MA 1099-HC which indicated that he had MCC insurance from January through December. Since the appellant had full coverage for the entire year, he is not subject to a penalty.

Based on the foregoing, the appellant’s request for a waiver from the penalty is **granted** for the months for which he was assessed. The determination that the appellant is eligible for a waiver is with respect to 2022, only and is based upon the extent of information submitted by him in this appeal.

PENALTY ASSESSED

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

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

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

NOTIFICATION OF YOUR RIGHT TO APPEAL TO COURT

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

Hearing Officer

Cc: Connector Appeals Unit

Massachusetts Health Connector Appeals Unit

FINAL APPEAL DECISION: PA22-765

Appeal Decision: The tax penalty is overturned.

Hearing Issue: Appeal of the 2022 Tax Year Penalty

Hearing Date: September 12, 2023

Decision Date: October 13, 2023

AUTHORITY

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

JURISDICTION

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

HEARING RECORD

The Appellants are married persons filing jointly with two dependents. Appellant #1 appeared at the hearing, which was held by telephone, on September 12, 2023. The procedures to be followed during the hearing were reviewed with Appellant #1, who was then sworn in. Exhibits were marked and admitted into evidence with no objection from Appellant #1. I left the record open for Appellant #1 to provide documentation showing that they had health insurance meeting MCC standards in 2022. The hearing record consists of Appellant #1's testimony and the following documents that were admitted into evidence:

- Exhibit 1: Appeal Case Information from Schedule HC 2022 (1 page).
- Exhibit 2: The Statement of Grounds for Appeal and supplemental documentation provided by the Appellants (5 pages).
- Exhibit 3: Health Connector Appeals Unit Notice of Hearing on September 12, 2023 (2 pages).
- Exhibit 4: Open Record Request (2 pages)
- Exhibit 5: Documentation submitted by Appellant #1 in response to open record request (7 pages)

FINDINGS OF FACT

The record shows, and I so find:

1. The Appellants filed their federal income tax return as married persons filing jointly with two dependents claimed. (Exhibit 1).

2. Appellant #1 turned 42 in April 2022, and Appellant #2 turned 42 in June 2022. (Exhibit 1).
3. The Appellants lived in Worcester County in 2022. (Exhibit 1).
4. According to the Appellants' Schedule HC, the Appellants' federal Adjusted Gross Income ("AGI") for 2022 was \$91,982. (Exhibit 1).
5. According to the Appellants' Schedule HC, Appellant #1 did not have health insurance that met Massachusetts' minimum creditable coverage (MCC) requirements in any month in 2022. Appellant #1 was assessed a twelve-month tax penalty for 2022. (Exhibit 1).
6. According to the Appellants' Schedule HC, Appellant #2 did not have health insurance that met Massachusetts' minimum creditable coverage (MCC) requirements in any month in 2022. Appellant #2 was not assessed a penalty. (Exhibit 1).
7. The Appellant checked the "other" box on their Statement of Grounds for Appeal and wrote, "This appeal is mistake. I was insured all 12 months of 2022 through my employer insurance." (Exhibit 2).
8. A hearing on the Appellants' appeal took place telephonically on September 12, 2023. (Exhibit 3). Appellant #1 appeared at the hearing.
9. I take administrative notice of the financial information set forth in Tables 1 through 6 in the Department of Revenue ("DOR") 2022 Massachusetts Schedule HC Health Care Instruction and Worksheets. Tables 3 and 4 incorporate affordability and premium schedules adopted by the Board of Directors for the Commonwealth Health Insurance Connector Authority for 2022. Table 2 sets forth income at 300% of the federal poverty level, and Tables 5 and 6 set forth tax penalties in effect for 2022.
10. The Appellants' AGI of \$91,982 was greater than 300% of the Federal Poverty Level, which was \$75,900 for a family of four in 2022. (See Table 2 of Schedule HC-2022 and 956 CMR 12.04).
11. According to Table 3 of Schedule HC for 2022, the Appellants, who filed their federal tax return as a married couple filing jointly with two dependents and claimed an adjusted gross income of \$91,982, could have afforded to pay \$613 per month for health insurance. The calculation is as follows: Table 3 states that a married couple filing jointly with one or more dependents whose 2022 AGI was \$87,841 or more could have spent 8% of their earnings on health insurance; 8% of \$91,982 is \$7,358, and one-twelfth of \$7,358 is \$613.
12. According to Table 4 of Schedule HC for 2022, the least expensive health insurance plan meeting Massachusetts' minimum creditable coverage requirements that a family whose oldest member was 41 and living in Worcester County in January 2022 could have purchased cost \$798 per month.

13. Appellant #1 testified that they had health insurance through their employer for the entire year and that they received a Form 1099-HC showing that they had insurance.
14. Appellant #1 testified that they prepared their taxes themselves.
15. I left the record open for Appellant #1 to provide documentation that they had health insurance meeting MCC standards in 2022.

ANALYSIS AND CONCLUSIONS OF LAW

The case is before me on the Appellants' appeal from the DOR's assessment of a twelve-month tax penalty because the Appellants' tax forms indicated that Appellant #1 did not have health insurance that met Massachusetts' minimum creditable coverage ("MCC") standards during any month in 2022. The issue to be decided is whether the tax penalty should be waived in whole or in part.

I conclude that the Appellant #1's tax penalty should be waived in its entirety because Appellant #1 submitted a Form MA 1099-HC showing that they had health insurance meeting MCC standards throughout 2022. (Exhibit 5) See G.L. c. 111M, § 2 and 956 CMR 6.07(8).

The Appellants should note that the waiver of their penalty is based upon the facts that I have determined to be true in 2022. The Appellants should not assume that a similar determination will be made for subsequent tax years should they again be assessed a penalty for failure to have health insurance. The Appellants are advised to submit any Form MA 1099-HC they have received when they file their Massachusetts taxes for subsequent years.

PENALTY ASSESSED

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

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

NOTIFICATION OF YOUR RIGHT TO APPEAL TO COURT

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

Hearing Officer

cc: Connector Appeals Unit

Massachusetts Health Connector Appeals Unit

FINAL APPEAL DECISION: PA22-766

Appeal Decision: The tax penalty is overturned.

Hearing Issue: Appeal of the 2022 Tax Year Penalty

Hearing Date: September 12, 2023

Decision Date: October 24, 2023

AUTHORITY

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

JURISDICTION

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

HEARING RECORD

The Appellants are married persons filing jointly. The Appellants appeared at the hearing, which was held by telephone, on September 12, 2023. The procedures to be followed during the hearing were reviewed with the Appellants, who were sworn in. Exhibits were marked and admitted into evidence with no objection from the Appellants. I left the record open for the Appellants to provide documentation showing the monthly premium for the insurance in which they were enrolled from January to July 2022 and documentation showing the outstanding amount of their medical bills when they canceled their health insurance in July 2022. The hearing record consists of Appellant #2's testimony and the following documents that were admitted into evidence:

- Exhibit 1: Appeal Case Information from Schedule HC 2022 (1 page).
- Exhibit 2: Statement of Grounds for Appeal and supplemental documentation provided by the Appellants (11 pages).
- Exhibit 3: Health Connector Appeals Unit Notice of Hearing on September 12, 2023 (2 pages).
- Exhibit 4: Open Record Request, dated September 12, 2023
- Exhibit 5: Appellants' response to Open Record Request, received on October 4, 2023

FINDINGS OF FACT

The record shows, and I so find:

1. The Appellants filed their federal income tax return as married persons filing jointly with one dependent claimed. (Exhibit 1). The Appellants' family size on their Schedule HC is listed as 2. (Exhibit 1).

2. Appellant #1 turned 65 in February 2022, and Appellant #2 turned 57 in January 2022. (Exhibit 1).
3. The Appellants lived in Hampden County in 2022. (Exhibit 1).
4. According to the Appellants' Schedule HC, the Appellants' federal Adjusted Gross Income ("AGI") for 2022 was \$74,125. (Exhibit 1).
5. According to the Appellants' Schedule HC, Appellant #1 did not have health insurance that met Massachusetts' minimum creditable coverage (MCC) requirements from August to December 2022. Appellant #1 was not assessed a tax penalty for 2022. (Exhibit 1).
6. According to the Appellants' Schedule HC, Appellant #2 did not have health insurance from August to December 2022. Appellant #2 was assessed a two-month tax penalty.
7. The Appellants checked the following box on their Statement of Grounds for Appeal: "Other. During 2022 other circumstances, such as: applying the Affordability Tables in Schedule HC to you is inequitable (for example, because of family size); that you were unable to obtain government-subsidized insurance even though your income qualified you; or that you didn't reside in Massachusetts during your period of uninsurance." (Exhibit 2).
8. The Appellants also submitted health insurance cards from Key Prevention and First Health Network/Socios Buenos with their Statement of Grounds for Appeal. (Exhibit 2).
9. A hearing on the Appellants' appeal took place telephonically on September 12, 2023. (Exhibit 3). The Appellants appeared at the hearing.
10. I take administrative notice of the financial information set forth in Tables 1 through 6 in the Department of Revenue ("DOR") 2022 Massachusetts Schedule HC Health Care Instruction and Worksheets. Tables 3 and 4 incorporate affordability and premium schedules adopted by the Board of Directors for the Commonwealth Health Insurance Connector Authority for 2022. Table 2 sets forth income at 300% of the federal poverty level, and Tables 5 and 6 set forth tax penalties in effect for 2022.
11. The Appellants' AGI of \$74,125 was greater than 300% of the Federal Poverty Level, which was \$52,260 for a family of two in 2022. (See Table 2 of Schedule HC-2022 and 956 CMR 12.04).
12. According to Table 3 of Schedule HC for 2022, the Appellants, who filed their federal tax return as a married couple filing jointly and claimed an adjusted gross income of \$74,125, could have afforded to pay \$494 per month for health insurance. The calculation is as follows: Table 3 states that a married couple filing jointly whose 2022 AGI was \$69,681 or more could have spent 8% of their earnings on health insurance; 8% of \$74,125 is \$5,930, and one-twelfth of \$5,930 is \$494.

13. According to Table 4 of Schedule HC for 2022, the least expensive health insurance plan meeting Massachusetts' minimum creditable coverage requirements that a married couple whose oldest member was 65 and living in Hampden County in August 2022 could have purchased cost \$931 per month.
14. Appellant #2 testified that their mother lived with them from August 2014 until February 2022, when she died.
15. Appellant #2 testified that they work as a medical interpreter and shifted to a per diem status in 2019, when their mother needed additional care.
16. Appellant #2 testified that after Appellant #2 shifted to per diem status, the Appellants previously health insurance through Appellant #1's employer but that they purchased health insurance called Key Prevention in 2021 in order to save money because Appellant #2 was not working as many hours.
17. Appellant #2 testified that in April 2022, the Key Prevention insurance changed to the name Socios Buenos and that the Appellants received new insurance cards.
18. Appellant #2 testified that problems began when their insurance changed from Key Prevention to Socios Buenos. Appellant #2 testified that Socios Buenos did not accept their health insurance bills and that Appellant #2 was charged for everything.
19. Appellant #2 testified that they canceled the Socios Buenos health insurance in July 2022 because of these problems.
20. Appellant #2 testified that they believed that the monthly premium for the Key Prevention health insurance was \$333 and that the monthly premium for the Socios Buenos health insurance was more than \$400.
21. Appellant #2 testified that they estimated that the Appellants had the following monthly expenses in 2022: \$1200 for mortgage; \$133 for utilities; \$89 for wifi; \$139 for car insurance; \$140 for cellphone; \$400 for food; \$400 for household supplies; and \$100 for clothing.
22. In addition, Appellant #2 testified that in 2020, the Appellants spent approximately \$11,000 to renovate their bathroom so that Appellant #2's mother could use it and to create an outdoor area and ramp for Appellant #2's mother. Appellant #2 testified that the Appellants financed these home improvements through credit card debt, which the Appellants were still paying off in 2022.
23. Appellant #2 testified that after they canceled the Socios Buenos health insurance, they continued to fight with Socios Buenos about their outstanding bills.

24. Appellant #2 testified that the Appellants enrolled in health insurance through Appellant #1's employer for 2023 when open enrollment began and that they currently have health insurance.
25. I left the record open for the Appellants to provide documentation showing: (1) their monthly health insurance premiums from January to July 2022; and (2) the amount of their outstanding medical bills when they canceled their health insurance in July 2022.
26. The Appellants did not provide information about their monthly insurance premiums in response to my open record request. The Appellants did provide documentation showing outstanding medical bills for services provided in 2021, including a bill dated February 24, 2022 for \$2266; a bill dated July 12, 2022 for \$1440, and a bill dated August 12, 2022 for \$147. (Exhibit 5). The Appellants also submitted bills from debt collectors in 2022 and 2023 for some of these medical bills.
27. In response to my open record request, the Appellants also submitted credit card statements showing the following balances on the following dates: \$5401.21 on August 14, 2021; \$4490.77 on January 4, 2022; and \$12.77 on April 4, 2022. The credit card statements all show that no purchases were made on the credit card during the previous billing cycle.
28. Appellant #2 testified that Appellant #1 was not enrolled in Medicare in 2022.

ANALYSIS AND CONCLUSIONS OF LAW

The case is before me on the Appellants' appeal from the DOR's assessment of a two-month tax penalty because for Appellant #2 because the Appellants' tax forms indicated that Appellant #2 did not have health insurance that met Massachusetts' minimum creditable coverage ("MCC") standards from August to December 2022. The issue to be decided is whether the tax penalty should be waived in whole or in part.

I begin by summarizing the legal rules underlying this appeal. The tax penalty was enacted by the Massachusetts Legislature to encourage compliance with G.L. c. 111M, § 2, also called the "individual mandate." The mandate requires every adult resident of Massachusetts to obtain health insurance coverage "[s]o long as it is deemed affordable" under the schedule set by the board of directors for the Commonwealth Health Insurance Connector Authority ("Connector"). G.L. c. 111M, § 2(a). Any health insurance policy must also satisfy the Massachusetts MCC standards for a taxpayer to avoid the penalty.

If these requirements are not met, a tax penalty is assessed for each of the months that the individual did not have health insurance as required by the individual mandate. There is, however, a three-month grace period to allow the taxpayer to obtain health insurance coverage or to make the transition between health insurance policies. See G.L. c. 111M, § 2(b) and Administrative Information Bulletin 03-10: Guidance Regarding M.G.L. c. 111M and M.G.L. c. 176Q, as implemented by 956 CMR 6.00 (clarifying that for purposes of penalty calculation, taxpayers will not be subject to penalty if they had lapses in

coverage consisting of three or fewer consecutive calendar months). The Connector's regulations also provide for a waiver of the tax penalty in cases of hardship. See 956 CMR 6.07-08.

To determine if the penalty should be waived in whole or in part, there must be a determination as to whether affordable insurance that met MCC standards was available to the Appellant through a government-subsidized program, through the private market, or through employment. If affordable insurance was available, it must be determined whether such insurance was not in fact affordable to the Appellant because the Appellant experienced a hardship as defined in 956 CMR 6.08. Each of these issues is addressed in turn.

First, I conclude that affordable health insurance meeting MCC standards was not available to the Appellants through a government-subsidized program because their AGI exceeded 300% of the Federal Poverty Level. Finding of Fact No. 11.

Second, I conclude that affordable health insurance meeting MCC standards was not available to the Appellants on the private market. According to Table 3 of the Schedule HC, the Appellants could have afforded to spend \$494 on health insurance. Finding of Fact No. 12. However, according to Table 4 of the Schedule HC, the least expensive health insurance meeting MCC standards available to the Appellants on the private market cost \$931 per month. Finding of Fact No. 13. I note that while the Appellants did have private health insurance meeting MCC standards for the months of January to July 2022, Appellant #2 testified that they canceled the insurance because it did not pay their medical bills, and the Appellants provided documentation showing that some of their medical bills were sent to a debt collector. Findings of Fact Nos. 18 and 19 and Exhibit 5.

Third, I conclude that affordable health insurance meeting MCC standards was not available to the Appellants through employment in the months in which they did not have health insurance because when they canceled their health insurance in July 2022, it was not during the open enrollment period for such insurance. Appellant #2 credibly testified that the Appellants enrolled in health insurance through Appellant #1's employer for 2023 when open enrollment began. Finding of Fact No. 24.

Reviewing the totality of the evidence, I conclude that Appellant #2's tax penalty should be waived because the Appellants did not have access to affordable health insurance meeting MCC standards through a government-subsidized program, the private market, or employment during the months in which Appellant #2 did not have health insurance. See G.L. c. 111M, § 2 and 956 CMR 6.07(8).

The Appellants should note that the waiver of their penalty is based upon the facts that I have determined to be true in 2022. The Appellants should not assume that a similar determination will be made for subsequent tax years should they again be assessed a penalty for failure to have health insurance.

PENALTY ASSESSED

Appellant #2

Number of Months Appealed: ___2___ Number of Months Assessed: ___0___

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

NOTIFICATION OF YOUR RIGHT TO APPEAL TO COURT

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

Hearing Officer

cc: Connector Appeals Unit

Massachusetts Health Connector Appeals Unit

FINAL APPEAL DECISION: PA22-794

Appeal Decision: The tax penalty is overturned.

Hearing Issue: Appeal of the 2022 Tax Year Penalty

Hearing Date: October 5, 2023

Decision Date: October 24, 2023

AUTHORITY

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

JURISDICTION

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

HEARING RECORD

The Appellants are married persons filing jointly. Appellant #1 appeared at the hearing, which was held by telephone, on October 5, 2023. The procedures to be followed during the hearing were reviewed with Appellant #1, who was sworn in. Exhibits were marked and admitted into evidence with no objection from Appellant #1. I left the record open for the Appellants to provide documentation showing transfers of funds to family members in Ukraine, which the Appellants so provided. The hearing record consists of Appellant #1's testimony and the following documents that were admitted into evidence:

- Exhibit 1: Appeal Case Information from Schedule HC 2022 (1 page).
- Exhibit 2: Statement of Grounds for Appeal and supplemental documentation provided by the Appellants (20 pages).
- Exhibit 3: Health Connector Appeals Unit Notice of Hearing on October 5, 2023 (2 pages).
- Exhibit 4: Final Appeal Decision PA 21-2007 (4 pages)
- Exhibit 4: Open Record Request, dated October 5, 2023
- Exhibit 5: Appellants' response to Open Record Request, received on October 13, 2023 (6 pages)

FINDINGS OF FACT

The record shows, and I so find:

1. The Appellants filed their federal income tax return as married persons filing jointly. (Exhibit 1).

2. Appellant #1 turned 34 in February 2022, and Appellant #2 turned 32 in September 2022. (Exhibit 1).
3. The Appellants lived in Middlesex County in 2022. (Exhibit 1).
4. According to the Appellants' Schedule HC, the Appellants' federal Adjusted Gross Income ("AGI") for 2022 was \$105,687. (Exhibit 1).
5. According to the Appellants' Schedule HC, the Appellants did not have health insurance that met Massachusetts' minimum creditable coverage (MCC) requirements for any month in 2022. The Appellants were both assessed 12-month tax penalties. (Exhibit 1).
6. The Appellants checked the following box on their Statement of Grounds for Appeal: "During 2022, you purchased health insurance that didn't meet minimum creditable coverage standards because that is what your employer offered, and you felt that your circumstances prevented you from buying other insurance that met the requirements." (Exhibit 2).
7. The Appellants submitted a letter with their Statement of Grounds for Appeal in which they stated that their employer did not offer health plans meeting MCC requirements and that they did not feel that their circumstances allowed them to purchase other insurance that met these requirements. The Appellants also stated that during 2022, they were responsible for providing financial help to family members in Ukraine due to the war.
8. The Appellants each submitted a form 1095-C showing that they had health insurance through their employer and that their individual monthly contributions were \$210.86 for the months of January through November and \$217.63 for the month of December. The total amount of the Appellants' employee contributions therefore totaled \$5072.
9. The Appellants also submitted an overview of the medical and indemnity plans in which they were enrolled through their employer in 2022.
10. The Appellants appealed a 12-month tax penalty for 2021, which was waived in its entirety. The decision in the Appellants' 2021 appeal, Final Appeal Decision PA 21-2007, which is dated September 22, 2022, is included as part of this hearing record. (Exhibit 4). In the decision, the hearing officer found that the Appellants learned during the open enrollment period for 2022 that their employer's insurance plan for 2021 did not meet MCC standards. The hearing officer further found that the Appellants decided to remain in their employer's health insurance plan for 2022 because they investigated their options and determined that their monthly premium through the Health Connector would be double what they paid for their employer insurance.
11. A hearing on the Appellants' appeal took place telephonically on October 5, 2023. (Exhibit 3). Appellant #1 appeared at the hearing.

12. I take administrative notice of the financial information set forth in Tables 1 through 6 in the Department of Revenue (“DOR”) 2022 Massachusetts Schedule HC Health Care Instruction and Worksheets. Tables 3 and 4 incorporate affordability and premium schedules adopted by the Board of Directors for the Commonwealth Health Insurance Connector Authority for 2022. Table 2 sets forth income at 300% of the federal poverty level, and Tables 5 and 6 set forth tax penalties in effect for 2022.
13. The Appellants’ AGI of \$105,687 was greater than 300% of the Federal Poverty Level, which was \$52,260 for a family of two in 2022. (See Table 2 of Schedule HC-2022 and 956 CMR 12.04).
14. According to Table 3 of Schedule HC for 2022, the Appellants, who filed their federal tax return as a married couple filing jointly and claimed an adjusted gross income of \$105,687, could have afforded to pay \$704 per month for health insurance. The calculation is as follows: Table 3 states that a married couple filing jointly whose 2022 AGI was \$69,681 or more could have spent 8% of their earnings on health insurance; 8% of \$105,687 is \$8,454, and one-twelfth of \$8,454 is \$704.
15. According to Table 4 of Schedule HC for 2022, the least expensive health insurance plan meeting Massachusetts’ minimum creditable coverage requirements that a married couple whose oldest member was 33 and living in Middlesex County in January 2022 could have purchased cost \$580 per month.
16. Appellant #1 testified that the Appellants had health insurance throughout 2022 through their employer, for which they each paid \$50 per week.
17. Appellant #1 testified that the Appellants were aware that their health insurance did not meet MCC standards. Appellant #1 testified that the Appellants learned in late 2021 that their employer-sponsored health insurance did not meet MCC standards. Appellant #1 testified that they researched other options and determined that if they purchased health insurance on the private market, it would cost each of the Appellants nearly \$500 per month. Appellant #1 testified that the Appellants concluded that private insurance was too expensive and decided to retain their employer-sponsored health insurance.
18. Appellant #1 testified that they estimated that the Appellants had the following monthly expenses in 2022: \$1800 for rent; \$60-100 for utilities; \$64 for internet; \$600 for car expenses; \$70 for cellphone; \$600 for food; \$50 for household supplies; and \$83 for clothing.
19. Appellant #1 testified that they were stuck in Ukraine from mid-February to June 2022 because of the war and had gone to Ukraine to visit family. Appellant #1 testified that Appellant #2 was stuck in Ukraine from mid-February to mid-March 2022.
20. Appellant #1 testified that the Appellants spent thousands of dollars to help family members in Ukraine in 2022 and that they transferred the funds through MoneyGram.

21. I left the record open for the Appellants to provide documentation showing the amount of money they transferred to family members in Ukraine in 2022.
22. The Health Connector received documents in response to my open record request on October 13, 2023. (Exhibit 6). The documents show transfers from a Bank of America account to MoneyGram totaling \$8,522.92 between May and December 2022.

ANALYSIS AND CONCLUSIONS OF LAW

The case is before me on the Appellants' appeal from the DOR's assessment of a twelve-month tax penalty for both Appellants because the Appellants' tax forms indicated that Appellants did not have health insurance that met Massachusetts' minimum creditable coverage ("MCC") standards for any month in 2022. The issue to be decided is whether the tax penalty should be waived in whole or in part.

I begin by summarizing the legal rules underlying this appeal. The tax penalty was enacted by the Massachusetts Legislature to encourage compliance with G.L. c. 111M, § 2, also called the "individual mandate." The mandate requires every adult resident of Massachusetts to obtain health insurance coverage "[s]o long as it is deemed affordable" under the schedule set by the board of directors for the Commonwealth Health Insurance Connector Authority ("Connector"). G.L. c. 111M, § 2(a). Any health insurance policy must also satisfy the Massachusetts MCC standards for a taxpayer to avoid the penalty.

If these requirements are not met, a tax penalty is assessed for each of the months that the individual did not have health insurance as required by the individual mandate. There is, however, a three-month grace period to allow the taxpayer to obtain health insurance coverage or to make the transition between health insurance policies. See G.L. c. 111M, § 2(b) and Administrative Information Bulletin 03-10: Guidance Regarding M.G.L. c. 111M and M.G.L. c. 176Q, as implemented by 956 CMR 6.00 (clarifying that for purposes of penalty calculation, taxpayers will not be subject to penalty if they had lapses in coverage consisting of three or fewer consecutive calendar months). The Connector's regulations also provide for a waiver of the tax penalty in cases of hardship. See 956 CMR 6.07-08.

To determine if the penalty should be waived in whole or in part, there must be a determination as to whether affordable insurance that met MCC standards was available to the Appellants through a government-subsidized program, through employment, or through the private market. If affordable insurance was available, it must be determined whether such insurance was not in fact affordable to the Appellants because the Appellants experienced a hardship as defined in 956 CMR 6.08. Each of these issues is addressed in turn.

First, I conclude that affordable health insurance meeting MCC standards was not available to the Appellants through a government-subsidized program because their AGI exceeded 300% of the Federal Poverty Level. Finding of Fact No. 13.

Second, I conclude that affordable health insurance meeting MCC standards was not available to the Appellants through employment because Appellant #1 credibly testified that the insurance offered by their employer was not MCC-compliant. Finding of Fact No. 17.

Third, I conclude that affordable health insurance meeting MCC standards was available to the Appellants through the private market. According to Table 3 of the Schedule HC, the Appellants could have afforded to spend \$704 per month on health insurance. Finding of Fact No. 14. According to Table 4 of the Schedule HC, the least expensive health insurance meeting MCC standards available to the Appellants on the private market cost \$580 per month. Finding of Fact No. 15.

I find, however, that the Appellants suffered a hardship, such that insurance on the private market was not in fact affordable to them. Appellant #1 testified that the Appellants transferred thousands of dollars to family members in Ukraine who were suffering because of the war. Finding of Fact No. 20. In response to my Open Record Request, the Appellants submitted a document showing transfers totaling \$8522.92 through MoneyGram in 2022. Finding of Fact No. 22 and Exhibit 6. Although the document does not specify where the money was transferred, Appellant #1 testified that the Appellants transferred money to Ukraine through MoneyGram, so I find it likely that the transfers on the document are transfers to family members in Ukraine. Finding of Fact No. 20.

The Form 1095-C's submitted by the Appellants show that their employee contributions to their non-MCC compliant health insurance totaled \$5072 in 2022. Finding of Fact No. 8. The Appellants could have purchased health insurance on the private market for \$508 per month, or \$6,960 per year, and they theoretically even could have afforded to spend \$704 per month, or \$8,448 per year, on health insurance. Findings of Fact No. 14. Thus, the Appellants effectively paid \$3,376 less for health insurance than they theoretically could have afforded (i.e., because \$8,448 minus \$5072 is \$3,376). However, the Appellants' savings of \$3,376 was dwarfed by the \$8522.92 in transfers they made to family members in Ukraine in 2022. As a result, I conclude that the war in Ukraine, which necessitated the transfers to the Appellants' family members, constituted a hardship that made insurance on the private market unaffordable to the Appellants.

Reviewing the totality of the evidence, I conclude that Appellants' tax penalties should be waived in their entirety because the Appellants suffered a hardship. See G.L. c. 111M, § 2 and 956 CMR 6.07(8) and 6.08(1)(d)(4).

The Appellants should note that the waiver of their penalty is based upon the facts that I have determined to be true in 2022. The Appellants should not assume that a similar determination will be made for subsequent tax years should they again be assessed a penalty for failure to have health insurance.

PENALTY ASSESSED

Appellant #1

Number of Months Appealed: 12

Number of Months Assessed: 0

Appellant #2

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

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

NOTIFICATION OF YOUR RIGHT TO APPEAL TO COURT

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

Hearing Officer

cc: Connector Appeals Unit

Massachusetts Health Connector Appeals Unit

FINAL APPEAL DECISION: PA22-827

Appeal Decision: The tax penalty is overturned.

Hearing Issue: Appeal of the 2022 Tax Year Penalty

Hearing Date: October 23, 2023

Decision Date: October 29, 2023

AUTHORITY

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

JURISDICTION

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

HEARING RECORD

The Appellant is a single person with no dependents. The Appellant appeared at the hearing, which was held by telephone, on October 23, 2023. 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 that were admitted into evidence:

Exhibit 1: Appeal Case Information from Schedule HC 2022 (1 page).

Exhibit 2: The Statement of Grounds for Appeal and supplemental documentation provided by the Appellant (10 pages).

Exhibit 3: Health Connector Appeals Unit Notice of Hearing on October 23, 2023 (2 pages).

FINDINGS OF FACT

The record shows, and I so find:

1. The Appellant filed their federal income tax return a single person with no dependents claimed. (Exhibit 1).
2. The Appellant turned 60 in March 2022. (Exhibit 1).
3. The Appellant lived in the state of Maine in 2022. (Exhibit 1) and Appellant Testimony.

4. According to the Appellant's Schedule HC, the Appellant's federal Adjusted Gross Income ("AGI") for 2022 was \$38,835. (Exhibit 1).
5. According to the Appellant's Schedule HC, the Appellant did not have health insurance that met Massachusetts' minimum creditable coverage (MCC) requirements in any month in 2022. The Appellant was assessed a twelve-month tax penalty for 2022. (Exhibit 1).
6. The Appellant checked off the following box on their Statement of Grounds for Appeal: "Other. During 2022, other circumstances, such as . . . you didn't reside in Massachusetts during your period of insurance." The Appellant handwrote on the form, "I have not lived in Massachusetts for 25 years." (Exhibit 2).
7. The Appellant submitted with their Statement of Grounds for Appeal a handwritten note stating that they retired in 2021 and used to work in Massachusetts. The Appellant stated that they had COBRA insurance until August 2022 and then got Quick Health insurance. The Appellant stated that their Massachusetts taxes are based on insurance income and required 401(k) distributions. (Exhibit 2).
8. The Appellant submitted a September 2022 email from Quick Health showing that they paid \$7500.63 for a bronze plan policy to begin in October 2022. The email states that the plan is not health insurance and provides access to discounts.
9. A hearing on the Appellant's appeal took place telephonically on October 23, 2023. (Exhibit 3). The Appellant appeared at the hearing.
10. I take administrative notice of the financial information set forth in Tables 1 through 6 in the Department of Revenue ("DOR") 2022 Massachusetts Schedule HC Health Care Instruction and Worksheets. Tables 3 and 4 incorporate affordability and premium schedules adopted by the Board of Directors for the Commonwealth Health Insurance Connector Authority for 2022. Table 2 sets forth income at 300% of the federal poverty level, and Tables 5 and 6 set forth tax penalties in effect for 2022.
11. The Appellant's AGI of \$38,835 was more than 300% of the Federal Poverty Level, which was \$38,280 for a single person in 2022. (See Table 2 of Schedule HC-2022 and 956 CMR 12.04).
12. According to Table 3 of Schedule HC for 2022, the Appellant, who filed their federal tax return as a single person with no dependents and claimed an adjusted gross income of \$38,835, could have afforded to pay \$241 per month for health insurance. The calculation is as follows: Table 3 states that a single person with no dependents whose 2022 AGI was between \$38,641 and \$45,080 could have spent 7.45% of their earnings on health insurance; 7.45% of \$38,835 is \$2,893, and one-twelfth of \$2,893 is \$241.
13. According to Table 4 of Schedule HC for 2022, no county in Massachusetts offered a health plan for a single person aged 59 in January 2022 that cost \$241 or less per month.

14. The Appellant testified that they did not live in Massachusetts in 2022 and have not been a Massachusetts resident since 1998. The Appellant testified that they used to work in Massachusetts.
15. The Appellant testified that they filed a Massachusetts tax return because they received investment income from Massachusetts and 401(k) distributions that derived from their previous work in Massachusetts.
16. The Appellant testified that their accountant prepared their tax returns and that they assumed that their accountant filed a Massachusetts non-resident tax return for them.
17. The Appellant testified that they were retired for all of 2022 and did not have access to employer-sponsored health insurance.

ANALYSIS AND CONCLUSIONS OF LAW

The case is before me on the Appellant's appeal from the DOR's assessment of a twelve-month tax penalty because the Appellant's tax forms indicated that they did not have health insurance that met Massachusetts' minimum creditable coverage ("MCC") standards during any month in 2022. The issue to be decided is whether the tax penalty should be waived in whole or in part.

I begin by summarizing the legal rules underlying this appeal. The tax penalty was enacted by the Massachusetts Legislature to encourage compliance with G.L. c. 111M, § 2, also called the "individual mandate." The mandate requires every adult resident of Massachusetts to obtain health insurance coverage "[s]o long as it is deemed affordable" under the schedule set by the board of directors for the Commonwealth Health Insurance Connector Authority ("Connector"). G.L. c. 111M, § 2(a). Any health insurance policy must also satisfy the Massachusetts MCC standards for a taxpayer to avoid the penalty. If these requirements are not met, a tax penalty is assessed for each of the months that the individual did not have health insurance as required by the individual mandate.

Here, the Appellant credibly testified that they did not reside in Massachusetts in any month in 2022. Finding of Fact No. 14. As a result, I conclude that the individual mandate does not apply to the Appellant and that the Appellant's 12-month penalty should be waived in its entirety. See G.L. c. 111M, § 1-2 and 956 CMR 6.07(8).

The Appellant should note that the waiver of their penalty is based upon the facts that I have determined to be true in 2022. The Appellant should not assume that a similar determination will be made for subsequent tax years should they again be assessed a penalty for failure to have health insurance. During the hearing, I encouraged the Appellant to confer with their accountant regarding the Massachusetts tax form (resident or nonresident) they should file in future years.

PENALTY ASSESSED

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

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

NOTIFICATION OF YOUR RIGHT TO APPEAL TO COURT

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

Hearing Officer

cc: Connector Appeals Unit

Massachusetts Health Connector Appeals Unit

FINAL APPEAL DECISION: PA22-830

Appeal Decision: The tax penalty is overturned.

Hearing Issue: Appeal of the 2022 Tax Year Penalty

Hearing Date: October 23, 2023

Decision Date: October 30, 2023

AUTHORITY

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

JURISDICTION

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

HEARING RECORD

The Appellant was a single person with no dependents in 2022. The Appellant appeared at the hearing, which was held by telephone, on October 23, 2023. 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 that were admitted into evidence:

Exhibit 1: Appeal Case Information from Schedule HC 2022 (1 page).

Exhibit 2: The Statement of Grounds for Appeal and supplemental documentation provided by the Appellant (6 pages).

Exhibit 3: Health Connector Appeals Unit Notice of Hearing on October 23, 2023 (2 pages).

FINDINGS OF FACT

The record shows, and I so find:

1. The Appellant filed their federal income tax return a single person with no dependents claimed. (Exhibit 1).
2. The Appellant turned 37 in November 2022. (Exhibit 1).
3. The Appellant lived in Bristol County in 2022. (Exhibit 1).

4. According to the Appellant's Schedule HC, the Appellant's federal Adjusted Gross Income ("AGI") for 2022 was \$33,763. (Exhibit 1).
5. According to the Appellant's Schedule HC, the Appellant did not have health insurance that met Massachusetts' minimum creditable coverage (MCC) requirements in the months of January through November 2022. The Appellant was assessed an eight-month tax penalty for 2022. (Exhibit 1).
6. The Appellant checked off the following box on their Statement of Grounds for Appeal: "Other. During 2022 other circumstances, such as: applying the Affordability Tables in Schedule HC to you is inequitable (for example, because of family size); that you were unable to obtain government-subsidized insurance even though your income qualified you; or that you didn't reside in Massachusetts during your period of uninsurance." (Exhibit 2).
7. The Appellant attached to their Statement of Grounds a note stating that they worked in construction and were not eligible for insurance until they had enough hours; then they were laid off for the winter and began collecting unemployment compensation; and then they were told they were not going to be hired full-time. The Appellant stated that they began working at a new job in September and that their insurance did not start for three months. (Exhibit 2).
8. A hearing on the Appellant's appeal took place telephonically on October 23, 2023. (Exhibit 3). The Appellant appeared at the hearing.
9. I take administrative notice of the financial information set forth in Tables 1 through 6 in the Department of Revenue ("DOR") 2022 Massachusetts Schedule HC Health Care Instruction and Worksheets. Tables 3 and 4 incorporate affordability and premium schedules adopted by the Board of Directors for the Commonwealth Health Insurance Connector Authority for 2022. Table 2 sets forth income at 300% of the federal poverty level, and Tables 5 and 6 set forth tax penalties in effect for 2022.
10. The Appellant's AGI of \$33,763 was less than 300% of the Federal Poverty Level, which was \$38,640 for a single person in 2022. (See Table 2 of Schedule HC-2022 and 956 CMR 12.04).
11. According to Table 3 of Schedule HC for 2022, the Appellant, who filed their federal tax return as a single person with no dependents and claimed an adjusted gross income of \$33,763, could have afforded to pay \$140 per month for health insurance. The calculation is as follows: Table 3 states that a single person with no dependents whose 2022 AGI was between \$32,201 and \$38,640 could have spent 5% of their earnings on health insurance; 5% of 33,763 is \$1,688, and one-twelfth of \$1,688 is \$140.
12. According to Table 4 of Schedule HC for 2022, the least expensive health insurance plan meeting Massachusetts' minimum creditable coverage requirements that a single person who was 36 and living in Bristol County in January 2022 could have purchased cost \$298 per month.

13. The Appellant testified that they began working at a construction company around August 2021 and were laid off in November 2021, just before Thanksgiving, for the winter.
14. The Appellant testified that they do not believe that the construction company offered them health insurance. The Appellant testified that they eventually might have been able to get health insurance through the union, but that they had not worked enough hours at the construction job before they were laid off.
15. The Appellant testified that they intended to return to the construction job but that their employer kept dragging things out, so they decided in April 2022 to look for a new job. The Appellant testified that they did not think about getting subsidized health insurance at this point but were focused on getting a new job.
16. The Appellant testified that they received unemployment compensation for a period after being laid off from the construction job and that they did not remember when their unemployment compensation ran out.
17. The Appellant testified that they started a new job on September 11, 2022 and that their insurance did not begin until three months later. The Appellant testified that they are currently working at that same job and are insured.
18. The Appellant testified that they did not know the amount of their living expenses for 2022 and that their wife, whom they married in August 2023, paid the bills from a joint pool of money.

ANALYSIS AND CONCLUSIONS OF LAW

The case is before me on the Appellant's appeal from the DOR's assessment of an eight-month tax penalty because the Appellant's tax forms indicated that they did not have health insurance that met Massachusetts' minimum creditable coverage ("MCC") standards for the months of January through November 2022. The issue to be decided is whether the tax penalty should be waived in whole or in part.

I begin by summarizing the legal rules underlying this appeal. The tax penalty was enacted by the Massachusetts Legislature to encourage compliance with G.L. c. 111M, § 2, also called the "individual mandate." The mandate requires every adult resident of Massachusetts to obtain health insurance coverage "[s]o long as it is deemed affordable" under the schedule set by the board of directors for the Commonwealth Health Insurance Connector Authority ("Connector"). G.L. c. 111M, § 2(a). Any health insurance policy must also satisfy the Massachusetts MCC standards for a taxpayer to avoid the penalty.

If these requirements are not met, a tax penalty is assessed for each of the months that the individual did not have health insurance as required by the individual mandate. There is, however, a three-month grace period to allow the taxpayer to obtain health insurance coverage or to make the transition between health insurance policies. See G.L. c. 111M, § 2(b) and Administrative Information Bulletin 03-10: Guidance Regarding M.G.L. c. 111M and M.G.L. c. 176Q, as implemented by 956 CMR 6.00 (clarifying

that for purposes of penalty calculation, taxpayers will not be subject to penalty if they had lapses in coverage consisting of three or fewer consecutive calendar months). The Connector’s regulations also provide for a waiver of the tax penalty in cases of hardship. See 956 CMR 6.07-08.

To determine if the penalty should be waived in whole or in part, there must be a determination as to whether affordable insurance that met MCC standards was available to the Appellant through employment, through the private market, or through a government-subsidized program. If affordable insurance was available, it must be determined whether such insurance was not in fact affordable to the Appellant because the Appellant experienced a hardship as defined in 956 CMR 6.08. Each of these issues is addressed in turn.

First, I conclude that the Appellant did not have access to affordable health insurance meeting MCC standards through employment during the months in which the Appellant was uninsured because the Appellant credibly testified that they did not have a job that offered health insurance. Findings of Fact Nos. 14 and 17.

Second, I conclude that the Appellant did not have access to affordable health insurance meeting MCC standards through the private market. According to Table 3 of the Schedule HC, the Appellant could have afforded to pay \$140 per month for health insurance, but according to Table 4 of the Schedule HC, the least expensive health insurance plan available to the Appellant cost \$298 per month. Findings of Fact Nos. 11 and 12.

Third, I conclude that the Appellant theoretically had access to affordable health insurance meeting MCC standards through a government-subsidized program because the Appellant’s AGI was lower than 300% of the Federal Poverty Level. Finding of Fact No. 10. However, I find that the Appellant suffered a hardship such that this health insurance, even on a subsidized basis, was not affordable to them for the eight months of January through August. The Appellant credibly testified that they were unemployed during these months. Findings of Fact Nos. 15 and 17. As such, had the Appellant purchased health insurance during these months, they likely would have experienced a serious deprivation of food, shelter, clothing, or other necessities. Reviewing the totality of the evidence, I find that it is appropriate to waive the Appellant’s eight-month tax penalty in its entirety. See G.L. c. 111M, § 2 and 956 CMR 6.07(8) and 608(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 2022. The Appellant should not assume that a similar determination will be made for subsequent tax years should they again be assessed a penalty for failure to have health insurance.

PENALTY ASSESSED

Number of Months Appealed: 8 Number of Months Assessed: 0

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

NOTIFICATION OF YOUR RIGHT TO APPEAL TO COURT

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

Hearing Officer

cc: Connector Appeals Unit

Massachusetts Health Connector Appeals Unit

FINAL APPEAL DECISION: PA22-832

Appeal Decision: The tax penalty is overturned.

Hearing Issue: Appeal of the 2022 Tax Year Penalty

Hearing Date: October 23, 2023

Decision Date: October 30, 2023

AUTHORITY

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

JURISDICTION

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

HEARING RECORD

The Appellant was a married person filing separately with no dependents in 2022. The Appellant appeared at the hearing, which was held by telephone, on October 23, 2023. 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 that were admitted into evidence:

Exhibit 1: Appeal Case Information from Schedule HC 2022 (1 page).

Exhibit 2: The Statement of Grounds for Appeal and supplemental documentation provided by the Appellant (5 pages).

Exhibit 3: Health Connector Appeals Unit Notice of Hearing on October 23, 2023 (2 pages).

FINDINGS OF FACT

The record shows, and I so find:

1. The Appellant filed their federal income tax return a married person filing separately with no dependents claimed. (Exhibit 1).
2. The Appellant turned 55 in January 2022. (Exhibit 1).

3. The Appellant's address on their Schedule HC for 2022 was in Buffalo, New York. (Exhibit 1). The Appellant's Schedule HC for 2022 stated that they lived in Massachusetts from January 31, 2022 to August 31, 2022.
4. According to the Appellant's Schedule HC, the Appellant's federal Adjusted Gross Income ("AGI") for 2022 was \$49,617. (Exhibit 1).
5. According to the Appellant's Schedule HC, the Appellant did not have health insurance that met Massachusetts' minimum creditable coverage (MCC) requirements for any month in 2022. The Appellant was assessed a five-month tax penalty for 2022. (Exhibit 1).
6. The Appellant checked off the following box on their Statement of Grounds for Appeal: "During 2022, you purchased health insurance that didn't meet minimum creditable coverage standards because that is what your employer offered, and you felt that your circumstances prevented you from buying other insurance that met the requirements." (Exhibit 2).
7. The Appellant wrote on their Statement of Grounds for Appeal, "I have never received or used Mass Health card and I was covered by USM Cigna." The Appellant provided a federal Form 1095-C showing that they had health insurance through a university in Maine from January through August 2022 and that the Appellant's required monthly contribution was \$157.03. The Form 1095-C listed the Appellant's address as being in Littleton, MA. (Exhibit 2). The Appellant also provided an undated Cigna health insurance card with their name on it and a Littleton, MA address. (Exhibit 2).
8. A hearing on the Appellant's appeal took place telephonically on October 23, 2023. (Exhibit 3). The Appellant appeared at the hearing.
9. I take administrative notice of the financial information set forth in Tables 1 through 6 in the Department of Revenue ("DOR") 2022 Massachusetts Schedule HC Health Care Instruction and Worksheets. Tables 3 and 4 incorporate affordability and premium schedules adopted by the Board of Directors for the Commonwealth Health Insurance Connector Authority for 2022. Table 2 sets forth income at 300% of the federal poverty level, and Tables 5 and 6 set forth tax penalties in effect for 2022.
10. The Appellant's AGI of \$49,617 was more than 300% of the Federal Poverty Level, which was \$38,640 for a single person in 2022. (See Table 2 of Schedule HC-2022 and 956 CMR 12.04).
11. According to Table 3 of Schedule HC for 2022, the Appellant, who filed their federal tax return as a married person filing separately with no dependents and claimed an adjusted gross income of \$49,617, could have afforded to pay \$314 per month for health insurance. The calculation is as follows: Table 3 states that a single person with no dependents whose 2022 AGI was between \$45,801 and \$51,520 could have spent 7.6% of their earnings on health insurance; 7.6% of \$49,617 is \$3,770, and one-twelfth of \$3,770 is \$314.

12. According to Table 4 of Schedule HC for 2022, no county in Massachusetts offered a plan that was \$314 or less for a single person who was age 54 in January 2022.
13. The Appellant testified that they are a Canadian citizen and resident and worked at a university in Maine from January to August 2022. The Appellant testified that they stayed with friends in Maine during this period but could not use these friends' address as their official address. The Appellant testified that they instead used another friend's address in Massachusetts as their mailing address during this period, but that they never physically lived in Massachusetts and maintained a residence in Canada, where their spouse continued to live.
14. The Appellant testified that from January 2022 to August 2022, they were covered by the Canadian national health insurance plan and a health insurance plan that was provided to them by their employing university in Maine. The Appellant testified that the university automatically enrolled them in this plan and that they were not given a choice of plans.

ANALYSIS AND CONCLUSIONS OF LAW

The case is before me on the Appellant's appeal from the DOR's assessment of a five-month tax penalty because the Appellant's tax forms indicated that they did not have health insurance that met Massachusetts' minimum creditable coverage ("MCC") standards for the months of January through August 2022. The issue to be decided is whether the tax penalty should be waived in whole or in part.

I begin by summarizing the legal rules underlying this appeal. The tax penalty was enacted by the Massachusetts Legislature to encourage compliance with G.L. c. 111M, § 2, also called the "individual mandate." The mandate requires every adult resident of Massachusetts to obtain health insurance coverage "[s]o long as it is deemed affordable" under the schedule set by the board of directors for the Commonwealth Health Insurance Connector Authority ("Connector"). G.L. c. 111M, § 2(a). Any health insurance policy must also satisfy the Massachusetts MCC standards for a taxpayer to avoid the penalty.

If these requirements are not met, a tax penalty is assessed for each of the months that the individual did not have health insurance as required by the individual mandate. There is, however, a three-month grace period to allow the taxpayer to obtain health insurance coverage or to make the transition between health insurance policies. See G.L. c. 111M, § 2(b) and Administrative Information Bulletin 03-10: Guidance Regarding M.G.L. c. 111M and M.G.L. c. 176Q, as implemented by 956 CMR 6.00 (clarifying that for purposes of penalty calculation, taxpayers will not be subject to penalty if they had lapses in coverage consisting of three or fewer consecutive calendar months). The Connector's regulations also provide for a waiver of the tax penalty in cases of hardship. See 956 CMR 6.07-08.

To determine if the penalty should be waived in whole or in part, there must be a determination as to whether affordable insurance that met MCC standards was available to the Appellant through the private market, through a government-subsidized program, or through employment. If affordable insurance was available, it must be determined whether such insurance was not in fact affordable to the

Appellant because the Appellant experienced a hardship as defined in 956 CMR 6.08. Each of these issues is addressed in turn.

First, I conclude that the Appellant did not have access to affordable health insurance meeting MCC standards through the private market. According to Table 3 of the Schedule HC, the Appellant could have afforded to pay \$314 per month for health insurance. Finding of Fact No. 11. However, according to Table 4 of the Schedule HC, there was no plan available to the Appellant, who was 54 years old in January 2022, that cost \$314 or less. Finding of Fact. No. 12.

Second, I conclude that the Appellant did not have access to affordable health insurance meeting MCC standards through a government-subsidized program because the Appellant filed their taxes as a married person filing separately. 45 CFR 155.310(d)(2)(ii)(B). In addition, the Appellant’s AGI exceeded 300% of the Federal Poverty Level. Finding of Fact No. 10.

Third, the record is inconclusive as to whether the employer-sponsored insurance in which the Appellant was enrolled from January to August 2022 met MCC standards because the Form 1095-C pertains to federal requirements, not MCC standards. However, the Appellant credibly testified that they were automatically enrolled in this health insurance plan and were not given a choice of health insurance plans. As such, the Appellant either had affordable employer-sponsored health insurance that met MCC standards from January to August 2022 or did not have access to such insurance through their employer.

Reviewing the totality of the evidence, I find that it is appropriate to waive the Appellant’s five-month tax penalty in its entirety because the Appellant did not have access to affordable health insurance meeting MCC standards through the private market or a government-sponsored program, and the Appellant either had affordable health insurance meeting MCC standards through employment or did not have access to such insurance through employment. See G.L. c. 111M, § 2 and 956 CMR 6.07(8) and 608(3).

The Appellant should note that the waiver of their penalty is based upon the facts that I have determined to be true in 2022. The Appellant should not assume that a similar determination will be made for subsequent tax years should they again be assessed a penalty for failure to have health insurance.

PENALTY ASSESSED

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

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

NOTIFICATION OF YOUR RIGHT TO APPEAL TO COURT

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

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

Hearing Officer

cc: Connector Appeals Unit

Massachusetts Health Connector Appeals Unit

FINAL APPEAL DECISION: PA22-833

Appeal Decision: The tax penalty is overturned.

Hearing Issue: Appeal of the 2022 Tax Year Penalty

Hearing Date: October 23, 2023

Decision Date: October 30, 2023

AUTHORITY

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

JURISDICTION

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

HEARING RECORD

The Appellant was a single person with no dependents in 2022. The Appellant appeared at the hearing, which was held by telephone, on October 23, 2023. 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 that were admitted into evidence:

Exhibit 1: Appeal Case Information from Schedule HC 2022 (1 page).

Exhibit 2: The Statement of Grounds for Appeal and supplemental documentation provided by the Appellant (8 pages).

Exhibit 3: Health Connector Appeals Unit Notice of Hearing on October 23, 2023 (2 pages).

FINDINGS OF FACT

The record shows, and I so find:

1. The Appellant filed their federal income tax return a single person with no dependents claimed. (Exhibit 1).
2. The Appellant turned 51 in January 2022. (Exhibit 1).
3. The Appellant lived in Essex County in 2022. (Exhibit 1).

4. According to the Appellant's Schedule HC, the Appellant's federal Adjusted Gross Income ("AGI") for 2022 was \$46,425. (Exhibit 1).
5. According to the Appellant's Schedule HC, the Appellant did not have health insurance that met Massachusetts' minimum creditable coverage (MCC) requirements for any month in 2022. The Appellant was assessed a twelve-month tax penalty for 2022. (Exhibit 1).
6. The Appellant checked off the following boxes on their Statement of Grounds for Appeal: "During 2022, you received a shut-off notice; were shut off; or were refused delivery of essential utilities (gas, electric, heating oil, water, primary telephone)" and "During 2022, the expense of purchasing health insurance would have caused a serious deprivation of food, shelter, clothing, or other necessities." (Exhibit 2).
7. The Appellant included with their Statement of Grounds for Appeal a shut-off notice from National Grid dated February 28, 2023 with a past due amount of \$164.68. (Exhibit 2).
8. The Appellant included with their Statement of Grounds for Appeal a handwritten note stating in relevant part, "I can't provide any shut off notices from my gas and electric from last year my bank account is off and on from the negative I basically bounce every 2 months and I've been paying my rent at least 7 days late since last year . . . My job . . . took me \$110 a week in gas which I travelled back and forth to work which was 50 miles a day, I recently started a job closer to me but still have a hard time living paycheck to paycheck I'm also unable to eat good due to the high prices at the supermarkets I struggle a lot and still manage to work I hated that I couldn't afford to have health insurance but I'd make too much money for Masshealth . . ."
9. A hearing on the Appellant's appeal took place telephonically on October 23, 2023. (Exhibit 3). The Appellant appeared at the hearing.
10. I take administrative notice of the financial information set forth in Tables 1 through 6 in the Department of Revenue ("DOR") 2022 Massachusetts Schedule HC Health Care Instruction and Worksheets. Tables 3 and 4 incorporate affordability and premium schedules adopted by the Board of Directors for the Commonwealth Health Insurance Connector Authority for 2022. Table 2 sets forth income at 300% of the federal poverty level, and Tables 5 and 6 set forth tax penalties in effect for 2022.
11. The Appellant's AGI of \$46,425 was more than 300% of the Federal Poverty Level, which was \$38,640 for a single person in 2022. (See Table 2 of Schedule HC-2022 and 956 CMR 12.04).
12. According to Table 3 of Schedule HC for 2022, the Appellant, who filed their federal tax return as a single person with no dependents and claimed an adjusted gross income of \$46,425, could have afforded to pay \$294 per month for health insurance. The calculation is as follows: Table 3 states that a single person with no dependents whose 2022 AGI was between \$45,801 and \$51,520 could have spent 7.6% of their earnings on health insurance; 7.6% of \$46,425 is \$3,528, and one-twelfth of \$3,528 is \$294.

13. According to Table 4 of Schedule HC for 2022, the least expensive health insurance plan available on the private market to the Appellant, a single person age 50 living in Essex County in January 2022, cost \$422 per month.
14. The Appellant testified that they worked at a store that was 25 minutes from their house in 2022 and had high commuting costs in 2022.
15. The Appellant testified that their employer offered health insurance and that they believed that the required employee contribution was \$56-60 per week.
16. The Appellant testified that they did not enroll in their employer-sponsored health insurance because they could not afford it.
17. The Appellant testified that they estimated they had the following monthly expenses in 2022: \$1250 for rent; \$20 to \$30 for electricity, depending on the season; \$25 to \$50 for gas, depending on the season; \$50 for wifi; \$315 for a car payment; \$420 for gas, due to their commute; \$100 for car insurance; \$80 for cellphone; \$120 for food; and \$100 for household supplies.
18. The Appellant testified that they had difficulty making ends meet in 2022, that they frequently bounced checks; and that they had a hard time affording meals.
19. The Appellant testified that they currently have approximately \$10,000 to \$12,000 in credit card debt and are being taken to court by one of their creditors. The Appellant testified that they ran up credit card bills in 2020 and 2021 for the purchase of food and gas.
20. The Appellant testified that they have a new job that is 10 minutes from their house and that they now have health insurance.

ANALYSIS AND CONCLUSIONS OF LAW

The case is before me on the Appellant's appeal from the DOR's assessment of a twelve-month tax penalty because the Appellant's tax forms indicated that they did not have health insurance that met Massachusetts' minimum creditable coverage ("MCC") standards for any month in 2022. The issue to be decided is whether the tax penalty should be waived in whole or in part.

I begin by summarizing the legal rules underlying this appeal. The tax penalty was enacted by the Massachusetts Legislature to encourage compliance with G.L. c. 111M, § 2, also called the "individual mandate." The mandate requires every adult resident of Massachusetts to obtain health insurance coverage "[s]o long as it is deemed affordable" under the schedule set by the board of directors for the Commonwealth Health Insurance Connector Authority ("Connector"). G.L. c. 111M, § 2(a). Any health insurance policy must also satisfy the Massachusetts MCC standards for a taxpayer to avoid the penalty.

If these requirements are not met, a tax penalty is assessed for each of the months that the individual did not have health insurance as required by the individual mandate. There is, however, a three-month grace period to allow the taxpayer to obtain health insurance coverage or to make the transition between health insurance policies. See G.L. c. 111M, § 2(b) and Administrative Information Bulletin 03-10: Guidance Regarding M.G.L. c. 111M and M.G.L. c. 176Q, as implemented by 956 CMR 6.00 (clarifying that for purposes of penalty calculation, taxpayers will not be subject to penalty if they had lapses in coverage consisting of three or fewer consecutive calendar months). The Connector's regulations also provide for a waiver of the tax penalty in cases of hardship. See 956 CMR 6.07-08.

To determine if the penalty should be waived in whole or in part, there must be a determination as to whether affordable insurance that met MCC standards was available to the Appellant through the private market, through a government-subsidized program, or through employment. If affordable insurance was available, it must be determined whether such insurance was not in fact affordable to the Appellant because the Appellant experienced a hardship as defined in 956 CMR 6.08. Each of these issues is addressed in turn.

First, I conclude that the Appellant did not have access to affordable health insurance meeting MCC standards through the private market. According to Table 3 of the Schedule HC, the Appellant could have afforded to pay \$294 per month for health insurance. Finding of Fact No. 12. However, according to Table 4 of the Schedule HC, the least expensive plan available to the Appellant, who was 50 years old and living in Essex County in January 2022, cost \$422. Finding of Fact. No. 13.

Second, I conclude that the Appellant did not have access to affordable health insurance meeting MCC standards through a government-subsidized program because the Appellant's AGI exceeded 300% of the Federal Poverty Level. Finding of Fact No. 11.

Third, I conclude that the Appellant theoretically could have obtained affordable health insurance meeting MCC standards through their employer because the Appellant testified that their employer offered health insurance that would have cost the Appellant \$56 to \$60 per week. Finding of Fact No. 15. This comes out to a cost of \$242-260 per month. However, I conclude that such insurance was not actually affordable to the Appellant because the Appellant suffered a hardship. The Appellant testified that they had high commuting costs in 2022 and also struggled to pay for food. Finding of Facts Nos. 14 and 18. I find that the Appellant's estimate of their gas costs seems high, given the distance they testified that they commuted in 2022, and that Appellant's estimate of their monthly food costs seems low. However, I take administrative notice of the fact that both gas and food prices were high in 2022. See, e.g., <https://www.ers.usda.gov/data-products/food-price-outlook/summary-findings/> and <https://www.bts.gov/data-spotlight/record-breaking-increases-motor-fuel-prices-2022>. As a result, I conclude that, given these high prices and the Appellant's income, the Appellant would likely have experienced a serious deprivation of food, shelter, clothing, or other necessities had they purchased their employer-sponsored health insurance.

Reviewing the totality of the evidence, I find that it is appropriate to waive the Appellant's twelve-month tax penalty in its entirety. See G.L. c. 111M, § 2 and 956 CMR 6.07(8) and 608(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 2022. The Appellant should not assume that a similar determination will be made for subsequent tax years should they again be assessed a penalty for failure to have health insurance.

PENALTY ASSESSED

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

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

NOTIFICATION OF YOUR RIGHT TO APPEAL TO COURT

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

Hearing Officer

cc: Connector Appeals Unit

Massachusetts Health Connector Appeals Unit

FINAL APPEAL DECISION: PA21-2424

Appeal Decision: The tax penalty is overturned.

Hearing Issue: Appeal of the 2021 Tax Year Penalty

Hearing Date: May 5, 2023

Decision Date: June 22, 2023

AUTHORITY

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

JURISDICTION

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

HEARING RECORD

The Appellant appeared at the hearing, which was held by telephone, on May 5, 2023. 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. I left the record open, and the Appellant submitted additional documentation in response to my open record request. The hearing record consists of the Appellant's testimony and the following documents that were admitted into evidence:

- Exhibit 1: Appeal Case Information from Schedule HC 2021 (1 page).
- Exhibit 2: The Statement of Grounds for Appeal and supporting documentation (6 pages).
- Exhibit 3: Health Connector Appeals Unit Notice of Hearing on May 5, 2023 (2 pages).
- Exhibit 4: Open Record Request (1 page)
- Exhibit 5: Documents Received from Appellant in response to Open Record Request (letter from insurer and summary of benefits for 2023)(29 pages).

FINDINGS OF FACT

The record shows, and I so find:

1. The Appellant, who turned age 23 in May 2021, filed their federal income tax return as a single person with no dependents claimed. (Exhibit 1).

2. The Appellant's legal residence was in Middlesex County throughout 2021. (Exhibit 1) and Appellant Testimony.
3. The Appellant's federal Adjusted Gross Income ("AGI") for 2021 was \$30,783. (Exhibit 1).
4. According to the Appellant's Appeal Case Information from Schedule HC, the Appellant did not have health insurance that met Massachusetts minimum creditable coverage (MCC) requirements for the entirety of 2021. The Appellant was assessed a twelve-month tax penalty for 2021. (Exhibit 1).
5. The Appellant filed an appeal of the twelve-month penalty assessment in May 2022. The Appellant did not check off any box in the Appellant's Statement of Grounds for Appeal but instead submitted a handwritten note stating that they had health insurance in 2021 and listing the name and number of the insurance policy. (Exhibit 2).
6. A hearing on the Appellant's appeal took place telephonically on May 5, 2023. (Exhibit 3).
7. I take administrative notice of the financial information set forth in Tables 1 through 6 in the Department of Revenue ("DOR") 2021 Massachusetts Schedule HC Health Care Instruction and Worksheets. Tables 3 and 4 incorporate affordability and premium schedules adopted by the Board of Directors for the Commonwealth Health Insurance Connector Authority for 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. The Appellant's AGI of \$30,783 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).
9. According to Table 3 of Schedule HC for 2021, the Appellant, who filed their federal tax return as a single person with no dependents and claimed an adjusted gross income of \$30,783, could have afforded to pay \$107 per month for health insurance. The calculation is as follows: Table 3 states that a single individual with no dependents whose 2021 AGI was between \$25,521 and \$31,900 could have spent 4.2% of their earnings on health insurance; 4.2% of \$30,783 is \$1292, and one-twelfth of \$1292 is \$107.
10. According to Table 4 of Schedule HC for 2021, the least expensive health insurance plan meeting Massachusetts' minimum creditable coverage requirements that the Appellant, a single person age 22 living in Middlesex County in January 2021, could have purchased on the private market cost \$271 per month.
11. The Appellant testified that they had health insurance throughout 2021 and were enrolled in their parents' health insurance plan. The Appellant testified that their parents live in New York.
12. I left the record open and requested that the Appellant submit: (1) documentation showing the months in which the Appellant was enrolled in health insurance in 2021; and (2) documentation

that would enable me to determine whether the out-of-state health insurance plan in which the Appellant was enrolled met Massachusetts' minimum creditable coverage requirements. (Exhibit 4).

13. On June 2, 2023, the Health Connector received the following documents from the Appellant in response to the open record request: (1) a letter from an insurer stating that the Appellant was covered under the New York State Empire Plan family contract as of January 1, 2021; and (2) a summary of the benefits provided by the insurance plan for 2023. (Exhibit 5).

ANALYSIS AND CONCLUSIONS OF LAW

The case is before me on the Appellant's appeal from the DOR's assessment of a twelve-month tax penalty because the Appellant's tax forms indicated that they did not have health insurance that met minimum creditable coverage ("MCC") standards during any month in 2021. The issue to be decided is whether the tax penalty should be waived in whole or in part.

I begin by summarizing the legal rules underlying this appeal. The tax penalty was enacted by the Massachusetts Legislature to encourage compliance with G.L. c. 111M, § 2, also called the "individual mandate." The mandate requires every adult resident of Massachusetts to obtain health insurance coverage "[s]o long as it is deemed affordable" under the schedule set by the board of directors for the Commonwealth Health Insurance Connector Authority ("Connector"). G.L. c. 111M, § 2(a). Any health insurance policy must also satisfy the Massachusetts MCC standards for a taxpayer to avoid the penalty.

If these requirements are not met, a tax penalty is assessed for each of the months that the individual did not have health insurance as required by the individual mandate. There is, however, a three-month grace period to allow the taxpayer to obtain health insurance coverage or to make the transition between health insurance policies. See G.L. c. 111M, § 2(b) and Administrative Information Bulletin 03-10: Guidance Regarding M.G.L. c. 111M and M.G.L. c. 176Q, as implemented by 956 CMR 6.00 (clarifying that for purposes of penalty calculation, taxpayers will not be subject to penalty if they had lapses in coverage consisting of three or fewer consecutive calendar months). The Connector's regulations also provide for a waiver of the tax penalty in cases of hardship. See 956 CMR 6.07-08.

To determine if the penalty should be waived in whole or in part, there must be a determination as to whether affordable insurance that met MCC standards was available to the Appellant through employment, through the private insurance market, or through a government-subsidized program. If affordable insurance was available, it must be determined whether such insurance was not in fact affordable to the Appellant because the Appellant experienced a hardship as defined in 956 CMR 6.08.

First, I conclude that the Appellant should not be assessed a penalty because it appears probable that the Appellant had insurance meeting MCC requirements for 2021. The Appellant testified that they were enrolled in their parents' New York health insurance plan throughout 2021, and in response to my open record request, the Appellant submitted documentation confirming such enrollment. (Exhibits 4 and 5). The Appellant also submitted a summary of benefits for this insurance plan for 2023, and the plan appears to meet MCC requirements. Although the Appellant did not submit a summary of benefits for

the 2021 plan year, it seems more likely than not that the plan also would have met MCC requirements for 2021.

Second, I conclude that even if the health insurance in which the Appellant was enrolled in 2021 did not meet MCC requirements, the Appellant had a good faith belief that they were enrolled in adequate health insurance in 2021, and this good faith belief in turn would have functioned to prevent the Appellant from obtaining affordable insurance meeting MCC requirements from other sources. For example, because the Appellant's income was less than 300% of the federal poverty level in 2021, they were likely eligible for government-subsidized health insurance. Finding of Fact No. 8. However, because the Appellant believed that they had adequate health insurance (and were in fact enrolled in health insurance), they had no reason to explore this option.

Reviewing the totality of the evidence, I conclude that it is appropriate to waive the Appellant's twelve-month penalty in its entirety and hereby do so. See G.L. c. 111M, § 2 and 956 CMR 6.07(8) and 6.08(2) and (3).

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

Hearing Officer

cc: Connector Appeals Unit

Massachusetts Health Connector Appeals Unit

FINAL APPEAL DECISION: PA21-2501

Appeal Decision: The tax penalty is overturned.

Hearing Issue: Appeal of the 2021 Tax Year Penalty

Hearing Date: June 2, 2023

Decision Date: June 21, 2023

AUTHORITY

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

JURISDICTION

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

HEARING RECORD

The Appellant appeared at the hearing, which was held by telephone, on June 2, 2023. 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 that were admitted into evidence:

- Exhibit 1: Appeal Case Information from Schedule HC 2021 (1 page).
- Exhibit 2: Statement of Grounds for Appeal and supplemental documentation (15 pages).
- Exhibit 3: Health Connector Appeals Unit Notice of Hearing on June 2, 2023 (2 pages).

FINDINGS OF FACT

The record shows, and I so find:

1. The Appellant, who turned age 48 in August 2021, filed their federal income tax return as a married person filing jointly with three dependents claimed. (Exhibit 1). The Appellant's spouse turned 41 in January 2021.
2. The Appellant's Appeal Case Information from Schedule HC for 2021 ("Schedule HC") stated that the Appellant was a part-year resident of Massachusetts from January 1, 2021 to June 30, 2021. (Exhibit 1).
3. The Appellant's federal Adjusted Gross Income ("AGI") for 2021 was \$133,732. (Exhibit 1).

4. According to the Appellant's Schedule HC, the Appellant did not have health insurance that met Massachusetts minimum creditable coverage (MCC) requirements for the entirety of 2021. The Appellant was assessed a three-month tax penalty for 2021. (Exhibit 1).
5. The Appellant's Schedule HC also showed that the Appellant's spouse did not have health insurance that met Massachusetts MCC requirements for the entirety of 2021. The Appellant's spouse was also assessed a three-month tax penalty for 2021. (Exhibit 1).
6. The Appellant filed an appeal of the three-month penalty assessment in May 2022. The Appellant checked the following box on their Statement of Grounds for Appeal: "Other. During 2021 other circumstances, such as applying the Affordability Tables in Schedule HC to you is inequitable (for example, because of family size); that you were unable to obtain government-subsidized insurance even though your income qualified you; or that you didn't reside in Massachusetts during your period of uninsurance." The Appellant was the sole signatory on the Statement of Grounds for Appeal. (Exhibit 2).
7. The Appellant also submitted a letter dated May 13, 2022 stating that their family resides in Atlanta, Georgia and that they (the Appellant) flew back and forth between Atlanta and Boston for the past two years for work. The Appellant submitted evidence of receipts totaling around \$4,000 for approximately 20 flights between Atlanta and Boston in 2021. In addition, the Appellant submitted a health insurance card from Anthem with the Appellant's name on it that stated that benefits were effective on October 1, 2021. (Exhibit 2).
8. A hearing on the Appellant's appeal took place telephonically on June 2, 2023. (Exhibit 3).
9. I take administrative notice of the financial information set forth in Tables 1 through 6 in the Department of Revenue ("DOR") 2021 Massachusetts Schedule HC Health Care Instruction and Worksheets. Tables 3 and 4 incorporate affordability and premium schedules adopted by the Board of Directors for the Commonwealth Health Insurance Connector Authority for 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. The Appellant's AGI of \$133,732 was more than 300% of the Federal Poverty Level, which was \$92,040 for a household of five in 2021. (See Table 2 of Schedule HC-2021 and 956 CMR 12.04).
11. According to Table 3 of Schedule HC for 2021, the Appellant, who filed their federal tax return as a married person filing jointly with three dependents and claimed an adjusted gross income of \$133,732, could have afforded to pay \$891 per month for health insurance. The calculation is as follows: Table 3 states that a married person filing jointly with one or more dependents whose 2021 AGI was \$86,881 or more could have spent 8% of their earnings on health insurance; 8% of \$133,732 is \$10,698, and one-twelfth of \$10,698 is \$891.

12. According to Table 4 of Schedule HC for 2021, the least expensive health insurance plan meeting Massachusetts' minimum creditable coverage requirements that the Appellant, a married person age 47 in January 2021 filing jointly with three dependents, could have purchased on the private market cost \$820 per month.
13. The Appellant testified that they emigrated to the United States from Bangladesh and have been living in Atlanta since 2013.
14. The Appellant testified that they are married and have three children. The Appellant testified that in 2020, they obtained a job with a Georgia-based company as an information technology consultant and were assigned to work on a contract for the Commonwealth of Massachusetts. The Appellant testified that the assignment required them to work in Massachusetts 10 to 12 days per month in 2021.
15. The Appellant testified that throughout 2021, they would fly from Atlanta to Boston when they had to work in Massachusetts. The Appellant testified that when they were in Massachusetts, they would stay at a friend's residence in Cambridge. The Appellant testified that they did not pay rent to their friend in Massachusetts but would provide money for expenses from time to time.
16. The Appellant testified that since they arrived in the United States, they and their family have shared a home with their brother and their brother's family in Atlanta, Georgia. The Appellant testified that in 2021, they estimated that their average monthly expenses were as follows: \$700 in informal rent payments to the Appellant's brother; \$200 for water; \$200 for electricity; \$110 for cellphone; \$170 for car insurance; \$100 for gas; \$700 for food; \$400 for clothing and household supplies; and \$200 for student loans.
17. The Appellant testified that they believed their employer in Georgia offered health insurance in 2021 and that the cost was around \$800 to \$900 per month. The Appellant testified that the cost of this insurance was too expensive for the Appellant and their family. The Appellant also testified that they believed they had insurance at some point in 2021 through their spouse, but they could not remember the details, including the name of the insurer.
18. The Appellant testified that they earned approximately \$96,000 of the \$133,732 in income declared by the Appellant and their wife on their 2021 tax return. The Appellant said that the remaining income was earned by their spouse, who worked for a few months in 2021.
19. The Appellant testified that in June or July 2022, they left their job and now spend all of their time in Georgia. The Appellant testified that they work remotely for a company in New Jersey and that they and their family now have health insurance through the Appellant's spouse.

ANALYSIS AND CONCLUSIONS OF LAW

The case is before me on the Appellant's appeal from the DOR's assessment of a three-month tax penalty because the Appellant's tax forms indicated that they did not have health insurance that met minimum creditable coverage ("MCC") standards during the time that they stated on their tax forms that they lived in Massachusetts. The issue to be decided is whether the tax penalty should be waived in whole or in part. Because the Appellant filed their taxes jointly with their spouse, I am also treating the Appellant's appeal as an appeal of the three-month penalty assessed against their spouse.

I begin by summarizing the legal rules underlying this appeal. The tax penalty was enacted by the Massachusetts Legislature to encourage compliance with G.L. c. 111M, § 2, also called the "individual mandate." The mandate requires every adult resident of Massachusetts to obtain health insurance coverage "[s]o long as it is deemed affordable" under the schedule set by the board of directors for the Commonwealth Health Insurance Connector Authority ("Connector"). G.L. c. 111M, § 2(a). Any health insurance policy must also satisfy the Massachusetts MCC standards for a taxpayer to avoid the penalty.

If these requirements are not met, a tax penalty is assessed for each of the months that the individual did not have health insurance as required by the individual mandate. There is, however, a three-month grace period to allow the taxpayer to obtain health insurance coverage or to make the transition between health insurance policies. See G.L. c. 111M, § 2(b) and Administrative Information Bulletin 03-10: Guidance Regarding M.G.L. c. 111M and M.G.L. c. 176Q, as implemented by 956 CMR 6.00 (clarifying that for purposes of penalty calculation, taxpayers will not be subject to penalty if they had lapses in coverage consisting of three or fewer consecutive calendar months). The Connector's regulations also provide for a waiver of the tax penalty in cases of hardship. See 956 CMR 6.07-08.

To determine if the penalty should be waived in whole or in part, there must be a determination as to whether affordable insurance that met MCC standards was available to the Appellant through a government-subsidized program, through the private market, or through employment. If affordable insurance was available, it must be determined whether such insurance was not in fact affordable to the Appellant because the Appellant experienced a hardship as defined in 956 CMR 6.08. These issues are all addressed below.

As an initial matter, I conclude that the penalty against the Appellant and their spouse should be waived because the Appellant credibly testified that they did not reside in Massachusetts during the penalty period (i.e., January 1, 2021 to June 30, 2021); as a result, the individual mandate did not apply to them as a matter of law. M.G.L. c. 111M, § 2(a)(individual mandate applies to Massachusetts residents). The Appellant testified that their family lived entirely in Atlanta, Georgia during the penalty period and that the Appellant spent 10-12 days per month in Massachusetts for work. Findings of Fact Nos. 14 and 15. The Appellant testified that they did not maintain a residence in Massachusetts during the penalty period, but instead stayed with a friend in Cambridge when they were in Massachusetts. Finding of Fact No. 15. I find the Appellant's testimony to be credible, in large part because the Appellant provided evidence of monthly flights between Atlanta and Boston throughout 2021. Exhibit 2 and Finding of Fact No. 7.

Second, I conclude that even if the Appellant and their spouse were residents of Massachusetts during the penalty period in 2021, the penalty should be waived because health insurance meeting MCC standards was not affordable to them.

Because the Appellant's and their spouse's AGI exceeded 300% of the federal poverty level, they were not eligible for government-subsidized insurance. Finding of Fact No. 10. Theoretically, the Appellant and their spouse could have afforded to purchase health insurance on the private market because the Schedule HC indicates that they could have afforded to pay \$891 per month for health insurance, and they could have purchased a plan for \$820. Findings of Fact Nos. 11 and 12. I find, however, that such insurance was not in fact affordable to the Appellant and their spouse because they were spending more than \$300 per month (i.e. because \$4000 per year divided by 12 months is \$333) for flights between Atlanta and Boston. Findings of Fact Nos. 7 and 15. This was an expense above and beyond what the Appellant's and their spouse's income would cover and likely crowded out their ability to purchase health insurance. Had the Appellant and their spouse purchased health insurance, they would likely have experienced a serious deprivation of food, shelter, clothing, or other necessities. For the same reason, the employer-sponsored health insurance available to the Appellant, which the Appellant testified cost around \$800-900 per month, was also not affordable to the Appellant and their spouse. Finding of Fact No. 17.

Finally, the Appellant testified that they believed they had health insurance at some point in 2021 through their spouse's employer, but they were unable to provide details about this insurance. Finding of Fact No. 17. The Appellant did provide a copy of an insurance card indicating that they were enrolled in an Anthem plan and that benefits became effective on October 1, 2021. Exhibit 2 and Finding of Fact No. 7. The Appellant testified that their spouse worked for a few months in 2021, so it seems likely that the Anthem plan was their spouse's employer-sponsored insurance and that it was not available to the Appellant during the penalty period. Findings of Fact No. 17 and 18.

Reviewing the totality of the evidence, I conclude that it is appropriate to waive the Appellant's and their spouse's three-month penalties. As a result, I waive the Appellant's and their spouse's three-month penalties in their entirety. See G.L. c. 111M, § 2 and 956 CMR 6.07(8) and 6.08(1)(e).

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

Hearing Officer

cc: Connector Appeals Unit

Massachusetts Health Connector Appeals Unit

FINAL APPEAL DECISION: PA21-2502

Appeal Decision: The tax penalty is overturned.

Hearing Issue: Appeal of the 2021 Tax Year Penalty

Hearing Date: June 2, 2023

Decision Date: June 21, 2023

AUTHORITY

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

JURISDICTION

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

HEARING RECORD

The Appellant appeared at the hearing, which was held by telephone, on June 2, 2023. 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 that were admitted into evidence:

Exhibit 1: Appeal Case Information from Schedule HC 2021 (1 page).

Exhibit 2: The Statement of Grounds for Appeal and supporting documentation (21 pages).

Exhibit 3: Health Connector Appeals Unit Notice of Hearing on June 2, 2023 (2 pages).

FINDINGS OF FACT

The record shows, and I so find:

1. The Appellant, who turned age 37 in October 2021, filed their federal income tax return as a single person with no dependents claimed. (Exhibit 1).
2. The Appellant's legal residence was in Middlesex County throughout 2021. (Exhibit 1) and Appellant Testimony.
3. The Appellant's federal Adjusted Gross Income ("AGI") for 2021 was \$60,342. (Exhibit 1).

4. According to the Appellant's Appeal Case Information from their Schedule HC ("Schedule HC"), the Appellant did not have health insurance that met Massachusetts minimum creditable coverage (MCC) standards from March through December 2021. The Appellant was assessed a seven-month tax penalty for 2021. (Exhibit 1).
5. The Appellant filed an appeal of the seven-month penalty assessment in May 2022. The Appellant checked off the following box in the Appellant's Statement of Grounds for Appeal: "Other. During 2021 other circumstances such as: applying the Affordability Tables in Schedule HC to you is inequitable (for example, because of family size); that you were unable to obtain government-subsidized insurance even though your income qualified you; or that you didn't reside in Massachusetts during your period of uninsurance." (Exhibit 2). The Appellant handwrote on their appeal form: "Had insurance but no tax docs."
6. The Appellant also submitted a card showing that they were enrolled in a "Secure Care" insurance plan as of February 15, 2021, as well as evidence of monthly payments of \$218.99 for the Secure Care plan and a AWA Continue Care plan from January through December 2021.
7. A hearing on the Appellant's appeal took place telephonically on June 2, 2023. (Exhibit 3).
8. I take administrative notice of the financial information set forth in Tables 1 through 6 in the Department of Revenue ("DOR") 2021 Massachusetts Schedule HC Health Care Instruction and Worksheets. Tables 3 and 4 incorporate affordability and premium schedules adopted by the Board of Directors for the Commonwealth Health Insurance Connector Authority for 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. The Appellant's AGI of \$60,342 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. According to Table 3 of Schedule HC for 2021, the Appellant, who filed their federal tax return as a single person with no dependents and claimed an adjusted gross income of \$60,342, could have afforded to pay \$402 per month for health insurance. The calculation is as follows: Table 3 states that a single individual with no dependents whose 2021 AGI was \$51,041 or more could have spent 8% of their earnings on health insurance; 8% of \$60,342 is \$4827, and one-twelfth of \$4827 is \$402.
11. According to Table 4 of Schedule HC for 2021, the least expensive health insurance plan meeting Massachusetts' minimum creditable coverage requirements that the Appellant, a single person age 36 living in Middlesex County in March 2021, could have purchased on the private market cost \$275 per month.
12. The Appellant testified that they worked throughout 2021 at the same job but that their employer did not offer health insurance. The Appellant testified that their employer had five employees.

13. The Appellant testified that their sole source of income during 2021 was from their job and that they did not collect any unemployment compensation. The Appellant testified that they were paid \$25 per hour and that they worked consistently and frequently worked overtime.
14. The Appellant testified that they were formerly enrolled in a Tufts health insurance plan but that the costs for that plan increased significantly for 2021. The Appellant testified that in order to save money, they began exploring other options for health insurance for 2021. The Appellant testified that at some point, an ad for a "Secure Care" plan appeared on their phone. The Appellant testified that they called the number that appeared on the screen and ultimately enrolled in the Secure Care plan. The Appellant testified that they paid \$218.99 per month for the Secure Care plan coverage.
15. The Appellant testified that they believed the Secure Care plan was adequate health insurance for tax purposes. The Appellant said that they only realized that the Secure Care plan was not adequate for tax purposes when they did not receive a health insurance tax document for 2021. The Appellant testified that they contacted Secure Care to obtain a health insurance tax document, and Secure Care told them that they did not provide tax documents because they were not a major health insurance plan.
16. The Appellant testified that they went to the doctor in 2021 and that their primary care provider accepted the Secure Care plan.
17. The Appellant testified that they estimated they had the following monthly expenses in 2021: \$1400 for rent in October through December, plus a single expense of \$2800 for a security deposit and realtor fee for a new apartment (the Appellant lived with their deceased boyfriend's parents prior to October 2021); \$200 payments to their deceased boyfriend's parents from January to October for household expenses; \$50-150 for heat at the Appellant's apartment from October to December; \$150 for car insurance; \$80-100 for gas; \$100 for a cellphone; \$400-500 for food; \$250-300 for clothing; \$100 for toiletries; and \$300 for student loans. In addition, the Appellant testified that they spent at least \$1800 on car repairs in 2021.
18. The Appellant testified that they believed that they now have insurance coverage through MassHealth but that they have had experienced difficulties confirming their coverage with MassHealth.

ANALYSIS AND CONCLUSIONS OF LAW

The case is before me on the Appellant's appeal from the DOR's assessment of a seven-month tax penalty because the Appellant's tax forms indicated that they did not have health insurance that met minimum creditable coverage ("MCC") standards from March through December 2021. The issue to be decided is whether the tax penalty should be waived in whole or in part.

I begin by summarizing the legal rules underlying this appeal. The tax penalty was enacted by the Massachusetts Legislature to encourage compliance with G.L. c. 111M, § 2, also called the “individual mandate.” The mandate requires every adult resident of Massachusetts to obtain health insurance coverage “[s]o long as it is deemed affordable” under the schedule set by the board of directors for the Commonwealth Health Insurance Connector Authority (“Connector”). G.L. c. 111M, § 2(a). Any health insurance policy must also satisfy the Massachusetts MCC standards for a taxpayer to avoid the penalty.

If these requirements are not met, a tax penalty is assessed for each of the months that the individual did not have health insurance as required by the individual mandate. There is, however, a three-month grace period to allow the taxpayer to obtain health insurance coverage or to make the transition between health insurance policies. See G.L. c. 111M, § 2(b) and Administrative Information Bulletin 03-10: Guidance Regarding M.G.L. c. 111M and M.G.L. c. 176Q, as implemented by 956 CMR 6.00 (clarifying that for purposes of penalty calculation, taxpayers will not be subject to penalty if they had lapses in coverage consisting of three or fewer consecutive calendar months). The Connector’s regulations also provide for a waiver of the tax penalty in cases of hardship. See 956 CMR 6.07-08.

To determine if the penalty should be waived in whole or in part, there must be a determination as to whether affordable insurance that met MCC standards was available to the Appellant through employment, through a government-subsidized program, or through the private market. If affordable insurance was available, it must be determined whether such insurance was not in fact affordable to the Appellant because the Appellant experienced a hardship as defined in 956 CMR 6.08. Each of these issues is addressed in turn.

First, I conclude that the Appellant did not have access to affordable health insurance meeting MCC standards through employment. The Appellant credibly testified that their employer, which only had five employees, did not offer health insurance. Finding of Fact No. 12.

Second, I conclude that the Appellant did not have access to affordable health insurance meeting MCC standards through a government-subsidized program. The Appellant’s income exceeded 300% of the federal poverty level, and they testified that they did not receive unemployment compensation in 2021. Findings of Fact Nos. 9 and 13. As a result, the Appellant was not eligible for government-subsidized insurance.

Third, I conclude that although the Appellant theoretically had access to affordable health insurance meeting MCC standards through the private market, they did not have actual access to it. The Schedule HC indicates that the Appellant could have afforded to spend \$402 per month on health insurance and that the Appellant could have purchased a plan on the private market meeting MCC standards for \$275 per month. Findings of Fact Nos. 10 and 11. However, the Appellant testified that they believed they had adequate health insurance through the Secure Care plan. I find the Appellant’s testimony to be credible because they provided documentation showing that they paid \$218.99 per month for the Secure Care coverage throughout 2021. These documents tend to demonstrate that the Appellant had a good faith belief that they had adequate insurance and were not trying to flout the individual mandate. The Appellant’s genuine belief that they had adequate health insurance in turn effectively blocked them from purchasing MCC-compliant health insurance on the private market. Since the Appellant thought

they had adequate health insurance through the Secure Care plan, they had no need to further explore their options on the private market.

Reviewing the totality of the evidence, I conclude that it is appropriate to waive the Appellant's seven-month penalty. As a result, I waive the Appellant's seven-month penalty in its entirety. See G.L. c. 111M, § 2 and 956 CMR 6.07(8) and 6.08(2) and (3).

The Appellant should note that the waiver of their penalty is based upon the facts that I have determined to be true in 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: 7 Number of Months Assessed: 0

If the number of months assessed is zero (0) because your penalty has been overturned, the Connector has notified the Department of Revenue that you should NOT be assessed a penalty for Tax Year 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: PA21-2525

Appeal Decision: The tax penalty is overturned.

Hearing Issue: Appeal of the 2021 Tax Year Penalty

Hearing Date: June 9, 2023

Decision Date: June 22, 2023

AUTHORITY

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

JURISDICTION

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

HEARING RECORD

The Appellant and their spouse appeared at the hearing, which was held by telephone, on June 9, 2023. The procedures to be followed during the hearing were reviewed with the Appellant and their spouse, who were then sworn in. Exhibits were marked and admitted into evidence with no objection from the Appellant. The hearing record consists of the Appellant's and the Appellant's spouse's testimony and the following documents that were admitted into evidence:

Exhibit 1: Appeal Case Information from Schedule HC 2021 (1 page).

Exhibit 2: The Statement of Grounds for Appeal and supplemental documentation provided by the Appellant (6 pages).

Exhibit 3: Health Connector Appeals Unit Notice of Hearing on June 9, 2023 (2 pages).

Exhibit 4: Final Appeal Decision in PA 19-1040

FINDINGS OF FACT

The record shows, and I so find:

1. The Appellant, who turned age 57 in May 2021, filed their federal income tax return as a married person filing jointly with no dependents claimed. (Exhibit 1). The Appellant's spouse turned 64 in July 2021.
2. The Appellant's legal residence was in Norfolk County throughout 2021. (Exhibit 1) and Appellant Testimony.

3. The Appellant's federal Adjusted Gross Income ("AGI") for 2021 was \$49,935. (Exhibit 1).
4. According to the Appellant's Appeal Case Information from Schedule HC ("Schedule HC"), the Appellant did not have health insurance that met Massachusetts minimum creditable coverage (MCC) requirements for any month in 2021. The Appellant was assessed a twelve-month tax penalty for 2021. The Appellant's spouse was not assessed a penalty. (Exhibit 1).
5. The Appellant filed an appeal of the twelve-month penalty assessment in May 2022. The Appellant checked off the following box on the Appellant's Statement of Grounds for Appeal: "During 2021, the expense of purchasing health insurance would have caused a serious deprivation of food, shelter, clothing or other necessities." (Exhibit 2).
6. The Appellant also submitted with their appeal form information on their monthly expenses, annual income, and credit card debt. (Exhibit 2).
7. A hearing on the Appellant's appeal took place telephonically on June 9, 2023. (Exhibit 3). Both the Appellant and the Appellant's spouse appeared at the hearing.
8. I take administrative notice of the financial information set forth in Tables 1 through 6 in the Department of Revenue ("DOR") 2021 Massachusetts Schedule HC Health Care Instruction and Worksheets. Tables 3 and 4 incorporate affordability and premium schedules adopted by the Board of Directors for the Commonwealth Health Insurance Connector Authority for 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. The Appellant's AGI of \$49,935 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).
10. According to Table 3 of Schedule HC for 2021, the Appellant, who filed their federal tax return as a married person filing jointly with no dependents and claimed an adjusted gross income of \$49,935, could have afforded to pay \$308 per month for health insurance. The calculation is as follows: Table 3 states that a married person filing jointly with no dependents whose 2021 AGI was between \$43,101 and \$51,720 could have spent 7.4% of their earnings on health insurance; 7.4% of \$49,935 is \$3,695, and one-twelfth of \$3,695 is \$308.
11. According to Table 4 of Schedule HC for 2021, the least expensive health insurance plan meeting Massachusetts' minimum creditable coverage requirements that a married couple with no dependents living in Norfolk County and whose older spouse was 63 in January 2021 could have purchased cost \$802 per month. The least expensive individual plan that a person living in Norfolk County and age 56 in January 2021 could have purchased cost \$390 per month.
12. The Appellant, who is an electrician, testified that from 2019 to 2022, they had little work. The Appellant testified that they worked for another electrician, who died in April of 2022. The

Appellant testified that their employer did not offer health insurance and that they (the Appellant) were their employer's sole employee.

13. The Appellant testified that in addition to their earned income, they received \$128 per week in unemployment compensation in 2021.
14. The Appellant's spouse testified that they receive social security disability income and received health insurance through MassHealth during 2021.
15. The Appellant testified that they were aware they might be eligible for government-subsidized health insurance in 2021, but that they did not attempt to enroll in it because they could not afford to pay another bill.
16. The Appellant's spouse stated that they and the Appellant had the following monthly expenses in 2021, which totaled \$4128.94: \$1276.08 for mortgage/property tax/homeowner's insurance; \$411.68 for child support; \$132.29 for electricity; \$122.25 for oil; \$25 for water; \$342.89 for truck loan; \$900 for food; \$107.41 for vehicle insurance; \$520 for vehicle gas; \$7.50 for haircuts; \$74.66 for cellphones; \$187.18 for Internet/TV/home phone; and \$22 for trash. The Appellant's spouse also testified that in 2021, they had approximately \$21,000 in credit card debt.

ANALYSIS AND CONCLUSIONS OF LAW

The case is before me on the Appellant's appeal from the DOR's assessment of a twelve-month tax penalty because the Appellant's tax forms indicated that they did not have health insurance that met minimum creditable coverage ("MCC") standards during any month in 2021. The issue to be decided is whether the tax penalty should be waived in whole or in part.

I begin by summarizing the legal rules underlying this appeal. The tax penalty was enacted by the Massachusetts Legislature to encourage compliance with G.L. c. 111M, § 2, also called the "individual mandate." The mandate requires every adult resident of Massachusetts to obtain health insurance coverage "[s]o long as it is deemed affordable" under the schedule set by the board of directors for the Commonwealth Health Insurance Connector Authority ("Connector"). G.L. c. 111M, § 2(a). Any health insurance policy must also satisfy the Massachusetts MCC standards for a taxpayer to avoid the penalty.

If these requirements are not met, a tax penalty is assessed for each of the months that the individual did not have health insurance as required by the individual mandate. There is, however, a three-month grace period to allow the taxpayer to obtain health insurance coverage or to make the transition between health insurance policies. See G.L. c. 111M, § 2(b) and Administrative Information Bulletin 03-10: Guidance Regarding M.G.L. c. 111M and M.G.L. c. 176Q, as implemented by 956 CMR 6.00 (clarifying that for purposes of penalty calculation, taxpayers will not be subject to penalty if they had lapses in coverage consisting of three or fewer consecutive calendar months). The Connector's regulations also provide for a waiver of the tax penalty in cases of hardship. See 956 CMR 6.07-08.

To determine if the penalty should be waived in whole or in part, there must be a determination as to whether affordable insurance that met MCC standards was available to the Appellant through employment, through the private insurance market, or through a government-subsidized program. If affordable insurance was available, it must be determined whether such insurance was not in fact affordable to the Appellant because the Appellant experienced a hardship as defined in 956 CMR 6.08. Each of these issues is addressed in turn.

First, I conclude that the Appellant could not have obtained insurance through their employer because the Appellant credibly testified that their employer did not offer health insurance. Finding of Fact No. 12.

Second, I conclude that the Appellant could not have afforded to purchase MCC-compliant health insurance on the private market. The Schedule HC indicates that the Appellant could have afforded to pay up to \$308 per month for health insurance, but the least expensive individual plan available to the Appellant on the private market cost \$390. Findings of Fact Nos. 10 and 11.

Third, I conclude that the Appellant could theoretically have obtained free health insurance through the government but that they effectively did not have access to it. The Appellant collected unemployment compensation in 2021, and the American Rescue Plan Act (“ARPA”) made health insurance available at no cost in 2021 to persons who received unemployment compensation. 26 U.S.C. § 36B(g). However, it seems unlikely that the Appellant knew that they were eligible for this free health insurance because they testified that they could not afford to pay for government-subsidized health insurance. Finding of Fact No. 15. This statement suggests that they did not know that free health insurance was a possibility for them. The Appellant’s lack of awareness of their eligibility for free health insurance effectively blocked their access to it.

Finally, I also conclude that the Appellant suffered a hardship such that they also could not have afforded to pay for government-subsidized insurance, notwithstanding their eligibility for free health insurance. Since the Appellant’s AGI was less than 300% of the federal poverty level, they would have been theoretically eligible for lower-cost government-subsidized health insurance, if the free health insurance through ARPA had not existed. Finding of Fact No. 9. However, I find that the Appellant could not actually have afforded this insurance because their monthly living expenses, which seem reasonable, totaled \$4128.94, and their total AGI was \$49,935. Finding of Fact No. 16 and Exhibit 1. In addition, the Appellant and their spouse had more than \$21,000 in credit card debt. Finding of Fact No. 16. As such, the Appellant could not afford to pay another bill, as the Appellant credibly testified, and paying for health insurance would likely have resulted in a serious deprivation of food, shelter, clothing, or other necessities. Finding of Fact No. 15.

Reviewing the totality of the evidence, I conclude that the Appellant’s twelve-month penalty should be waived in its entirety. See G.L. c. 111M, § 2 and 956 CMR 6.07(8) and 6.08(1)(e) and (3).

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

Hearing Officer

cc: Connector Appeals Unit

Massachusetts Health Connector Appeals Unit

FINAL APPEAL DECISION: PA21-2529

Appeal Decision: The tax penalty is overturned.

Hearing Issue: Appeal of the 2021 Tax Year Penalty

Hearing Date: June 9, 2023

Decision Date: June 23, 2023

AUTHORITY

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

JURISDICTION

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

HEARING RECORD

The Appellant appeared at the hearing, which was held by telephone, on June 9, 2023. 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 that were admitted into evidence:

- Exhibit 1: Appeal Case Information from Schedule HC 2021 (1 page).
- Exhibit 2: The Statement of Grounds for Appeal and supplemental documentation provided by the Appellant (7 pages).
- Exhibit 3: Health Connector Appeals Unit Notice of Hearing on June 9, 2023 (2 pages).

FINDINGS OF FACT

The record shows, and I so find:

1. The Appellant, who turned age 32 in August 2021, filed their federal income tax return as a single person with no dependents claimed. (Exhibit 1).
2. According to the Appellant's Appeal Case Information from Schedule HC ("Schedule HC"), the Appellant lived in Middlesex County in 2021. (Exhibit 1).
3. According to the Appellant's Schedule HC, the Appellant's federal Adjusted Gross Income ("AGI") for 2021 was \$49,063. (Exhibit 1).

4. According to the Appellant's Schedule HC, the Appellant did not have health insurance that met Massachusetts minimum creditable coverage (MCC) requirements for any month in 2021. The Appellant was assessed a twelve-month tax penalty for 2021. (Exhibit 1).
5. The Appellant filed an appeal of the twelve-month penalty assessment in May 2022. The Appellant did not check off any box on the Appellant's Statement of Grounds for Appeal. The Appellant submitted a handwritten letter with their appeal stating that they and their (now) wife had a baby in 2020 and that the Appellant did not return to work in 2021 because of difficulties in finding childcare. The Appellant further stated that they fell behind on their obligations in 2021 and concentrated on being a good parent. In addition, the Appellant stated that they no longer live in Massachusetts.
6. A hearing on the Appellant's appeal took place telephonically on June 9, 2023. (Exhibit 3). The Appellant appeared at the hearing.
7. I take administrative notice of the financial information set forth in Tables 1 through 6 in the Department of Revenue ("DOR") 2021 Massachusetts Schedule HC Health Care Instruction and Worksheets. Tables 3 and 4 incorporate affordability and premium schedules adopted by the Board of Directors for the Commonwealth Health Insurance Connector Authority for 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. The Appellant's AGI of \$49,063 was greater than 300% of the Federal Poverty Level, which was \$38,280 for a single person in 2021. (See Table 2 of Schedule HC-2021 and 956 CMR 12.04).
9. According to Table 3 of Schedule HC for 2021, the Appellant, who filed their federal tax return as single person with no dependents and claimed an adjusted gross income of \$49,063, could have afforded to pay \$310 per month for health insurance. The calculation is as follows: Table 3 states that a single person with no dependents whose 2021 AGI was between \$44,661 and \$51,040 could have spent 7.6% of their earnings on health insurance; 7.6% of \$49,063 is \$3,728, and one-twelfth of \$3,728 is \$310.
10. According to Table 4 of Schedule HC for 2021, the least expensive health insurance plan meeting Massachusetts' minimum creditable coverage requirements that single person with no dependents living in Middlesex County and who was 31 in January 2021 could have purchased cost \$268 per month.
11. The Appellant testified that they worked as a certified nurse's assistant at a hospital in Boston from 2013 to 2020 and had health insurance during their entire tenure there.
12. The Appellant testified that their then girlfriend (and now wife) gave birth to their daughter in May 2020 and took two month's maternity leave. The Appellant testified that following this maternity leave, they (the Appellant) took paternity leave, which expired in November 2020. The

Appellant testified that they sought to extend their paternity leave because they were having difficulties finding childcare for their daughter during the pandemic. The Appellant testified that their employer refused to extend Appellant's paternity leave and that as a result, the Appellant became unemployed.

13. The Appellant testified that their entire income in 2021 was from unemployment compensation.
14. The Appellant testified that in 2021, they were under a great deal of pressure as a new father, and they were also completing their college degree. The Appellant testified that they thought they probably could have obtained government-subsidized health insurance or health insurance through COBRA, but that they did not know how to access this health insurance and were dealing with other responsibilities.
15. The Appellant testified that they and their now wife purchased a home in and moved together with their daughter to Hartford, Connecticut in June 2021. The Appellant testified that they prepared their 2021 taxes through TurboTax and that they did not know how to indicate on their tax forms that they were a part-year resident of Massachusetts in 2021.
16. The Appellant testified that from January to June 2021, they officially lived with their family and that their then-girlfriend (and now wife) and child lived in an apartment in Boston where the Appellant frequently stayed.
17. The Appellant testified that they estimated that they had the following monthly expenses in the 2021: \$500 in rent/utilities in the January to June 2021 period; \$250 for car insurance; \$150 for gas; \$80 for cellphone; \$400 for food; and \$200 for baby diapers, wipes, and clothing. In addition, the Appellant testified that they contributed \$5,000 to the down payment on the house in Hartford.
18. The Appellant testified that they got married in December 2022 and now have health insurance.

ANALYSIS AND CONCLUSIONS OF LAW

The case is before me on the Appellant's appeal from the DOR's assessment of a twelve-month tax penalty because the Appellant's tax forms indicated that they did not have health insurance that met minimum creditable coverage ("MCC") standards during any month in 2021. The issue to be decided is whether the tax penalty should be waived in whole or in part.

I begin by summarizing the legal rules underlying this appeal. The tax penalty was enacted by the Massachusetts Legislature to encourage compliance with G.L. c. 111M, § 2, also called the "individual mandate." The mandate requires every adult resident of Massachusetts to obtain health insurance coverage "[s]o long as it is deemed affordable" under the schedule set by the board of directors for the Commonwealth Health Insurance Connector Authority ("Connector"). G.L. c. 111M, § 2(a). Any health insurance policy must also satisfy the Massachusetts MCC standards for a taxpayer to avoid the penalty.

If these requirements are not met, a tax penalty is assessed for each of the months that the individual did not have health insurance as required by the individual mandate. There is, however, a three-month grace period to allow the taxpayer to obtain health insurance coverage or to make the transition between health insurance policies. See G.L. c. 111M, § 2(b) and Administrative Information Bulletin 03-10: Guidance Regarding M.G.L. c. 111M and M.G.L. c. 176Q, as implemented by 956 CMR 6.00 (clarifying that for purposes of penalty calculation, taxpayers will not be subject to penalty if they had lapses in coverage consisting of three or fewer consecutive calendar months). The Connector's regulations also provide for a waiver of the tax penalty in cases of hardship. See 956 CMR 6.07-08.

To determine if the penalty should be waived in whole or in part, there must be a determination as to whether affordable insurance that met MCC standards was available to the Appellant through employment, through the private insurance market, or through a government-subsidized program. If affordable insurance was available, it must be determined whether such insurance was not in fact affordable to the Appellant because the Appellant experienced a hardship as defined in 956 CMR 6.08. These issues are all addressed below.

As a preliminary matter, I conclude that the Appellant's penalty for the months of July through December 2021 should be waived because the Appellant credibly testified that they lived in Connecticut, not Massachusetts, during those months but did not know how to indicate that they were a part-year Massachusetts resident on their tax forms. Because the Appellant did not live in Massachusetts during the months of July through December 2021, the individual mandate did not apply to them as a matter of law. M.G.L. c. 111M, § 2.

The question then becomes whether the tax penalty imposed on the Appellant for the months of January through June 2021 should be waived. I conclude that it should be, for the reasons stated below.

First, I conclude that the Appellant was eligible for no-cost, government-subsidized health insurance meeting MCC standards because the Appellant received unemployment compensation throughout 2021. Finding of Fact No. 13. The federal American Rescue Plan Act provided that persons who received unemployment compensation in 2021 were eligible for health insurance at no cost. 23 U.S.C. § 36B(g). I conclude, however, that the Appellant effectively did not have access to this government-subsidized health insurance because they credibly testified that they were overwhelmed by their responsibilities as a new parent and student in 2021 and did not know how to obtain it. Finding of Fact No. 14.

Second, I conclude that the Appellant had access to affordable health insurance meeting MCC standards through the private market because Table 3 of the Schedule HC shows that they could have afforded to pay \$310 per month for health insurance, and Table 4 indicates that they could have purchased a plan on the private market for \$268 per month. Findings of Fact Nos. 9 and 10. Further, the Appellant did not provide evidence that demonstrated they could not actually have afforded this private market health insurance. However, I find that it would be inequitable to impose a penalty on the Appellant for not purchasing health insurance on the private market when the Appellant would have been eligible for government-subsidized health insurance, but did not know how to access it.

Third, I conclude that the Appellant did not have access to regular employer-sponsored affordable health insurance meeting MCC standards because they were unemployed throughout 2021. It is possible that the Appellant could have obtained employer-sponsored insurance through COBRA, but it is unlikely that such insurance would have been affordable, and the Appellant testified that they did not know how to access this insurance. Further, even if the Appellant could have purchased affordable health insurance through COBRA, I conclude that it would be inequitable to penalize them for failing to do so, given that the Appellant would have been eligible for government-subsidized health insurance, but did not know how to access it.

Reviewing the totality of the evidence, I conclude that the Appellant's twelve-month penalty should be waived in its entirety. See G.L. c. 111M, § 2 and 956 CMR 6.07(8) and 6.08(3).

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

Hearing Officer

cc: Connector Appeals Unit

Massachusetts Health Connector Appeals Unit

FINAL APPEAL DECISION: PA21-2488

Appeal Decision: Appeal Denied; the tax penalty remains.

Hearing Issue: Appeal of the 2021 Tax Year Penalty

Hearing Date: May 24, 2023

Decision Date: June 23, 2023

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, as did a Witness for Appellant, who identified herself as a Tax Analyst. The hearing was held by telephone, on May 24, 2023. The procedures to be followed during the hearing were reviewed with the Appellant and the Witness who were both then sworn in. Exhibits were marked and admitted into evidence with no objection from the Appellant. The hearing record consists of the Appellant and the Witness' testimony and the following documents which were admitted into evidence:

- Exhibit 1: Health Connector Appeals Unit Notice of Hearing dated May 1, 2023
- Exhibit 2: Appeal Case Information from Schedule HC 2021
- Exhibit 3: Statement of Grounds for Appeal, with attachments, signed by the Appellant on May 16, 2022
- Exhibit 4: Copy of Appellant's revised 2021 Schedule HC and Authorized Representative Designation Form

FINDINGS OF FACT

The record shows, and I so find:

1. Appellant age 31 in January 2021, filed her Federal Income Tax as Single, with no dependents (Exhibit 2).
2. The Appellant lived in Berkshire County in 2021 (Exhibit 2, 3 and Appellants Testimony).

3. The Appellants' Federal Adjusted Gross Income for 2021 was \$35,603 (Exhibit 2).
4. Appellant has been assessed a twelve-month tax penalty for 2021 (Exhibit 3).
5. Both Appellant and the Witness testified that the Witness could serve as the Representative of Appellant. Appellant stated it was her belief that there was no reason for her to stay on the call and said she would be leaving. After the hearing Officer expressed a desire to hear her testimony and Appellant agreed to stay.
6. Appellant testified that she had health insurance that would meet the requirements of Massachusetts law in 2021, but there was a computer error and/or she failed to check the box on her return. (Appellant and Witness Testimony and Exhibit 3).
7. The Appellant testified that she had a Health Care Plan with Samaritans Ministries International which meets all requirements of Massachusetts law. She added that she has had this coverage for many years and a computer error caused this misunderstanding resulting in a penalty. The Witness also testified to a computer error causing Appellant to appear as if she did not have health insurance for Tax Year 2021.
8. The Appellant declared that no hearing is needed. The Witness at the urging of the Appellant stated they would submit a representation form and an updated Schedule HC from her Massachusetts Tax Return of 2021. She added that this document was updated today. The Hearing Officer provided instructions for submission. Both documents were submitted by the Witness.
9. After receiving the Schedule HC submitted by the Witness, on June 1, 2023, the Hearing Officer submitted, via the Health Connector, an Open Record Form seeking additional documents namely: a copy of a Form 1095-B or similar form demonstrating health insurance coverage for 2021; or a copy of an amended tax return reflecting health insurance. The Hearing Officer requested this documentation by June 14, 2021. No documents were received from either the Witness or the Appellant.

ANALYSIS AND CONCLUSIONS OF LAW

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

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

Any health insurance policy must also satisfy the Massachusetts "minimum 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).

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

This is not a case where financial hardship or other defenses were raised. Rather, a defense of error or mistake is alleged, and a misunderstanding resulted. Thus, an analysis of affordability and accessibility is not required. The only analysis required in this case is to determine if Appellant had MCC compliant health care insurance.

According to the Massachusetts Health Connector Staff, Samaritans Ministries does appear as one of the Health Care Sharing Ministries (HCSMs) satisfying the MCC requirements due to their filings with the Massachusetts Health Connector. An individual having certain types of health care insurance through this entity would satisfy the MCC requirements of Massachusetts law.

Appellant and the Witness were adamant in their respective statements that Appellant had health insurance that met MCC requirements for 2021. The Witness provided a copy of an updated 2021 Massachusetts Tax Return Schedule HC reflecting this. However, the Witness testified that this form was "updated today" meaning May 24, 2023. There was no testimony that this form or any updated return information was filed with the Massachusetts Department of Revenue. It appeared to the Hearing Officer that this form was updated only for the purpose of presenting it at the hearing.

Other than the testimony at hearing and the insufficiently probative Schedule HC, no evidence of Appellant's participation in the HCSM program was offered. I did not find the testimony of both Appellant and Witness credible or compelling and as discussed - it appears the Schedule HC was filled out for presentation at the hearing.

Appellant can and should re-file her 2021 taxes to address the alleged filing error testified to by both Appellant and the Witness. The HCSM should be clearly identified. Appellant does have the service of a bona fide Tax Analyst and should utilize this availability.

There was a lack of documentation and/or testimony to support a finding that Appellant had health insurance which would meet the MCC requirements for Tax Year 2021. In addition, Appellant's cavalier attitude towards the hearing process was evident from her testimony. These facts did not instill a sense of trust in the Hearing Officer that a mistake - either computer or human - occurred resulting in a penalty being assessed.

In light of these facts the penalty is upheld and will remain as assessed.

The Appellant should note that the upholding 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

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

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

NOTIFICATION OF YOUR RIGHT TO APPEAL TO COURT

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

Cc: Connector Appeals Unit