

Massachusetts Health Connector Appeals Unit

FINAL APPEAL DECISION: PA 21-2024

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

Hearing Issue: Appeal of the 2021 Tax Year Penalty

Hearing Date: September 15, 2022

Decision Date: September 22, 2022

AUTHORITY

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

JURISDICTION

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

HEARING RECORD

Appellants, a married couple who will be referred to as Husband and Wife in this decision, appeared at the hearing, which was held by telephone, on September 15, 2022. The hearing record consists of the testimony of Appellants, and the following documents, which were admitted into evidence:

- Exhibit 1: Health Connector Hearing Notice (2 pages)
- Exhibit 2: Appeal Case Information sheet¹ (1 page)
- Exhibit 3: Statement of Grounds (with attachments) (5 pages)

FINDINGS OF FACT

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

1. Husband was 44 and Wife was 40 at the end of 2021. Exhibit 2. Appellants had one dependent, who was a minor child. Exhibit 2.
2. Appellants lived in Suffolk County in 2021. Exhibit 2.
3. Appellants filed their taxes as married, filing jointly, with one dependent. Exhibit 2. Thus, they were in a tax household of three persons.
4. Appellants reported on the Schedule HC that they filed with their state income taxes, and confirmed at the hearing, that their annual income for 2021 was \$55,054. Exhibit 2.

¹ Exhibit 2 is a computer printout containing information extracted from the Schedule HC that Appellants submitted as part of their 2021 Massachusetts tax return. The Schedule HC is the form on which Massachusetts taxpayers report information relevant to the individual mandate penalty, which is the subject of this appeal.

5. Appellants reported in the Schedule HC that they filed with their 2021 state income taxes, and confirmed at the hearing, that neither Husband nor Wife had health insurance meeting minimum creditable coverage standards at any point in 2021. Exhibit 2.
6. In early 2020, both Husband and Wife were enrolled in health insurance through the Health Connector.
7. Husband was furloughed from his job at the start of the Coronavirus pandemic in March 2020. He applied for unemployment compensation, but he had difficulty registering. As a result, the couple experienced a period without any income.
8. Appellants had difficulty paying their monthly premiums for health insurance and as a result they let their insurance lapse.
9. Husband went back to work full-time in June 2021. The job did not offer him health insurance.
10. Wife did not work outside the home during 2021.
11. After Husband returned to full-time work, Appellants tried to enroll again in insurance through the Health Connector.
12. Appellants reported that they experienced various technical difficulties when they tried to enroll again. This appeared to be a result of the facts that they had an unpaid arrears and that they opened duplicate accounts. As a consequence, they never succeeded in enrolling in 2021.
13. Appellants' daughter was insured through MassHealth, the state Medicaid agency, which has a program of insurance for children under 19.

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

ANALYSIS AND CONCLUSIONS OF LAW

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

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

During 2021, Husband either was not employed or worked at a job that did not offer him insurance. Wife did not work outside the home. Therefore, Appellants could not have obtained insurance through employment at any point in the year.

Appellants however were eligible for Connector Care, which is government-subsidized health insurance in Massachusetts. To be eligible for Connector Care, an individual must have household income below

300 percent of the federal poverty limit and must meet other eligibility criteria, such as citizenship, residence in Massachusetts, and lack of access to affordable insurance through employment. See 956 CMR § 12.04 (Connector Care eligibility requirements.) In 2021, 300 percent of the federal poverty level was \$65,160 for a household of three persons like Appellants'. (I obtain the figure of \$65,160 from Table 2 to the instructions for the 2021 Schedule HC.) In this case, Appellants' household income during 2021 was \$55,054 and thus was below 300 percent of the federal poverty level. Further, I infer that they met the other eligibility criteria based on their testimony at the hearing and the fact that they had received insurance through the Health Connector in the past. Thus, they were eligible for Connector Care.

However, Appellants did not enroll in Connector Care during 2021. At first, they believed they could not have afforded the premiums because Husband had lost his job. (I note that, if Appellants had reported the loss of income to the Health Connector in March 2020 when Husband lost his job, their premium would have been reduced at that time. Unfortunately, that did not occur.) When they did try to re-enroll in mid-2021, they encountered technical difficulties. As a result, they were effectively unable to obtain Connector Care.

Without access to Connector Care, Appellants did not have another option to obtain insurance. They could not have afforded to purchase unsubsidized health insurance on the non-group market under state affordability standards established by the Health Connector Board under M.G.L. c. 111M. Under those standards, individuals like Appellants who were in a household of three persons and had income of \$55,054 were deemed able to afford 5.9 percent of income for insurance. (I obtain that figure from Table 3 of the 2021 Schedule HC instructions.) In this case, that amounts to \$3,248 annually or \$270 a month. During 2021, persons like Appellants who were a couple living in Suffolk County with the older person being 45 years of age would have had to pay \$671 a month for health insurance for two persons. (I obtain the premium figure from Table 4 to the instructions for the 2021 Schedule HC). Thus, under state standards, this amount would not have been affordable.

Because Appellants could have obtained affordable insurance in 2021, but didn't, I am required to consider whether they have stated grounds sufficient to waive the penalty under Health Connector regulations. 956 C.M.R. § 6.08. I conclude that they have. Appellants' income situation in 2021 was uncertain. Although they reported income for that year, most of it was earned in the second half of the year when Husband started working again. At the start of the year, it was uncertain when or if he would regain full-time employment. Appellants tried to get back on Connector Care, but they were unable to because of various technical difficulties. Without access to Connector Care, it would have been impossible for them to obtain insurance without causing serious financial hardship. In view of all these factors, I will exercise my discretion to waive the penalty in full.

PENALTY ASSESSED

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

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

NOTIFICATION OF YOUR RIGHT TO APPEAL TO COURT

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

Hearing Officer

Cc: Connector Appeals Unit

Massachusetts Health Connector Appeals Unit

FINAL APPEAL DECISION: PA 21-2026

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

Hearing Issue: Appeal of the 2021 Tax Year Penalty

Hearing Date: September 15, 2022

Decision Date: September 23, 2022

AUTHORITY

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

JURISDICTION

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

HEARING RECORD

Appellant appeared at the hearing, which was held by telephone, on September 15, 2022. The hearing record consists of the testimony of Appellant, and the following documents, which were admitted into evidence:

Exhibit 1: Health Connector Hearing Notice (2 pages)

Exhibit 2: Appeal Case Information sheet¹ (1 page)

Exhibit 3: Statement of Grounds (with attachments) (13 pages)

FINDINGS OF FACT

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

1. Appellant was 39 at the end of 2021. Exhibit 2.
2. Appellant lived in Worcester County in 2021. Exhibit 2.
3. Appellant filed her taxes as single with no dependents. Exhibit 2.
4. Appellant reported on the Schedule HC that she filed with her state income taxes, and confirmed at the hearing, that her annual income for 2021 was \$63,234. Exhibit 2.

¹ Exhibit 2 is a computer printout containing information extracted from the Schedule HC that Appellant submitted as part of her 2021 Massachusetts tax return. The Schedule HC is the form on which Massachusetts taxpayers report information relevant to the individual mandate penalty, which is the subject of this appeal.

5. Appellant reported in the Schedule HC that she filed with her 2021 state income taxes, and confirmed at the hearing, that she did not have health insurance meeting minimum creditable coverage standards at any point in 2021. Exhibit 2.
6. In 2021, Appellant worked at a job where she was paid on an hourly basis. She was offered health insurance through her job, but she believed that she could not afford it.
7. In addition to rent, Appellant is required to make car payments of \$516 a month. She reported that she has difficulty making ends meet each month.

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

ANALYSIS AND CONCLUSIONS OF LAW

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

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

During 2021, Appellant was employed at a job that offered her health insurance. However, she reported that she could not afford it.

Appellant was not eligible for Connector Care, which is government-subsidized health insurance in Massachusetts. To be eligible for Connector Care, an individual must have household income below 300 percent of the federal poverty limit. See 956 CMR § 12.04 (Connector Care eligibility requirements.) This amount is \$38,280 for a household of one person like Appellant’s. (I obtain the figure of \$38,280 from Table 2 to the instructions for the 2021 Schedule HC.) In this case, Appellant’s income during 2021 was \$63,234 and therefore she was not eligible for Connector Care.

However, Appellant is deemed able to afford to purchase unsubsidized health insurance on the non-group market under state affordability standards established by the Health Connector Board under M.G.L.c. 111M. Under those standards, an individual like Appellant who was in a household of one person and had income of \$63,234 was deemed able to afford 8 percent of income for insurance. (I obtain that figure from Table 3 of the 2021 Schedule HC instructions.) In this case, that amounts to \$5,058 annually or \$421 a month. During 2021, a person like Appellant who lived in Worcester County and was 39 years of age could have obtained health insurance for \$275 a month in premiums. (I obtain

the premium figure from Table 4 to the instructions for the 2021 Schedule HC). Thus, under state standards, this amount would have been affordable.

Because Appellant could have obtained affordable insurance in 2021, but didn't, I am required to consider whether she has stated grounds sufficient to waive the penalty under Health Connector regulations. 956 C.M.R. § 6.08. I conclude that she has. Appellant reported that she had significant difficulty covering her monthly expenses. She had a high car payment, in addition to rent, utilities and other necessities. The car payment more than ate up the amount by which insurance would have been affordable under state standards. Thus, I conclude that she could not have afforded insurance without experiencing financial hardship. Accordingly, I will waive the penalty in its entirety.

PENALTY ASSESSED

Number of Months Appealed: 12

Number of Months Assessed: 0

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

NOTIFICATION OF YOUR RIGHT TO APPEAL TO COURT

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

Hearing Officer

Cc: Connector Appeals Unit

Massachusetts Health Connector Appeals Unit

FINAL APPEAL DECISION: PA 21-2028

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

Hearing Issue: Appeal of the 2021 Tax Year Penalty

Hearing Date: September 15, 2022

Decision Date: September 23, 2022

AUTHORITY

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

JURISDICTION

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

HEARING RECORD

Appellant appeared at the hearing, which was held by telephone, on September 15, 2022. The hearing record consists of the testimony of Appellant, and the following documents, which were admitted into evidence:

Exhibit 1: Health Connector Hearing Notice (2 pages)

Exhibit 2: Appeal Case Information sheet¹ (1 page)

Exhibit 3: Statement of Grounds (4 pages)

FINDINGS OF FACT

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

1. Appellant was 56 at the end of 2021. Exhibit 2.
2. Appellant lived in Middlesex County in 2021. Exhibit 2.
3. Appellant filed his taxes as single with no dependents. Exhibit 2.
4. Appellant reported on the Schedule HC that he filed with his state income taxes, and confirmed at the hearing, that his annual income for 2021 was \$59,210. Exhibit 2.
5. Appellant reported in the Schedule HC that he filed with his 2021 state income taxes, and confirmed at the hearing, that he did not have health insurance meeting minimum creditable

¹ Exhibit 2 is a computer printout containing information extracted from the Schedule HC that Appellant submitted as part of his 2021 Massachusetts tax return. The Schedule HC is the form on which Massachusetts taxpayers report information relevant to the individual mandate penalty, which is the subject of this appeal.

coverage standards for the first 11 months of 2021, but he did have such insurance in December. Exhibit 2.

6. Throughout most of 2021, Appellant worked at a job that did not offer him health insurance.
7. Although Appellant did not claim any dependents, he contributed to the support of two minor children who lived with their mother. Their mother claimed them as dependents.
8. In September 2021, Appellant obtained a new position that did offer him health insurance. He became eligible for that insurance after a waiting period. He was insured as of December 2021 and reported that he was insured as of the date of the hearing.
9. His children were insured through MassHealth, the state's Medicaid agency.

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

ANALYSIS AND CONCLUSIONS OF LAW

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

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

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

During the first eleven months of 2021, when he was uninsured, Appellant was employed at a job that offered him health insurance. Thus, he could not obtain employment-based insurance during that period.

Further, Appellant was not eligible for Connector Care, which is government-subsidized health insurance in Massachusetts. To be eligible for Connector Care, an individual must have household income below 300 percent of the federal poverty limit. See 956 CMR § 12.04 (Connector Care eligibility requirements.)

This amount is \$38,280 for a household of one person like Appellant's. (I obtain the figure of \$38,280 from Table 2 to the instructions for the 2021 Schedule HC.) In this case, Appellant's income during 2021 was \$59,210 and therefore he was not eligible for Connector Care.

Finally, Appellant was unable to afford to purchase unsubsidized health insurance on the non-group market under state affordability standards established by the Health Connector Board under M.G.L. c. 111M. Under those standards, an individual like Appellant who was in a household of one person and had income of \$59,210 was deemed able to afford 8 percent of income for insurance. (I obtain that figure from Table 3 of the 2021 Schedule HC instructions.) In this case, that amounts to \$4,736 annually or \$394 a month. During 2021, a person like Appellant who lived in Middlesex County and was 56 years of age would have had to pay at least \$401 a month in premiums for health insurance. (I obtain the premium figure from Table 4 to the instructions for the 2021 Schedule HC). Thus, under state standards, this amount would not have been affordable.

Because Appellant could not have obtained affordable insurance in 2021, I am not required to consider whether he has stated grounds sufficient to waive the penalty under Health Connector regulations. 956 C.M.R. § 6.08. Instead, I will waive the penalty in its entirety.

PENALTY ASSESSED

Number of Months Appealed: 11

Number of Months Assessed: 0

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

NOTIFICATION OF YOUR RIGHT TO APPEAL TO COURT

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

Hearing Officer

Cc: Connector Appeals Unit

Massachusetts Health Connector Appeals Unit

FINAL APPEAL DECISION: PA 21-1917

Appeal Decision: The penalty is overturned in part.
Hearing Issue: Appeal of the 2021 Tax Year Penalty
Hearing Date: July 28, 2022
Decision Date: September 14, 2022

AUTHORITY

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

JURISDICTION

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

HEARING RECORD

The Appellant appeared at the hearing, which was held by telephone on July 28, 2022. 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:	Email Grounds for Appeal by Appellant on 3/19/2022.	(2 PP).
Exhibit 2(a)	Appellant's Statement in Support of Appeal dated 3/20/2021	(1P).
Exhibit 2(b)	Document Confirmation of Appellant Membership in Medical Savings and Billing History	(1P).
Exhibit 3:	Health Connector's Notice of Hearing dated 6/15/2022	(2 PP).

The record was left open until September 9, 2022, for the Appellant to submit documentation regarding child support insurance requirement and confirmation of insurance. On September 9, 2022, the Appellant submitted the following:

Exhibit 4:	Enrollment receipt from Insurer for the Appellant dated March 30, 2022, with credit card information.
Exhibit 5:	Child Support order from the State of Connecticut Superior Court with a Judgment date of April 13, 2022, and Agreement of the Parties incorporated therein.
Exhibit 6:	Health Connector Form completed by the Appellant's Insurer that health insurance was not offered in 2021.

The record shows, and I so find:

1. Appellant, who filed a 2021 Massachusetts tax return filed single with a family size of 1, was age 41 in 2021, lived in Worcester County, and had zero (0) dependents. (Exhibit 1).
2. Appellant's Federal Adjusted Gross Income for 2021 was \$102,298. (Exhibit 1).
3. Appellant was employed full time at a construction company where he was paid \$40 an hour. (Appellant's Testimony).
4. Appellant's Employer did not offer him Employer Sponsored Insurance("ESI"). (Appellant's Testimony, Ex. 6).
5. Appellant was paying child support for his child living in Connecticut pursuant to a Ct. child support order. (Appellant's Testimony, Exhibits 2(a), 5).
6. Appellant testified he was required under the Connecticut Court order to provide coverage for his child. The child support order references continuing to insure the Appellant's child but does not outline payment obligations. (Appellant's Testimony, Exhibit 2(a)).
7. Appellant investigated Connectorcare but could not afford the approximate \$600 premium. (Appellant's Testimony).
8. Appellant has been assessed a tax penalty for twelve (12) months in 2021. The Appellant has appealed this assessment (Exhibits 1, 2).
9. Appellant testified he purchased coverage for him and his child that did not meet the minimum credible standard with an effective date through October 15, 2021 but did not submit evidence showing minimum creditable coverage in 2021, and notwithstanding same, payment for coverage had stopped on October 15, 2021. (Appellant's Testimony, Exhibit 2(a)(b), 5, 6).
10. Appellant testified he was not aware that the coverage he purchased would not meet the coverage insurance requirements of Massachusetts. (Appellant's Testimony, Exhibit 2(a)).
11. Appellant had the following approximate monthly living expenses in 2021: Rent: \$1,300, Car Payment: \$170 Insurance: \$80, Cell Phone: \$60, Food: \$200, Credit Cards: \$350, Gas: \$400, Child Support: \$ 100. totaling \$2,660. (Appellant's Testimony, Ex. 2(a)).
12. According to Table 3 Appellant could have afforded \$ 681.99 per month for health insurance in 2021. According to Table 4 Appellant could have purchased insurance for \$294.00 per month.
13. The Appellant would not have been eligible for ConnectorCare coverage in 2021 because the Appellant's income was more than 300% of the poverty level, which was \$38,280.00. (See Table 2 of Schedule HC 2021, Appellant's Testimony).
14. In addition to the foregoing, I take administrative notice of the 2021 Schedule HC Instructions and Worksheets, available at <http://www.mass.gov.dor/docs/dor/health-care/2021>, and in particular, Tables 1-

6 which, as discussed below, include the Affordability Schedule and other financial information used in making 2021 individual mandate tax penalty determinations.

ANALYSIS AND CONCLUSIONS OF LAW

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

The Appellant submitted a statement of grounds for appeal (Ex. 2) with the appeal and checked that during 2021 that the individual mandate did not apply to him because he didn't meet minimum creditable coverage standards and that his circumstances prevented him from buying other insurance that met the minimum creditable standards. The Appellant also offered testimony that the expense of purchasing health insurance would have caused him to experience a serious deprivation of food, shelter, clothing or other necessities and that during 2021. See 956 CMR 6.08.

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

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

The evidence provided by the Appellant established that his income for 2021, \$102,298.00 was more than 300% of the federal poverty level, which for 2021 was \$38,280.00 for a single person. According to Table 3 of Schedule HC for 2021, the Appellant could have afforded \$ 681.99 per month. According to Table 4, Appellant, age 41 and living in Worcester County during the time he was being penalized for not having insurance, could have purchased insurance for \$294 per month. Individual coverage was affordable through the individual market for the Appellant in 2021 (Schedule HC for 2021).

The next issue to consider is whether the Appellant had access to affordable employer health insurance ("ESI") in 2021. The Appellant testified he was not offered ESI from his employer. (Appellant's Testimony, Exhibit 6). Pursuant to 26 IRC section 36B and 45 CFR section 155.305(f), applicants are eligible for an Advanced Premium Tax Credit (APTC) if they meet qualifying income levels and other eligibility requirements. Massachusetts residents may also be eligible for additional state premium assistance through the Health Connector's ConnectorCare program if: a) their household income does not

exceed 300 percent of the Federal Poverty Level (FPL) and b) they are eligible for an APTC. 956 CMR 12.09(1) An applicant who has access to other qualifying health insurance, including insurance through an employer, will be blocked from eligibility for an APTC if the coverage is affordable and meets minimum value standards, as those terms are defined by the law. See 26 CFR section 1.36B-2(c)(3). Coverage for plan year 2021 is considered to be affordable if the employee's contribution for an individual plan is 9.83 percent or less of the employee's projected household modified adjusted income (MAGI). The coverage is considered to meet minimum value standards if it has an actuarial value of at least 60 percent. In this case, as referenced above, the Appellant did not have access to ESI during the months he was being penalized. (Appellant's Testimony, Exhibit 6).

Where the Appellant did have access affordable coverage for full-rate insurance on the market but did not have access to ESI, we need to determine if the Appellant experienced a financial hardship such the coverage would have been unaffordable for him. See 956 CMR 6.08. et. seq. The Appellant may not be subject to a penalty for failing to get health insurance for the months in question if he can show that he experienced a hardship during 2021. Examples of hardships include being homeless or overdue in rent or mortgage payments, receiving a shut-off notice for utilities, or incurring unexpected increases in basic living expenses due to domestic violence, death of a family member, sudden responsibility for providing care for a family member or fire, flood or natural disaster. In addition, the Appellants' tax penalty for 2021 could be waived if he experienced financial circumstances such that the expense of purchasing health insurance would have caused him to experience a serious deprivation of food, shelter, clothing or other necessities. See 956 CMR 6.08.

The Appellant testified he had the following average monthly living expenses in 2021: Rent: \$1,300, Car Payment: \$170 Insurance: \$80, Cell Phone: \$60, Food: \$200, Credit Cards: \$350, Gas: \$400, Child Support: \$ 100. totaling \$2,660. (Appellant's Testimony, Ex. 2(a)).

The evidence presented by the Appellant in this case is insufficient to establish that he experienced a hardship pursuant to 956 CMR 6.08(1)(a), (e), and (3), as defined by law so as to waive his penalty for the months in question. I find the Appellant did not meet his burden that he could not afford the cost of \$681.99 given his annual adjusted gross income of \$102,298 and monthly expenses of \$2,660. I find the additional cost to comply with a minimum creditable coverage policy would not have caused the Appellant to experience a serious deprivation of shelter and other necessities. (Appellant Testimony).

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 **denied**. However, the Appellant submitted evidence of insurance for him and his child in 2021, but same did not meet the minimum creditable standards. As such, to mitigate the harshness of a full penalty, the penalty is reduced to three (3) months.

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

PENALTY ASSESSED

Number of Months Appealed: 12

Number of Months Assessed: 3

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

NOTIFICATION OF YOUR RIGHT TO APPEAL TO COURT

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

Cc: Connector Appeals Unit

Hearing Officer

ADDENDUM

If the Appellant still does not have health insurance, and if his income and employment have not changed, 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

FINAL APPEAL DECISION: PA21-1906

Appeal Decision: Appeal Approved

Hearing Issue: Appeal of the 2021 Tax Year Penalty

Hearing Date: July 27, 2022

Decision Date: September 29, 2022

AUTHORITY

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

JURISDICTION

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

HEARING RECORD¹

The Appellant appeared at the hearing, which was held by telephone, on July 27, 2022.

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

Exhibit 1	Hearing Notice dated June 13,2022	2 pages
Exhibit 2	Appeal Case Info. fr. Sch. HC for 2021	1 page
Exhibit 3	Statement of Grounds for Appeal	5 pages

FINDINGS OF FACT

The record shows, and I so find:

1. The Appellant turned 24 years old in August 2021. The Appellant filed their Federal Income Tax Return as a single individual, with no dependents claimed. (Exhibit 2).

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

2. The Appellant lived in Suffolk County, MA during 2021. (Appellant's Testimony and Exhibit 2).
3. The Appellant's Federal Adjusted Gross Income (AGI) for 2021 was \$26,935.00 as shown on Schedule HC for 2021. (Exhibit 2).
4. The Appellant did not have health insurance that met Minimum Creditable Coverage (MCC) during five (5) months of tax year 2021, August through December, according to Appeal Case Information from Schedule HC for 2021. (Exhibit 2).
5. The Appellant has been assessed a two (2)-month tax penalty for 2021, which they have appealed. (Exhibit 2).
6. I take administrative notice of the financial information set forth in Tables 1 through 6 of the DOR 2021 Massachusetts Schedule HC Health Care Instructions and Worksheet. Tables 3 and 4 incorporate affordability and premium schedules adopted by the Board of Directors for the Commonwealth Health Insurance Connector Authority for 2021. Table 2 sets forth income at 300% of the Federal poverty level and Tables 5 and 6 set forth tax penalties in effect for 2021.
7. In accordance with Table 3 of Schedule HC for 2021, the Appellant filing the Federal tax return as a single individual, with no dependents claimed, with an annual adjusted gross income of \$26,935.00, could afford to pay \$94.00 per month for government-sponsored health insurance. In accordance with Table 4, the Appellant, age 24 years, living in Suffolk County could have purchased private market health insurance for \$263.00 per month. (Table 4, Schedule HC for 2021). Thus, private insurance was not affordable for the Appellant in 2021.
8. Employer-sponsored insurance (ESI) was available to Appellant during 2021 for two months of the year, January and February 2021. (Appellant's Testimony).
9. The Appellant was income-eligible for ConnectorCare coverage in 2021 because their adjusted gross income of \$26,935.00 was less than 300% of the Federal poverty level, which was \$38,280.00 in 2021 (Schedule HC, Table 2). (Exhibit 2).
10. The Appellant graduated from college in 2020, during the pandemic. They were employed as an intern and had ESI for two months during 2021, January and February. (Appellant's Testimony). (Appellant's Testimony)
11. When Appellant's employment ended at the end of February 2021, Appellant established their own start-up company. Because they did not have any money at that time, they applied for and began receiving Connector Care coverage in March 2021. (Appellant's Testimony).
12. After the close of the 2021 tax season, Appellant discovered in about July 2021 that their Connector Care coverage had ended. Appellant intended and believed that they would be

covered for one year, did not understand why the insurance had been discontinued and attempted unsuccessfully to contact the Connector to learn why and to re-establish ConnectorCare insurance coverage. (Appellant's Testimony, which I credit).

13. Given that Appellant's new business had not yet earned income and that they were unable to re-establish ConnectorCare coverage, they did not have insurance coverage for five months, from August through December 2021. (Appellant's Testimony and Exhibit 2).

14. Appellant currently has MCC-compliant insurance through their company, which they are now able to afford. (Appellant's Testimony, which I credit).

ANALYSIS AND CONCLUSIONS OF LAW

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

The Appellant checked a box on their Statement of Grounds for Appeal stating that during 2021 applying the affordability tables would be inequitable and they were unable to reinstate government-subsidized insurance even though they believed they were income-qualified. (Appellant's Testimony and Exhibit 3).

To determine if the two (2)-month penalty should be waived in whole or in part, there must be an evaluation of whether affordable insurance which met minimum creditable coverage standards was available to the Appellant through employment, through private insurance, or through a government-sponsored program. If affordable insurance was available, it must be determined if such insurance was not affordable to the Appellant because the Appellant experienced a hardship as defined in 956 CMR 6.08.

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

Employer-sponsored insurance (ESI) was available to Appellant during 2021 for two months of the year, January and February 2021. (Appellant's Testimony).

The Appellant was income-eligible for ConnectorCare coverage in 2021 because their adjusted gross income of \$26,935.00 was less than 300% of the Federal poverty level, which was \$38,280.00 in 2021 (Schedule HC, Table 2). (Exhibit 2).

The Appellant graduated from college in 2020, during the pandemic. They were employed as an intern and had ESI for two months during 2021, January and February. (Appellant's Testimony).

When Appellant's employment ended at the end of February 2021, Appellant established their own start-up company. Because they did not have any income at that time, they applied for and began receiving Connector Care coverage in March 2021. (Appellant's Testimony).

After the close of the 2021 tax season, Appellant discovered in about July 2021 that their Connector Care coverage had ended. Appellant intended and believed that they would be covered for a year, did not understand why the insurance had been discontinued and attempted unsuccessfully to contact the Connector to learn why and to re-establish ConnectorCare insurance coverage if possible. (Appellant's Testimony, which I credit).

Given that Appellant's new business had not yet earned money and that they were unable to re-establish ConnectorCare coverage, they did not have insurance coverage for five months, from August through December 2021. (Appellant's Testimony and Exhibit 2).

Appellant currently has MCC-compliant insurance through their company, which they are now able to afford. (Appellant's Testimony, which I credit).

Appellant's AGI of \$26,935.00 reflects the fact that they were unemployed for a matter of months following college graduation and obscures the fact that they then created a start-up company that had no income initially. Accordingly they applied for and received ConnectorCare coverage from March through July 2021. Appellant had intended and believed that the coverage would continue for an entire year. They only discovered after tax season in 2021 that their ConnectorCare coverage had been discontinued. They attempted to contact the Connector to have their insurance reinstated but did not succeed in getting through. (Appellant's Testimony, which I credit). Therefore, they were uninsured from August through December 2021. Under circumstances where Appellant was a recent college graduate, had no income for several months, secured ConnectorCare coverage for part of 2021 and intended to have it though the end of that year, and Appellant currently has MCC-compliant insurance coverage, I conclude that they have established hardship within the meaning of 956 CMR 6.08 (3). Further, applying the affordability tables under these circumstances would be inequitable.

For all these reasons, the Appellant's two (2)-month penalty is waived.

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

PENALTY ASSESSED

Number of Months Appealed: 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 2020.

NOTIFICATION OF YOUR RIGHT TO APPEAL TO COURT

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

Hearing Officer

cc: Connector Appeals Unit

Massachusetts Health Connector Appeals Unit

FINAL APPEAL DECISION: PA21-1928

Appeal Decision: Appeal Approved
Hearing Issue: Appeal of the 2021 Tax Year Penalty
Hearing Date: August 11, 2022
Decision Date: September 30, 2022

AUTHORITY

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

JURISDICTION

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

HEARING RECORD¹

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

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

Exhibit 1	Hearing Notice dated July 8,2022	2 pages
Exhibit 2	Appeal Case Info. fr. Sch. HC for 2021	1 page
Exhibit 3	Statement of Grounds for Appeal	7 pages
Exhibit 4	Supporting Letter	1 page

FINDINGS OF FACT

The record shows, and I so find:

1. The Appellant turned 56 years old in October 2021. The Appellant filed their Federal Income Tax Return as a single individual, with no dependents claimed. (Exhibit 2).

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

2. The Appellant lived in Hampden County, MA during 2021. (Appellant's Testimony and Exhibit 2).
3. The Appellant's Federal Adjusted Gross Income (AGI) for 2021 was \$30,709.00 as shown on Schedule HC for 2021. (Exhibit 2).
4. The Appellant did not have health insurance that met Minimum Creditable Coverage (MCC) during five (5) months of tax year 2021, August through December, according to Appeal Case Information from Schedule HC for 2021. (Exhibit 2).
5. The Appellant has been assessed a two (2)-month tax penalty for 2021, which they have appealed. (Exhibit 2).
6. I take administrative notice of the financial information set forth in Tables 1 through 6 of the DOR 2021 Massachusetts Schedule HC Health Care Instructions and Worksheet. Tables 3 and 4 incorporate affordability and premium schedules adopted by the Board of Directors for the Commonwealth Health Insurance Connector Authority for 2021. Table 2 sets forth income at 300% of the Federal poverty level and Tables 5 and 6 set forth tax penalties in effect for 2021.
7. In accordance with Table 3 of Schedule HC for 2021, the Appellant filing the Federal tax return as a single individual, with no dependents claimed, with an annual adjusted gross income of \$30,709.00, could afford to pay \$108.00 per month for government-sponsored health insurance. In accordance with Table 4, the Appellant, age 56 years, living in Hampden County could have purchased private market health insurance for \$425.00 per month. (Table 4, Schedule HC for 2021). Thus, private insurance was not affordable for the Appellant in 2021.
8. Employer-sponsored insurance (ESI) was available to Appellant during 2021 for seven months of the year, January through July 2021. (Appellant's Testimony).
9. The Appellant was income-eligible for ConnectorCare coverage in 2021 because their adjusted gross income of \$30,709.00 was less than 300% of the Federal poverty level, which was \$38,280.00 in 2021 (Schedule HC, Table 2). (Exhibit 2).
10. Appellant began a new job in about August 2021. They thought they had a three-month period to sign up for health insurance. When they attempted to apply online, they encountered difficulties, and they were not able to submit their application. When they contacted their employer, Appellant was told they would have to wait until open enrollment period to sign up for health insurance. (Appellant's Testimony, which I credit).
11. Appellant then contacted the Health Connector in approximately October 2021. They were told that their application was on hold for a reason they did not understand. Appellant then explored other health insurance, which they discovered would cost about \$500.00-\$600.00 per month. (Appellant's Testimony, which I credit).

12. In their new job, Appellant earned about \$17.50 hourly and worked approximately 37 hours per week. Thus Appellant did not believe they could afford to pay a monthly premium of \$500.00-\$600.00 without sacrificing purchasing food and other living necessities. (Appellant's Testimony).
13. Appellant lived with their adult daughter and 5-year old grandson, both of whom suffer from health problems. Appellant provides the sole financial support for the family unit of three. Additionally, Appellant requires eye surgery and, therefore, very much wanted to have health insurance coverage. (Appellant's Testimony, which I credit).
14. The Appellant's monthly living expenses during 2021 of \$2,525.00 included: Car insurance - \$1,300.00 (2 cars), Gas - \$170.00, Telephone - \$85.00, grandson's clothes and supplies - \$300.00, Credit card debt - \$250.00, Student loan - \$120.00, and assistance to daughter - \$300.00. (Appellant's Testimony, which I credit).
15. Appellant currently has MCC-compliant health insurance, having received a raise from her new employer during 2021 and having applied for insurance during open enrollment.

ANALYSIS AND CONCLUSIONS OF LAW

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

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

To determine if the two (2)-month penalty should be waived in whole or in part, there must be an evaluation of whether affordable insurance which met minimum creditable coverage standards was available to the Appellant through employment, through private insurance, or through a government-sponsored program. If affordable insurance was available, it must be determined if such insurance was not affordable to the Appellant because the Appellant experienced a hardship as defined in 956 CMR 6.08.

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

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

Employer-sponsored insurance (ESI) was available to Appellant during 2021 for seven months of the year, January through July 2021. (Appellant's Testimony).

The Appellant was income-eligible for ConnectorCare coverage in 2021 because their adjusted gross income of \$30,709.00 was less than 300% of the Federal poverty level, which was \$38,280.00 in 2021 (Schedule HC, Table 2). (Exhibit 2).

Appellant began a new job in about August 2021. They thought they had a three-month period to sign up for health insurance. When they attempted to apply online, they encountered difficulties, and they were not able to submit their application. When they contacted their employer, Appellant was told they would have to wait until open enrollment period to sign up for health insurance. (Appellant's Testimony, which I credit).

Appellant then contacted the Health Connector in approximately October 2021. They were told that their application was on hold for a reason they did not understand. Appellant then explored other health insurance, which they discovered would cost about \$500-\$600 per month. (Appellant's Testimony, which I credit).

In their new job, Appellant earned about \$17.50 hourly and worked approximately 37 hours per week. Thus Appellant did not believe they could afford to pay a monthly premium of \$500-\$600.00 without sacrificing purchasing food and other living necessities. (Appellant's Testimony).

Appellant lived with their adult daughter and 5-year old grandson, both of whom suffer from health problems. Appellant provides the sole financial support for the family unit of three. Additionally, Appellant requires eye surgery therefore, very much wanted to have health insurance coverage. (Appellant's Testimony, which I credit).

The Appellant's monthly living expenses during 2021 of \$2,525.00 included: Car insurance - \$1,300.00 (2 cars), Gas - \$170.00, Telephone - \$85.00, grandson's clothes and supplies - \$300.00, Credit card debt - \$250.00, Student loan - \$120.00, and assistance to daughter - \$300.00. (Appellant's Testimony, which I credit).

Appellant currently has MCC-compliant health insurance, having received a raise from her new employer during 2021 and having applied for insurance during open enrollment. (Appellant's testimony).

ANALYSIS AND CONCLUSIONS OF LAW

Appellant had health insurance coverage through her employer at the beginning of 2021. However, when she switched jobs later that year, due to confusion and miscommunication, she missed the open enrollment period for ESI. She contacted the Health Connector to attempt to arrange for coverage, for which she was income-eligible, but had difficulty reaching a

knowledgeable person and eventually was told her application was on hold, for a reason she did not understand. When she further explored the cost of private insurance, she was told the premium would cost \$500.00 - \$600.00, which she could not afford. Therefore, Appellant remained uninsured for the balance of 2021, until her new employer's open enrollment period and when she received a raise, so she could afford insurance coverage.

Considering the evidence in the administrative record and the totality of the circumstances, I conclude that Appellant has established hardship within the meaning of 956 CMR 6.08.

For all these reasons, the Appellant's two (2)-month penalty is waived.

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

PENALTY ASSESSED

Number of Months Appealed: 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 2020.

NOTIFICATION OF YOUR RIGHT TO APPEAL TO COURT

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

Hearing Officer

cc: Connector Appeals Unit

Massachusetts Health Connector Appeals Unit

FINAL APPEAL DECISION: PA21-2006

Appeal Decision: Penalty Overturned in Full

Hearing Issue: Appeal of the 2021 Tax Year Penalty

Hearing Date: September 7, 2022

Decision Date: September 21, 2022

AUTHORITY

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

JURISDICTION

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

HEARING RECORD

The appellant appeared at the hearing which was held by telephone on September 7, 2022, and testified under oath. The hearing record consists of his testimony and the following documents which were admitted into evidence without objection:

Ex. 1—Statement of Grounds for Appeal—2021

Ex. 2—Appeal Case Information from Schedule HC ¹

Ex. 3—Notice of Hearing

FINDINGS OF FACT

The record shows, and I so find:

1. The appellant is 49-years-old, is single, and has children over the age of 18. In 2021, he had minimum creditable coverage (MCC) health insurance for the months of July through December. (Testimony, Ex. 2)
2. The appellant sustained a workplace injury in 2019 and underwent surgery in 2020. He was placed on workers' compensation insurance from the time of the initial injury until March, 2021, and was on leave from his job until that point. He did not return to work for that employer. (Testimony)
3. The appellant began a new job in July, 2021, and enrolled in MCC employer health insurance from the beginning of July through December. (Testimony, Ex. 2)
4. Prior to his injury, the appellant had employer health insurance for many years. He still works for the same employer and has continued his insurance. (Testimony)

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

5. The appellant believed that his workers' compensation benefits were the equivalent of health insurance and did not investigate insurance options during the period of time that he received benefits. (Testimony)

ANALYSIS AND CONCLUSIONS OF LAW

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

The appellant submitted a statement of grounds for appeal (Ex. 1) claiming that the individual mandate did not apply to him during 2021 because he incurred a significant, unexpected increase in essential expenses resulting directly from the death of a family member or partner with primary responsibility for child care where household expenses were shared; the sudden responsibility for providing full care for an aging parent or other family member, including a major, extended illness of a child that required a full-time caretaker for the child; or a fire, flood, natural disaster, or other unexpected natural or human-caused event causing substantial household or personal damage. On his form, he added that he was out of work due to a work injury.

The appellant had health insurance for the months of July through December. According to M.G.L. c. 111M, s. 2, residents are permitted a 63-day gap between periods of coverage without facing a tax penalty; for Tax Year 2021, Administrative Bulletin 03-10: Guidance Regarding M.G.L. c. 111M and M.G.L. c. 176Q, as implemented by 956 CMR 6.00, interprets the 63-day gap in coverage to be three months. As a result, gaps of three months are not subject to penalty. Since the appellant was uninsured for six months, he was assessed and is appealing a penalty of three months (i.e., the months of uninsurance less the gap period of three months.)

The appellant testified credibly that he sustained a workplace injury in 2019 and received workers' compensation benefits from that point until March, 2021. He testified that he did not return to work for that employer and got a new job in July which provided employer health insurance. Finally, he testified that he continues to work for the same employer and has remained enrolled in health insurance.

The testimony provided by the appellant indicates that he believed that the workers' compensation benefits he received in 2021, and prior thereto, were the equivalent of health insurance which satisfied the state mandate. In general, workers' compensation insurance provides medical and wage benefits to individuals who are injured or become ill at work. The medical benefits cover the costs associated with the particular injury or illness, and do not cover any health matters outside that narrow scope. Accordingly, it cannot be construed as a substitute for or equivalent of health insurance even in the most generous interpretation as it does not constitute comprehensive insurance coverage which offers a broad range of medical benefits as defined in 956 CMR 5.03. However, notwithstanding this misinterpretation of workers' compensation, it is concluded that the appellant should not be penalized for his misunderstanding of the benefits he received. In reaching this conclusion, consideration was given to the fact that the appellant had health insurance prior to his injury for many years and has been enrolled in insurance since July, 2021, thereby demonstrating that the mandate to obtain insurance has not been lost on him.²

² Although the appellant claimed that the mandate did not apply to him for the specific reasons set forth in the second paragraph of this analysis, he did not provide any evidence to support those grounds. Since it is concluded that he should not be subject to a penalty for a different reason, no further analysis under another ground is necessary.

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 2021, only and is based upon the extent of information submitted by him in this appeal.

PENALTY ASSESSED

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

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

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

NOTIFICATION OF YOUR RIGHT TO APPEAL TO COURT

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

Hearing Officer

Cc: Connector Appeals Unit

Massachusetts Health Connector Appeals Unit

FINAL APPEAL DECISION: PA21-1996

Appeal Decision: Penalty Overturned in Full

Hearing Issue: Appeal of the 2021 Tax Year Penalty

Hearing Date: September 1, 2022

Decision Date: September 20, 2022

AUTHORITY

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

JURISDICTION

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

HEARING RECORD

The appellant appeared at the hearing which was held by telephone on September 1, 2022, and testified under oath. The hearing record consists of his testimony and the following documents which were admitted into evidence without objection:

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

FINDINGS OF FACT

The record shows, and I so find:

1. The appellant is 33-years-old, is single and does not have children. He did not have health insurance in 2021. He resided in Essex County, MA in 2021. (Testimony, Ex. 2)
2. Prior to 2021, the last time the appellant had health insurance was about five years ago. He has never been assessed a penalty for failure to obtain insurance. (Testimony)
3. The appellant was employed for part of 2021 and was eligible for employer health insurance, but was separated from employment before he became eligible to enroll. (Testimony)
4. Subsequent to his job separation, the appellant investigated his eligibility for health insurance through his local hospital and determined that a monthly premium through the Health Connector would have cost approximately \$200.00 which he could not afford. (Testimony)

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

5. The appellant rented an apartment for January and February, 2021. He then lived out of his car, and stayed with friends and his parents for a few months. In May, 2021, he began to live on a boat which was gifted to him, and has continued to live on the boat since that time. The boat is moored in Essex County. (Testimony, Ex. 1)
6. The appellant began a new job in the spring of 2022. He is still employed in the same position, but has been out of work for a couple of months due to a work-related injury. The employer offers health insurance, but he did not enroll for 2022. He plans to investigate enrollment for 2023. (Testimony)
7. The appellant reported an adjusted gross income of \$26,920.00 on his 2021 federal tax return, and reported that he was single with no dependents. (Ex. 2)
8. In January and February, 2021, the appellant had regular monthly expenses of approximately \$3223.00 for rent which included heat and electricity (\$900.00), automobile (truck) loan (\$1041.00), automobile insurance (\$182.00), gasoline (\$600.00) and food (\$500.00). From May through December while he lived on the boat, the appellant had regular monthly expenses of approximately \$2986.00 for the aforementioned items except rent and with the following additions: boat mooring (\$538.00), and boat fuel (\$125.00).² (Testimony, Ex. 1)

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

ANALYSIS AND CONCLUSIONS OF LAW

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

The appellant submitted a statement of grounds for appeal (Ex. 1), claiming that the individual mandate did not apply to him during 2021 because 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 could not afford health insurance and stay current with his monthly expenses.

According to M.G.L. c. 111M, s. 2, residents are permitted a 63-day gap between periods of coverage without facing a tax penalty; for Tax Year 2021, Administrative Bulletin 03-10: Guidance Regarding M.G.L. c. 111M and M.G.L. c. 176Q, as implemented by 956 CMR 6.00, interprets the 63-day gap in coverage to be three months. As a result, gaps of three months are not subject to penalty. Since the appellant was uninsured for the entire year, he was assessed and is appealing a penalty of twelve months.

The appellant testified that he has not had health insurance for about five years and has never been assessed a penalty for failure to obtain insurance. He testified that he was eligible for employer insurance in 2021, but he was separated from his position before he could enroll. He testified that he investigated health insurance options through his local hospital after his job separation and determined that a monthly premium through the Health Connector would have cost approximately \$200.00 which he could not afford. Finally, he testified that after he

² No expenses were provided for the months of March and April when the appellant’s living situation was in flux.

moved out of his apartment at the end of February, 2021, he lived out of his car part of the time, and with his parents and friends, until he moved onto his boat in May, 2021.

The evidence provided by the appellant established that his income for 2021, \$26,920.00, was less than 300% of the federal poverty level (FPL), which for 2021 was \$38,280.00 for an individual. Table 3 of the Affordability Schedule indicates that an individual filing separately with a federal adjusted gross income between \$25,521.00 and \$31,900.00 is deemed to be able to afford a monthly premium of \$94.22 (4.20% of \$26,920.00/12). Table 4 of the Premium Schedule indicates that a 32-year-old individual (the age of the appellant in 2021) in Essex County (where the appellant resided in 2021) could have purchased private health insurance for \$268.00 per month, more than the monthly amount deemed affordable from Table 3. Thus, according to the foregoing analysis, the appellant could not have purchased affordable private health insurance in 2019.

Since the appellant's income was within 300% of the FPL, the appellant should have qualified for subsidized health insurance through the Health Connector, assuming he met all other eligibility criteria, and for which he would have been subject to a subsidized premium of approximately \$94.22 per month, pursuant to the aforementioned Affordability Schedule in Table 3.

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

The evidence presented by the appellant in this case is sufficient to establish that he experienced a financial hardship as defined by law so as to waive his penalty for the months in question. The appellant testified that in 2021, he incurred basic monthly expenses of approximately \$3223.00 for January and February, and \$2986.00 from May through December when he lived on his boat. Those expenses were more than his regular monthly pre-tax income of approximately \$2243.00, thereby making a monthly payment of \$94.22 for subsidized health insurance unmanageable. Hence, it is concluded that the totality of the evidence presented by the appellant established that he 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 956 CMR 6.08 (1)(e).

Based on the foregoing, the appellant's request for a waiver from the penalty is **granted** for the months for which he was assessed. The determination that the appellant is eligible for a hardship waiver is with respect to 2021 only and is based upon the extent of information submitted in this appeal.

PENALTY ASSESSED

Number of Months Appealed: 12

Number of Months Assessed: 0

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

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

NOTIFICATION OF YOUR RIGHT TO APPEAL TO COURT

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

Hearing Officer

Cc: Connector Appeals Unit

ADDENDUM

In the event that the appellant does not enroll in employer health insurance for 2023, he is advised to investigate his eligibility for subsidized health insurance for 2023 during the open enrollment period which runs from November 1, 2022 until January 23, 2023, either through **mahealthconnector.org** or by contacting customer service at 1-877-623-6765 for assistance. There may be plans with a lower monthly premium for which he might be eligible.

Massachusetts Health Connector Appeals Unit

FINAL APPEAL DECISION: PA21-1999

Appeal Decision Appeal Allowed

Hearing Issue: Appeal of the 2021 Tax Year Penalty

Hearing Date: September 6, 2022

Decision Date: September 12, 2022

AUTHORITY

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

JURISDICTION

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

HEARING RECORD

The Appellant appeared at the hearing, which was held by telephone, on September 6, 2022. The procedures to be followed during the hearing were reviewed with the Appellant who was then sworn in. Exhibits were marked and admitted into evidence with no objection from the Appellant.

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

- Exhibit 1: Notice of Hearing dated August 10, 2022
- Exhibit 2: Appeal Case Information from form Schedule HC
- Exhibit 3: Statement of Grounds for Appeal Dated April 9, 2022
- Exhibit 4: Written Statement of Appeal Dated April 5, 2022

FINDINGS OF FACT

The record shows, and I so find:

1. The appellant is twenty-eight years old and is single. He lives in Norfolk County, Massachusetts.
2. Appellant works in a restaurant. Appellant stated he could not afford health insurance in 2021.
3. Appellant does have health insurance in 2022 with the Health Connector.
4. The Appellant's monthly expenses totaled \$1,153.00, consisting of rent \$150.00, cell phone \$81.00, car payment \$330.00, car insurance \$250.00, car gas \$200.00, dental insurance \$17.00, food \$100.00, toiletries \$25.00,
5. The Appellant did submit a Statement of Grounds for Appeal-20210 under the grounds for Appeal " During 2021, the expense of purchasing health insurance would have caused a serious deprivation of food, shelter, clothing or other necessities".
6. I take administrative notice of the information set forth in tables 1 through 6 in the Department of Revenue Schedule HC Health Care Instructions and Worksheets (Schedule HC Instructions). Tables 3 & 4 incorporate the affordability schedules adopted by the board of directors of the Commonwealth Health Insurance Connector Authority for 2021. Table 1 sets forth the income eligibility standards for various family sizes at 150% of the federal poverty level and Table 2 sets forth the income eligibility standards for various family sizes at 300 per cent of the federal poverty level, which is the income eligibility standard for the government-subsidized health insurance program. See Mass. G.L. c. 118H, s.3(a)(1). Tables 5 and 6 set forth the tax penalties for 2021.
7. Based on the appellant's federal adjusted gross income and the above referenced tables, I find the appellant may have been eligible for subsidized health insurance, because Appellant's income of \$28,780.00 was less than \$38,280.00. The monthly premium for health insurance available on the private market in Bristol County for a 27 year old single person was \$263.00. Health insurance at his restaurant would cost \$104.52 The tables reflect that Appellant could afford \$100.73 This is more than what the appellant is deemed to afford. (Tables 2, 3 & 4 of the Schedule HC Instructions)

ANALYSIS AND CONCLUSIONS OF LAW

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

The Appellant did submit a Statement of Grounds for Appeal-2021 under the grounds for Appeal “ During 2021, the expense of purchasing health insurance would have caused a serious deprivation of food, shelter, clothing or other necessities”.

The Health Care Reform Act of 2006 requires every adult resident of Massachusetts to obtain and maintain creditable insurance coverage “so long as it is deemed affordable” under the schedule established by the board of the Connector. Mass. Gen. Laws ch. 111M, § 2(a). Massachusetts residents who fail to indicate on their state tax returns that they obtained the mandated creditable coverage are subject to a tax penalty for each month in which that the individual did not have creditable health insurance. *Id.* at § 2(b). However, individuals with incomes up to 150 percent of the Federal Poverty Level (“FPL”) are not subject to any penalty for non-compliance with the individual mandate. See Massachusetts Department of Revenue Technical Information Release (“TIR”) 13-1, available at <http://www.mass.gov/dor/businesses/help-and-resources/legal-library/tirs/tirs-by-years/2013-releases/tir-13-1.html>. For 2021, 150 percent of the FPL was \$19,140.00 for a single person with zero dependents. In addition a lapse in coverage of 63 days or less is not subject to the section 2(b) penalty. See Administrative Bulletin 03-10 (Dec. 7, 2010), available at <https://www.mahealthconnector.org/portal/binary/com.epicentric.contentmanagement.servlet.ContentDeliveryServlet/Health%2520Care%2520Reform/Regulations/documents/Administrative%20Information%20Bulletin%2003-10.pdf>; see also 830 Mass. Code Regs. 111M.2.1(5)(c) (2008). Thus, no penalty is imposed for lapses in coverage consisting of three or fewer consecutive calendar months. *Id.*

Since Appellant’s 2021 income was more than 150 percent of the FPL, making him potentially subject to an individual mandate penalty, the threshold issue to be addressed is whether creditable health insurance coverage was affordable to him in 2021. In determining affordability, consideration is given first to the amount Appellant is deemed able to afford for health insurance premiums under the Affordability Schedule and second to the cost of health insurance that was available through employer-sponsored plans, government-subsidized programs or on the private insurance market. See 2021 Schedule HC Instructions and Worksheets, *supra*.

Appellant reported a federal AGI of \$28,780.00 in 2021, and Appellant’s filing status was single. EX 2. According to the Affordability Schedule established by the Connector’s board and included in the Instructions and Worksheets of the 2021 Massachusetts Schedule HC, Appellant could afford to pay \$100.73 monthly for health insurance. See 2021 Schedule HC Instructions and Worksheets, *supra* at Table 3. Private insurance would have been available to him from the Premium Tables, at a cost of \$263.00 monthly for coverage with zero dependents *Id.* at Table 4. Health insurance at his restaurant would cost \$104.00 monthly.

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

Appellant works in a restaurant. Appellant could not afford health insurance in 2021 as stated by the Appellant.

On these facts, I find that Appellant has shown that he was precluded from purchasing affordable health insurance during 2021. 956 Mass. Code Regs. 6.08(3) (2008). Accordingly, I conclude that he is exempt from a tax penalty for his non-compliance with the individual mandate.

Accordingly, Appellant’s appeal is **ALLOWED**, and the 2021 penalty assessed is **OVERTURNED**.

PENALTY ASSESSED

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

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

OR

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

NOTIFICATION OF YOUR RIGHT TO APPEAL TO COURT

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

Hearing Officer

Cc: Connector Appeals Unit

Massachusetts Health Connector Appeals Unit

FINAL APPEAL DECISION: PA21-1873

Appeal Decision: Penalty Overturned in Full
Hearing Issue: Appeal of the 2021 Tax Year Penalty
Hearing Date: July 18, 2022
Decision Date: September 25, 2022

AUTHORITY

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

JURISDICTION

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

HEARING RECORD

Appellant appeared at the hearing, which was held by telephone, on July 18, 2022. The procedures to be followed during the hearing were reviewed with Appellant. Appellant was sworn in. Exhibits were marked and admitted in evidence with no objection from Appellant. Appellant testified.

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

- Exhibit 1: Schedule HC for Healthcare from DOR
- Exhibit 2: Notice of Appeal and supporting documents, dated March 9, 2022
- Exhibit 3: Correspondence from Health Connector, dated June 8, 2022

FINDINGS OF FACT

The record shows, and I so find:

1. Appellant was 46 years old in 2021 (Exhibit 1).
2. Appellant moved to Massachusetts in June, 2021 (Exhibit 1 and Testimony of Appellant).
3. Appellant filed a Massachusetts 2021 tax return as single with no dependents claimed (Exhibit 1).
4. Appellant had an Adjusted Gross Income for 2021 of \$47,107 (Exhibit 1).
5. Appellant incurred significant expenses for the move to Massachusetts (Testimony of Appellant).
6. As a new resident, Appellant was unaware of the requirement to have health insurance in 2021 (Exhibit 2 and Testimony of Appellant).
7. As soon as Appellant learned of the requirement for health insurance, Appellant applied for health insurance and began coverage in March 2022 (Testimony of Appellant).
8. I take administrative notice of the financial information set forth in Tables 1 through 6 in the DOR 2021 Massachusetts Schedule HC Health Care Instructions and Worksheets. Tables 3 and 4 incorporate affordability and premium schedules adopted by the Board of Directors for the Commonwealth Health Insurance Connector Authority for 2021. Table 2 sets forth income at 300% of the Federal poverty level and Tables 5 and 6 set forth tax penalties in effect for 2021.
9. According to Table 3 of Schedule HC for 2021 a person filing as single with no dependents claimed with an adjusted gross income of \$47,107 could afford to pay \$298 per month for private insurance. According to Table 4,

Appellant, who was 46 years old and lived in Bristol County could have purchased private insurance for a cost of \$336 per month.

10. Private insurance was not considered affordable for Appellant in 2021 (Schedule HC for 2021).
11. Appellant, earning more than \$38,280, would not have been income eligible for government subsidized health insurance (Schedule HC for 2021).
12. Appellant did not have health insurance for seven months of 2021 (Exhibit 1 and Testimony of Appellant).
13. Appellant has been assessed a penalty for four months for 2021 (Exhibit 1).
14. Appellant filed a hardship Appeal on June 8, 2022 (Exhibit 2).

ANALYSIS AND CONCLUSIONS OF LAW

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

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

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

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

PENALTY ASSESSED

Number of Months Appealed: 4

Number of Months Assessed: 0

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

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

NOTIFICATION OF YOUR RIGHT TO APPEAL TO COURT

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

Massachusetts Health Connector Appeals Unit

FINAL APPEAL DECISION: PA21-1978

Appeal Decision: Appeal Approved

Hearing Issue: Appeal of the 2021 Tax Year Penalty

Hearing Date: August 25, 2022

Decision Date: September 25, 2022

AUTHORITY

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

JURISDICTION

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

HEARING RECORD

The Appellant and his representative appeared at the hearing, which was held by telephone, on August 25 2022. The Appellant offered testimony under oath or affirmation. At the end of the hearing, the record was closed.

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

- Exhibit 1: Appeal Case Information from 2021 Schedule HC (1 page)
- Exhibit 2: 3/29/22 Appeal (10 pages)
- Exhibit 3: 7/15/22 Hearing Notice (2 pages)

FINDINGS OF FACT

The record shows, and I so find:

1. The Appellant's filing status for 2021 was Single with no dependents. The Appellant's federal AGI in 2021 was \$40,785. The Appellant turned thirty-three years old in 2021 and resided in Worcester County. (Exhibit 1)
2. The Appellant appealed from the assessment of a four-month penalty on her 2021 income tax return, without checking off any box on the appeal form as the basis for her appeal but stating that she had health insurance throughout 2021. (Exhibit 2; Appellant's testimony)
3. The Appellant had health insurance coverage that met MCC standards through her employer from January 2021 through August 2021. (Exhibit 2)
4. The Appellant had health insurance coverage that met MCC standards through MassHealth from August through December 2021. (Exhibit 2)

ANALYSIS AND CONCLUSIONS OF LAW

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

At issue here are the four months from April 2021 through July 2021, when it appeared from the Appellant’s tax return that she did not have coverage. However, the Appellant has presented compelling documentary evidence that she had health insurance coverage that met MCC standards throughout 2021, first through her employer and later through MassHealth.

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

PENALTY ASSESSED

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

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

OR

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

NOTIFICATION OF YOUR RIGHT TO APPEAL TO COURT

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

Hearing Officer

Cc: Connector Appeals Unit

Massachusetts Health Connector Appeals Unit

FINAL APPEAL DECISION: PA21-1979

Appeal Decision: Appeal Approved

Hearing Issue: Appeal of the 2021 Tax Year Penalty

Hearing Date: August 25, 2022

Decision Date: September 29, 2022

AUTHORITY

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

JURISDICTION

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

HEARING RECORD

The Appellant and his representative appeared at the hearing, which was held by telephone, on August 25 2022. The Appellant offered testimony under oath or affirmation. At the end of the hearing, the record was closed.

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

- Exhibit 1: Appeal Case Information from 2021 Schedule HC (1 page)
- Exhibit 2: 3/29/22 Appeal (10 pages)
- Exhibit 3: 7/15/22 Hearing Notice (2 pages)

FINDINGS OF FACT

The record shows, and I so find:

1. The Appellant's filing status for 2021 was Single with no dependents. The Appellant's federal AGI in 2021 was \$30,747. The Appellant turned twenty-one years old in June 2021. (Exhibit 1)
2. The Appellant appealed from the assessment of a twelve-month penalty on her 2021 income tax return, checking off "Other" on the appeal form as the basis for her appeal. (Exhibit 2)
3. Prior to 2021, the Appellant always had health insurance coverage through her father's employer-sponsored health insurance. (Appellant's testimony)
4. The Appellant's father lost his job at the beginning of 2021, but the Appellant was unaware that this meant that she no longer had health insurance coverage through her father. (Appellant's testimony)
5. The Appellant did not learn until November 2021 that her health insurance coverage had terminated at the start of the year. (Appellant's testimony)
6. In November 2021, the Appellant enrolled in her mother's employer-sponsored health insurance coverage for 2022. (Appellant's testimony)

ANALYSIS AND CONCLUSIONS OF LAW

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

I find credible the Appellant’s testimony that she believed that she had health insurance coverage through her father’s coverage throughout 2021, as she had always had health insurance coverage through her father’s employer-sponsored coverage in past years up until that time and as she enrolled in her mother’s employer-sponsored health insurance coverage for 2022 in November 2021, right after learning that she had not health insurance coverage through her father in 2021.

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

PENALTY ASSESSED

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

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

OR

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

NOTIFICATION OF YOUR RIGHT TO APPEAL TO COURT

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

Hearing Officer

Cc: Connector Appeals Unit

Massachusetts Health Connector Appeals Unit

FINAL APPEAL DECISION: PA21-1980

Appeal Decision: Appeal Granted

Hearing Issue: Appeal of the 2021 Tax Year Penalty

Hearing Date: August 25, 2022

Decision Date: September 30, 2022

AUTHORITY

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

JURISDICTION

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

HEARING RECORD

The Appellant appeared at the hearing, which was held by telephone, on August 25, 2022. The Appellant offered testimony under oath or affirmation. At the end of the hearing, the record was closed. The hearing record consists of the testimony of the Appellant and the following documents which were admitted into evidence:

- Exhibit 1: Appeal Case Information from 2021 Schedule HC (1 page)
- Exhibit 2: 4/1/22 Appeal (8 pages)
- Exhibit 3: 7/15/22 Hearing Notice (2 pages)

FINDINGS OF FACT

The record shows, and I so find:

1. The Appellant's filing status for 2021 was Single with no dependents. The Appellant's federal AGI in 2021 was \$50,515. The Appellant resided in Norfolk County in 2021. The Appellant turned thirty-six years old in 2021. (Exhibit 1)
2. The Appellant appeals from the assessment of a six-month penalty against him on his 2021 income tax return, checking off on his appeal form as the basis for his appeal that: "During 2021, you purchased health insurance that didn't meet minimum creditable coverage standards because that is what your employer offered, and you felt that your circumstances prevented you from buying other insurance that met the requirements." (Exhibit 2)
3. The Appellant has worked as a third-year Union carpenter apprentice since 2019. (Exhibit 2)
4. The Appellant has had health insurance coverage through his Union, as long as he has worked sufficient hours to earn enough to pay his monthly premium. (Appellant's testimony)
5. The Appellant lost his union-sponsored health insurance coverage at the end 2020. (Exhibit 1)
6. At the beginning of April 2021, the company for which the Appellant worked as a carpenter, "downsized" and reduced his hours, so that he was not working enough hours to pay for his Union-sponsored health insurance coverage. (Appellant's testimony)

7. The Appellant continued to work these reduced hours through the summer. (Appellant’s testimony)
8. In September 2021, the Appellant began working more hours and, as a result, started earning enough to afford to pay for health insurance coverage through his Union. (Appellant’s testimony)
9. The Appellant had health insurance coverage through his Union during the last three months of 2021. (Appellant’s testimony)
10. According to Table 2 of the 2021 Massachusetts Schedule HC Health Care, the Appellant did not qualify for government-subsidized health insurance in 2021 as his 2021 income was more than \$38,280 for a family size of one.
11. According to Table 3, Affordability, the Appellant could have afforded to pay a monthly premium of up to \$313 for health insurance coverage in 2021, based on his individual filing status and federal AGI of \$50,515 for 2021.
12. According to Table 4, Premiums, the Appellant could have purchased health insurance coverage in the private market in 2021 for a monthly premium of \$275, based on his age and county of residence in 2021.

ANALYSIS AND CONCLUSIONS OF LAW

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

At issue here is the Appellant’s failure to have health insurance coverage during the six months from April 2021 to September 2021. After losing his health insurance coverage at the end of 2020, the Appellant had a three-month grace period, through March 2021, to obtain new coverage. While he had hoped that he would be able to regain his Union-sponsored coverage in April 2021, his employer’s business slowed down and his employer had to cut back on the Appellant’s hours and income as a result. I find compelling the Appellant’s testimony that he could not afford health insurance coverage during that time due to the significant reduction in income from April through September. As soon as his employer’s business picked up in September 2021 and the Appellant returned to working full time, the Appellant re-enrolled in his Union-sponsored coverage for the last three months of the year.

For the foregoing reasons, I conclude that the Appellant could not afford health insurance coverage from April 2021 through September 2021.

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

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

OR

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

NOTIFICATION OF YOUR RIGHT TO APPEAL TO COURT

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

Hearing Officer

Cc: Connector Appeals Unit

Massachusetts Health Connector Appeals Unit

FINAL APPEAL DECISION: PA21-1981

Appeal Decision: Appeal Approved.

Hearing Issue: Appeal of the 2021 Tax Year Penalty

Hearing Date: August 26, 2022

Decision Date: September 6, 2022

AUTHORITY

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

JURISDICTION

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

HEARING RECORD

The Appellant appeared at the hearing, which was held by telephone, on August 26, 2022. The procedures to be followed during the hearing were reviewed with the Appellant who was then sworn in. Exhibits were marked and admitted into evidence with no objection from the Appellant. The hearing record consists of the Appellant's testimony and the following documents which were admitted into evidence:

- Exhibit 1: Health Connector Appeals Unit Notice of Hearing dated July 15, 2022.
- Exhibit 2: Appeal Case Information from Schedule HC 2021.
- Exhibit 3: The Statement of Grounds for Appeal signed by the Appellant on March 26, 2022, with attachments.

FINDINGS OF FACT

The record shows, and I so find:

1. The Appellant, age 42 in April 2021, filed their Federal Income Tax return as a single person with no dependents claimed (Exhibit 2).
2. The Appellant lived in Essex County, MA in 2021 (Exhibit 2).
3. The Appellant's Federal Adjusted Gross Income for 2021 was \$31,085 (Exhibit 2).
4. The Appellant did not have insurance for any months in 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 March 2022 (Exhibits 2, 3).

6. I take administrative notice of the financial information set forth in Tables 1 through 6 in the DOR 2021 Massachusetts Schedule HC Health Care Instructions and Worksheets. Tables 3 and 4 incorporate affordability and premium schedules adopted by the Board of Directors for the Commonwealth Health Insurance Connector Authority for 2021. Table 2 sets forth income at 300% of the Federal poverty level and Tables 5 and 6 set forth tax penalties in effect for 2021.
7. In accordance with Table 3 of Schedule HC for 2021, the Appellant filing the Federal tax return as a single person with no dependents claimed, with an annual adjusted gross income of \$31,085 could afford to pay \$109 per month for health insurance. In accordance with Table 4, the Appellant, age 42, living in Essex County, could have purchased private insurance for \$294 per month for a plan (Schedule HC for 2021). Private insurance was not affordable for the Appellant in 2021.
8. The Appellant testified that they did not have access to affordable employer sponsored health insurance in 2021. The Appellant had no access for the period of January through July when self-employed. The Appellant started a new job in August, but the employer sponsored health insurance had a monthly premium of over \$200. This is more than the \$109 deemed affordable for the Appellant under Table 3 of Schedule HC for 2021 (Exhibit 3 and Appellant Testimony).
9. The Appellant would have been eligible for ConnectorCare coverage in 2021 because the Appellant's income was less than 300% of the federal poverty level, which was \$38,280 for a household of one in 2021. (See Table 2 of Schedule HC-2021 and 956 CMR 12.04).
10. The Appellant testified that in tax year 2020 they left their job of ten years to care for an ill parent. The Appellant said that for the period of January through July in tax year 2021 their only source of income was driving for Door Dash. The Appellant said that they found a job in August, but the health insurance offered was not affordable. The Appellant's credible testimony is supported by documentation submitted by the Appellant including monthly bank statements (Exhibit 3 and Appellant Testimony).
11. The Appellant's monthly living expenses of \$3,574 included: rent-\$1,660; electricity-\$102; telephone-\$99; car payment-\$406; car insurance-\$140; gasoline-\$650; and food \$217. The Appellant testified that they used credit cards to meet their expenses when employed doing Door Dash and had a \$300 monthly payment as a result. The Appellant said that they struggled to meet their living expenses in tax year 2021 and could not afford health insurance. I found the Appellant to be credible (Exhibit 3 and Appellant Testimony).

ANALYSIS AND CONCLUSIONS OF LAW

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

The Appellant did not have health insurance for any months of tax year 2021 and consequently has been assessed a twelve-month penalty. The Appellant filed an appeal in March 2022 citing financial hardship as the reason for their failure to have health insurance.

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

In accordance with Table 3 of Schedule HC for 2021, the Appellant filing the Federal tax return as a single person with no dependents claimed with an adjusted gross income of \$31,085 could afford to pay \$109 per month for health insurance. According to Table 4, the Appellant, age 42, living in Essex County, could have purchased a private insurance plan for \$294 month. See Schedule HC for 2021. Private insurance was not affordable for the Appellant in tax year 2021.

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

The Appellant testified credibly that they were self-employed as a Door Dash driver for the period of January through July in tax year 2021. The Appellant was able to find a new employer in August that did offer health insurance, but the monthly premium cost exceeded \$200 and was not affordable for the Appellant who was deemed able to pay \$109 under Table 3 of Schedule HC 2021. The Appellant identified substantial living expenses that in fact exceeded their income. The Appellant used credit cards to meet their expenses, and this resulted in substantial debt. The Appellant has demonstrated that the cost of purchasing health insurance would have caused the Appellant to experience a significant financial hardship in tax year 2021. The Appellant's twelve-month penalty is waived. See 956 CMR 6.08(3).

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

PENALTY ASSESSED

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

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

NOTIFICATION OF YOUR RIGHT TO APPEAL TO COURT

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

cc: Health Connector Appeals Unit

Massachusetts Health Connector Appeals Unit

FINAL APPEAL DECISION: PA21-1982

Appeal Decision: Appeal Approved.

Hearing Issue: Appeal of the 2021 Tax Year Penalty

Hearing Date: August 26, 2022

Decision Date: September 6, 2022

AUTHORITY

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

JURISDICTION

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

HEARING RECORD

The Appellant appeared at the hearing, which was held by telephone, on August 26, 2022. The procedures to be followed during the hearing were reviewed with the Appellant who was then sworn in. Exhibits were marked and admitted into evidence with no objection from the Appellant. The hearing record consists of the Appellant's testimony and the following documents which were admitted into evidence:

- Exhibit 1: Health Connector Appeals Unit Notice of Hearing dated July 15, 2022.
- Exhibit 2: Appeal Case Information from Schedule HC 2021.
- Exhibit 3: The Statement of Grounds for Appeal signed by the Appellant on March 31, 2022 with an attachment.

FINDINGS OF FACT

The record shows, and I so find:

1. The Appellant, age 53 in May 2021, filed their Federal Income Tax return as a single person with no dependents claimed (Exhibit 2).
2. The Appellant lived in Hampden County, MA in 2021 (Exhibit 2).
3. The Appellant's Federal Adjusted Gross Income for 2021 was \$35,297 (Exhibit 2).
4. According to their schedule HC, the Appellant did not have insurance that met Massachusetts minimum creditable coverage requirements (MCC) for any months in tax year 2021 (Exhibit 2).
5. The Appellant has been assessed a twelve-month tax penalty for 2021. The Appellant filed an appeal of the assessment in March, 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 claimed, with an annual adjusted gross income of \$35,297 could afford to pay \$147 per month for health insurance. In accordance with Table 4, the Appellant, age 53, living in Hampden County, could have purchased private insurance for \$413 per month for a plan (Schedule HC for 2021). Private insurance was not affordable for the Appellant in 2021.
8. The Appellant did not have access to employer sponsored health insurance in tax year 2021. The Appellant would have been eligible for ConnectorCare coverage in 2021 because their income of \$35,297 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) (Appellant Testimony).
9. The Appellant testified that they are self-employed and researched purchasing health insurance on the private market. The Appellant said that they contacted Cigna and Blue Cross and both plans were over \$500 per month. The Appellant said that they contacted an insurance referral company called Evolve and spoke with someone there who assured them that the plan with the monthly premium of \$197.95 met Massachusetts requirements. The Appellant said that they did not learn that this was not true until they filed their income tax return. The Appellant said that they never wanted to be without health insurance and was never told by any of the various companies they contacted about the ConnectorCare program. The Appellant's credible testimony is supported by documentation submitted with their appeal request verifying that the Appellant enrolled in the Service Industry Trade Alliance Evolve Health Plan effective January 2021 and remained active as of April 2022 (Exhibit 3 and Appellant Testimony).

ANALYSIS AND CONCLUSIONS OF LAW

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

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

The Appellant did not have health insurance that met MCC requirements for any months in tax year 2021 and consequently has been assessed a twelve-month penalty. The Appellant asserts that the penalty should not apply

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

In accordance with Table 3 of Schedule HC for 2021, the Appellant filing the Federal tax return as a single person with no dependents claimed with an adjusted gross income of \$35,297 could afford to pay \$147 per month for health insurance. According to Table 4, the Appellant, age 53, living in Hampden County, could have purchased a private insurance plan for \$413 month. See Schedule HC for 2021. Private insurance was not affordable for the Appellant in tax year 2021.

The Appellant did not have access to affordable employer sponsored health insurance in tax year 2021. The Appellant would have been eligible for ConnectorCare coverage in 2021 because the Appellant's income was less than 300% of the federal poverty level which was \$38,320 for their household of one. See Table 2 of Schedule HC 20210 and 956 CMR 12.04 for eligibility criteria.

The Appellant is self-employed. The Appellant testified credibly regarding their efforts to obtain affordable health insurance for tax year 2021. The Appellant purchased a plan and enrolled in the Service Industry Trade Alliance Evolve Health Plan effective January 2021. The Appellant remained enrolled as of the date of the hearing. The Appellant was paying \$197.95 monthly for this coverage. This was more than the \$147 deemed affordable for the Appellant under Table 3 of Schedule HC for 2021. The Appellant was unaware of the ConnectorCare program until the hearing held on August 26, 2022. Given the Appellant's income and the fact that the Appellant was paying almost \$200 for health insurance, the Appellant has demonstrated that purchasing additional health insurance would have caused the Appellant to experience a financial hardship in 2021. 956 CMR 6.08(2)(c).

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 meeting Massachusetts MCC requirements.

PENALTY ASSESSED

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

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

NOTIFICATION OF YOUR RIGHT TO APPEAL TO COURT

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

Cc: Connector Appeals Unit

Massachusetts Health Connector Appeals Unit

FINAL APPEAL DECISION: PA21-1989

Appeal Decision: Appeal Approved

Hearing Issue: Appeal of the 2021 Tax Year Penalty

Hearing Date: August 30, 2022

Decision Date: September 30, 2022

AUTHORITY

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

JURISDICTION

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

HEARING RECORD

The Appellant appeared at the hearing, which was held by telephone, on August 30, 2022. The Appellant offered testimony under oath or affirmation. At the end of the hearing, the record was closed.

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

- Exhibit 1: Appeal Case Information from 2021 Schedule HC (1 page)
- Exhibit 2: 3/31/22 Appeal (9 pages)
- Exhibit 3: 7/27/22 Hearing Notice (2 pages)
- Exhibit 4: 1095-B and 1095-C for 2021 (2 pages)

FINDINGS OF FACT

The record shows, and I so find:

1. The Appellant's filing status for 2021 was Single with no dependents. The Appellant's federal AGI in 2021 was \$61,850. The Appellant turned twenty-four years old in 2021. (Exhibit 1)
2. The Appellant appealed from the assessment of a twelve-month penalty on her 2021 income tax return, checking off "Other" and underlining, "you didn't reside in Massachusetts during your period of uninsurance." (Exhibit 2)
3. The Appellant resided in Massachusetts from January 2021 through August 2021 and moved to Chicago at the beginning of September 2021. (Exhibit 2; Appellant's testimony)
4. The Appellant did not report her part-year residence on her 2021 Massachusetts tax return because she could not find where she could enter this information on her Massachusetts tax return. (Appellant's testimony)
5. The Appellant had employer-sponsored health insurance coverage through her large, out-of-state employer from January 2021 through September 2021, that substantially met MCC standards. (Exhibit 1)

6. The Appellant resided in Chicago from September 1, 2021, and continues to reside there. (Exhibit 2; Appellant’s testimony)

ANALYSIS AND CONCLUSIONS OF LAW

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

With respect to the first eight months of 2021, the Appellant had health insurance coverage through her large, out-of-state employer that substantially met the Massachusetts standards for minimum creditable coverage.

As the Appellant did not reside in Massachusetts during the last four months of 2021, the individual mandate did not apply to her during that time and no penalty should be assessed.

Therefore, I conclude that no penalty should be assessed against the Appellant for 2021.

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

PENALTY ASSESSED

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

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

OR

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

NOTIFICATION OF YOUR RIGHT TO APPEAL TO COURT

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

Hearing Officer

Cc: Connector Appeals Unit

Massachusetts Health Connector Appeals Unit

FINAL APPEAL DECISION: PA21-1990

Appeal Decision: Penalty Overturned in Full

Hearing Issue: Appeal of the 2021 Tax Year Penalty

Hearing Date: September 1, 2022

Decision Date: September 20, 2022

AUTHORITY

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

JURISDICTION

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

HEARING RECORD

The appellant appeared at the hearing which was held by telephone on September 1, 2022, and testified under oath. The hearing record consists of her testimony and the following documents which were admitted into evidence without objection:

Ex. 1—Statement of Grounds for Appeal—2021

Ex. 2—Appeal Case Information from Schedule HC ¹

Ex. 3—Notice of Hearing

FINDINGS OF FACT

The record shows, and I so find:

1. The appellant is 57-years-old, is married, and does not have minor children. In 2021, she had health insurance from January through July. (Testimony)
2. The appellant's husband has been living in Pennsylvania for several years. (Testimony)
3. From approximately 2016 through mid-July, 2022, the appellant worked as a caretaker in Connecticut on a 24/7 basis, and returned to Massachusetts on a few weekends each year. On those occasions, she stayed with her son who owns a home in Hampden County. (Testimony)
4. In 2021, the appellant lived with her client in Connecticut on a 24/7 basis for ten months. She did not go to Massachusetts during that time frame, in part due to Covid and in part as a function of her job responsibilities. Her client died at the end of September, after which she returned to Massachusetts for a

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

short period of time. She then returned to Connecticut for the remainder of the year. She moved to Connecticut on a permanent basis in June, 2022. (Testimony)

5. The client purchased health insurance from a company in Texas for the months of January through July, 2021. She paid a membership fee of \$300.00 and \$178.00/month for her premium. At some point prior to July, 2021, she had an appointment with her primary care physician and was billed for the entire cost. She contacted the insurance provider for an explanation and determined that the insurance was “fake”, after which she cancelled it. She was uninsured for the remainder of the year. (Testimony)
6. The appellant mistakenly indicated on her 2021 Schedule HC that she was a full-year resident of Massachusetts. (Testimony, Ex. 2)

ANALYSIS AND CONCLUSIONS OF LAW

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

The appellant submitted a statement of grounds for appeal (Ex. 1), claiming that the individual mandate did not apply to her during 2021 because she purchased health insurance that did not meet minimum creditable coverage (MCC) standards, but was close to or substantially met those requirements, and her circumstances prevented her from buying other insurance that met those requirements. She also submitted a letter with her statement in which she stated in part that she purchased health insurance that she thought met MCC requirements, and later found out that it was non-compliant insurance for which she paid \$178.00/month.

The appellant had non-compliant MCC health insurance from January through July, 2021, and did not have insurance for the rest of the year. According to M.G.L. c. 111M, s. 2, residents are permitted a 63-day gap between periods of coverage without facing a tax penalty; for Tax Year 2021, Administrative Bulletin 03-10: Guidance Regarding M.G.L. c. 111M and M.G.L. c. 176Q, as implemented by 956 CMR 6.00, interprets the 63-day gap in coverage to be three months. As a result, gaps of three months are not subject to penalty. Although the appellant resided in Connecticut for ten months without interruption, and then for the remainder of the year with the exception of a few days, she was assessed and is appealing a penalty of twelve months based on the information she provided on her Schedule HC indicating that she was a full-year resident of the state.

The appellant testified credibly that she has been working as a caretaker in Connecticut since 2016, and returned to Massachusetts on a few weekends each year where she stayed with her son. She testified that in 2021, she lived with her client in Connecticut on a 24/7 basis for ten months until the end of September when her client died. She testified that she returned to Massachusetts for a brief period of time, and then went back to Connecticut for the rest of the year. Finally, she testified that she moved to Connecticut permanently in July, 2022.

Pursuant to the instructions set forth on page HC-2 of the 2021 Massachusetts Schedule HC, “part-year residents are not required to file Schedule HC if they were residents of Massachusetts for less than three full months”. Since it appears that the appellant did not reside in the state for even one month, she is not subject to the mandate and should not have been assessed a penalty.²

² This determination makes consideration of the issue of the appellant’s non-compliant MCC insurance unnecessary.

Based on the totality of the evidence, it is concluded that since the appellant was a resident of the state for less than three months, she is not subject to a penalty for any part of the year. Her request for a waiver from the penalty is **granted** for the months for which she was assessed. The determination that the appellant is eligible for a waiver is with respect to 2021, only and is based upon the extent of information submitted by her in this appeal.

PENALTY ASSESSED

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

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

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

NOTIFICATION OF YOUR RIGHT TO APPEAL TO COURT

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

Hearing Officer

Cc: Connector Appeals Unit

Massachusetts Health Connector Appeals Unit

FINAL APPEAL DECISION: PA21-1995

Appeal Decision: Penalty Overturned in Full

Hearing Issue: Appeal of the 2021 Tax Year Penalty

Hearing Date: September 1, 2022

Decision Date: September 19, 2022

AUTHORITY

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

JURISDICTION

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

HEARING RECORD

The appellant appeared at the hearing which was held by telephone on September 1, 2022, and testified under oath. The hearing record consists of her testimony and the following documents which were admitted into evidence without objection:

Ex. 1—Statement of Grounds for Appeal—2021

Ex. 2—Appeal Case Information from Schedule HC ¹

Ex. 3—Notice of Hearing

FINDINGS OF FACT

The record shows, and I so find:

1. The appellant is 62-years-old, is single, and does not have minor children. (Testimony, Ex. 2)
2. The appellant lost her job in October, 2020, and undertook a search to find a full-time position with health insurance benefits. She was unable to find anything suitable and began employment on a part-time basis for a supermarket in January, 2021. The employer did not offer health insurance. She remained in that position until September, 2021 when she found a new job with health insurance that began on October 1, 2021. She has continued in that position since then. (Testimony, Ex. 2)
3. Subsequent to losing her job, the appellant investigated health insurance options through the Health Connector. She had difficulty navigating the website and got besieged with phone calls from independent insurance brokers which confused her and caused her to give up her search. (Testimony)

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

4. The appellant received unemployment compensation for part of 2021 and was unaware of the Connector program which provided health insurance for recipients of unemployment benefits. (Testimony)
5. The appellant is a diabetic and went without insulin in 2021 during the months in which she did not have health insurance. (Testimony)

ANALYSIS AND CONCLUSIONS OF LAW

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

The appellant submitted a statement of grounds for appeal (Ex. 1) claiming that the individual mandate did not apply to her during 2021 for “other” reasons.

The appellant had health insurance for the months of October through December, 2021. According to M.G.L. c. 111M, s. 2, residents are permitted a 63-day gap between periods of coverage without facing a tax penalty; for Tax Year 2021, Administrative Bulletin 03-10: Guidance Regarding M.G.L. c. 111M and M.G.L. c. 176Q, as implemented by 956 CMR 6.00, interprets the 63-day gap in coverage to be three months. As a result, gaps of three months are not subject to penalty. Since the appellant had health insurance for three months, she was assessed and is appealing a penalty of six months (i.e., the number of months of uninsurance less the gap period of three months).

The appellant testified credibly that she lost her job in October, 2020, and was unable to find full-time employment with health insurance benefits. She testified that she started a part-time position in January, 2021, and health insurance was not offered by the employer. She testified that she began a new job in October, 2021 with health insurance and has continued in that position to date. Finally, she testified that she attempted to investigate health insurance options through the Health Connector, but had difficulty navigating the website and gave up her search.

The appellant offered credible testimony regarding her investigation of health insurance options through the Health Connector for 2021, including her difficulty navigating the website as well as her frustration with numerous phone calls from independent insurance brokers. As a recipient of unemployment benefits in 2021, she could have qualified for health insurance benefits through the Health Connector, and it is unfortunate that she was unaware of the program. Nonetheless, the appellant was able to find a position with insurance beginning in October, 2021, and has remained insured since then, thereby demonstrating that the mandate to obtain insurance was not lost on her.

Based on the totality of the evidence, it is concluded that the appellant did not manifest any intent to avoid the mandate and should not be subject to a penalty. Her request for a waiver from the penalty is **granted** for the months for which she was assessed. The determination that the appellant is eligible for a waiver is with respect to 2021, only and is based upon the extent of information submitted by her 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 2021 for the amount equal to one half of the lowest cost health insurance plan available to you for each month you have been assessed the penalty, as listed above, plus applicable interest back to the due date of the return without regard to extension.

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

NOTIFICATION OF YOUR RIGHT TO APPEAL TO COURT

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

Hearing Officer

Cc: Connector Appeals Unit

Massachusetts Health Connector Appeals Unit

FINAL APPEAL DECISION: PA21-2001

Appeal Decision Appeal Allowed

Hearing Issue: Appeal of the 2021 Tax Year Penalty

Hearing Date: September 6, 2022

Decision Date: September 14, 2022

AUTHORITY

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

JURISDICTION

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

HEARING RECORD

The Appellant appeared at the hearing, which was held by telephone, on September 6, 2022. The procedures to be followed during the hearing were reviewed with the Appellant who was then sworn in. Exhibits were marked and admitted into evidence with no objection from the Appellant.

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

- Exhibit 1: Notice of Hearing dated August 10, 2022
- Exhibit 2: Appeal Case Information from form Schedule HC
- Exhibit 3: Statement of Grounds for Appeal, dated April 4, 2022
- Exhibit 4: Open Record Documents

FINDINGS OF FACT

The record shows, and I so find:

1. The appellant is twenty-four years old and is single, and she lives in Suffolk County, Massachusetts.
2. Appellant was covered under her father's insurance policy, as shown in the open record documents the Appellant provided. (See Exhibit 5, proof of insurance).
3. Appellant does have health insurance in 2022.
4. The Appellant did submit a Statement of Grounds for Appeal-2021 but did not check a box but should have filed under "Other. During 2021 other circumstance, such as applying the Affordability Tables in Schedule HC to you is inequitable".
5. I take administrative notice of the information set forth in tables 1 through 6 in the Department of Revenue Schedule HC Health Care Instructions and Worksheets (Schedule HC Instructions). Tables 3 & 4 incorporate the affordability schedules adopted by the board of directors of the Commonwealth Health Insurance Connector Authority for 2021. Table 1 sets forth the income eligibility standards for various family sizes at 150% of the federal poverty level and Table 2 sets forth the income eligibility standards for various family sizes at 300 per cent of the federal poverty level, which is the income eligibility standard for the government-subsidized health insurance program. See Mass. G.L. c. 118H, s.3(a)(1). Tables 5 and 6 set forth the tax penalties for 2021.

ANALYSIS AND CONCLUSIONS OF LAW

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

Appellant was covered under her father's insurance policy, as shown in the open record documents the Appellant provided. (See Exhibit 5, proof of insurance).

The Appellant did submit a Statement of Grounds for Appeal-2021 but did not check a box but should have filed under "Other. During 2021 other circumstance, such as applying the Affordability Tables in Schedule HC to you is inequitable".

The Health Care Reform Act of 2006 requires every adult resident of Massachusetts to obtain and maintain creditable insurance coverage "so long as it is deemed affordable" under the schedule established by the board of the Connector. Mass. Gen. Laws ch. 111M, § 2(a). Massachusetts residents

who fail to indicate on their state tax returns that they obtained the mandated creditable coverage are subject to a tax penalty for each month in which that the individual did not have creditable health insurance. *Id.* at § 2(b). However, individuals with incomes up to 150 percent of the Federal Poverty Level (“FPL”) are not subject to any penalty for non-compliance with the individual mandate. See Massachusetts Department of Revenue Technical Information Release (“TIR”) 13-1, available at <http://www.mass.gov/dor/businesses/help-and-resources/legal-library/tirs/tirs-by-years/2013-releases/tir-13-1.html>. For 2021, 150 percent of the FPL was \$19,140.00 for a single person. *Id.* In addition, a lapse in coverage of 63 days or less is not subject to the section 2(b) penalty. See Administrative Bulletin 03-10 (Dec. 7, 2010), available at <https://www.mahealthconnector.org/portal/binary/com.epicentric.contentmanagement.servlet.ContentDeliveryServlet/Health%2520Care%2520Reform/Regulations/documents/Administrative%20Information%20Bulletin%2003-10.pdf>; see also 830 Mass. Code Regs. 111M.2.1(5)(c) (2008). Thus, no penalty is imposed for lapses in coverage consisting of three or fewer consecutive calendar months. *Id.*

Since Appellant’s 2021 income was more than 150 percent of the FPL, making her potentially subject to an individual mandate penalty, the threshold issue to be addressed is whether creditable health insurance coverage was affordable to him in 2021. In determining affordability, consideration is given first to the amount Appellant is deemed able to afford for health insurance premiums under the Affordability Schedule and second to the cost of health insurance that was available through employer-sponsored plans, government-subsidized programs or on the private insurance market. See 2021 Schedule HC Instructions and Worksheets, *supra*.

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

On these facts, I find that Appellant has shown that she had affordable health insurance during 2021. 956 Mass. Code Regs. 6.08(3) (2008). Accordingly, I conclude that she is exempt from a tax penalty for her non-compliance with the individual mandate because she had health insurance beginning on January 1, 2021.

Accordingly, Appellant’s appeal is **ALLOWED**, and the 2021 penalty assessed is **OVERTURNED**.

PENALTY ASSESSED

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

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

OR

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

NOTIFICATION OF YOUR RIGHT TO APPEAL TO COURT

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

Hearing Officer

Cc: Connector Appeals Unit

Massachusetts Health Connector Appeals Unit

FINAL APPEAL DECISION: PA21-2002

Appeal Decision Appeal Allowed

Hearing Issue: Appeal of the 2021 Tax Year Penalty

Hearing Date: September 6, 2022

Decision Date: September 13, 2022

AUTHORITY

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

JURISDICTION

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

HEARING RECORD

The Appellant appeared at the hearing, which was held by telephone, on September 6, 2022. The procedures to be followed during the hearing were reviewed with the Appellant who was then sworn in. Exhibits were marked and admitted into evidence with no objection from the Appellant.

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

- Exhibit 1: Notice of Hearing dated August 10, 2022
- Exhibit 2: Appeal Case Information from form Schedule HC
- Exhibit 3: Statement of Grounds for Appeal, dated March 30, 2022
- Exhibit 4: Written Statement of Appeal
- Exhibit 5: Open Record Documents

FINDINGS OF FACT

The record shows, and I so find:

1. The appellant is thirty-five years old, and she lives in Hampshire County, Massachusetts.
2. Appellants started a new job in January 2021. There was a waiting period of 90 days before her insurance was effective. Appellant was laid off from her previous job in December 2020 and could not afford her health insurance. Appellant's health insurance was effective as of April 1, 2021 (See Exhibit 5, proof of insurance).
3. Appellant does have health insurance in 2022.
4. The Appellant did submit a Statement of Grounds for Appeal-2021 under "Other. During 2021 other circumstance, such as applying the Affordability Tables in Schedule HC to you is inequitable".
5. I take administrative notice of the information set forth in tables 1 through 6 in the Department of Revenue Schedule HC Health Care Instructions and Worksheets (Schedule HC Instructions). Tables 3 & 4 incorporate the affordability schedules adopted by the board of directors of the Commonwealth Health Insurance Connector Authority for 2021. Table 1 sets forth the income eligibility standards for various family sizes at 150% of the federal poverty level and Table 2 sets forth the income eligibility standards for various family sizes at 300 per cent of the federal poverty level, which is the income eligibility standard for the government-subsidized health insurance program. See Mass. G.L. c. 118H, s.3(a)(1). Tables 5 and 6 set forth the tax penalties for 2021.

ANALYSIS AND CONCLUSIONS OF LAW

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

Appellants started a new job in January 2021. There was a waiting period of 90 days before her insurance was effective. Appellant was laid off from her previous job in December 2020 and could not afford her health insurance. Appellant's health insurance was effective as of April 1, 2021 (See Exhibit 5, proof of insurance).

The Appellant did submit a Statement of Grounds for Appeal-2021 under "Other. During 2021 other circumstance, such as applying the Affordability Tables in Schedule HC to you is inequitable".

The Health Care Reform Act of 2006 requires every adult resident of Massachusetts to obtain and maintain creditable insurance coverage “so long as it is deemed affordable” under the schedule established by the board of the Connector. Mass. Gen. Laws ch. 111M, § 2(a). Massachusetts residents who fail to indicate on their state tax returns that they obtained the mandated creditable coverage are subject to a tax penalty for each month in which that the individual did not have creditable health insurance. *Id.* at § 2(b). However, individuals with incomes up to 150 percent of the Federal Poverty Level (“FPL”) are not subject to any penalty for non-compliance with the individual mandate. See Massachusetts Department of Revenue Technical Information Release (“TIR”) 13-1, available at <http://www.mass.gov/dor/businesses/help-and-resources/legal-library/tirs/tirs-by-years/2013-releases/tir-13-1.html>. For 2021, 150 percent of the FPL was \$19,140.00 for a married person with two dependents. *Id.* In addition, a lapse in coverage of 63 days or less is not subject to the section 2(b) penalty. See Administrative Bulletin 03-10 (Dec. 7, 2010), available at <https://www.mahealthconnector.org/portal/binary/com.epicentric.contentmanagement.servlet.ContentDeliveryServlet/Health%2520Care%2520Reform/Regulations/documents/Administrative%20Information%20Bulletin%2003-10.pdf>; see also 830 Mass. Code Regs. 111M.2.1(5)(c) (2008). Thus, no penalty is imposed for lapses in coverage consisting of three or fewer consecutive calendar months. *Id.*

Since Appellant’s 2021 income was more than 150 percent of the FPL, making her potentially subject to an individual mandate penalty, the threshold issue to be addressed is whether creditable health insurance coverage was affordable to him in 2021. In determining affordability, consideration is given first to the amount Appellant is deemed able to afford for health insurance premiums under the Affordability Schedule and second to the cost of health insurance that was available through employer-sponsored plans, government-subsidized programs or on the private insurance market. See 2021 Schedule HC Instructions and Worksheets, *supra*.

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

On these facts, I find that Appellant has shown that she had affordable health insurance during 2021. 956 Mass. Code Regs. 6.08(3) (2008). Accordingly, I conclude that she is exempt from a tax penalty for her non-compliance with the individual mandate because she had health insurance beginning on April 1, 2021.

Accordingly, Appellant’s appeal is **ALLOWED**, and the 2021 penalty assessed is **OVERTURNED**.

PENALTY ASSESSED

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

The Connector has notified the Department of Revenue that, pursuant to its decision, you should be assessed a penalty for Tax Year 2021 for the amount equal to one half of the lowest cost health

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

OR

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

NOTIFICATION OF YOUR RIGHT TO APPEAL TO COURT

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

Hearing Officer

Cc: Connector Appeals Unit

Massachusetts Health Connector Appeals Unit

FINAL APPEAL DECISION: PA21-2003

Appeal Decision Appeal Allowed

Hearing Issue: Appeal of the 2021 Tax Year Penalty

Hearing Date: September 6, 2022

Decision Date: September 14, 2022

AUTHORITY

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

JURISDICTION

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

HEARING RECORD

The Appellant appeared at the hearing, which was held by telephone, on September 6, 2022. The procedures to be followed during the hearing were reviewed with the Appellant wife who was then sworn in. Exhibits were marked and admitted into evidence with no objection from the Appellant.

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

Exhibit 1: Notice of Hearing dated August 10, 2022

Exhibit 2: Appeal Case Information from form Schedule HC

Exhibit 3: Statement of Grounds for Appeal

Exhibit 4: Written Statement of Appeal Dated April 1, 2022

FINDINGS OF FACT

The record shows, and I so find:

1. The appellant is sixty-two years old and is married and his wife is sixty years old. They live in Essex County.
2. Appellant testified that he and his spouse are not US citizens. The Appellant testified that he and his spouse at one time had work permits but the permits expired. The Appellant testified that that they are unable to verify that they are lawfully present in Massachusetts and therefore their applications for health insurance have been denied. Appellants have been in the United States for over 22 years.
3. Appellants do not have health insurance in 2022.
4. The Appellant did submit a Statement of Grounds for Appeal-2021 but did not sign the statement or check a box but should have filed under “During 2021, the expense of purchasing health insurance would have caused a serious deprivation of food, shelter, clothing or other necessities”
5. I take administrative notice of the information set forth in tables 1 through 6 in the Department of Revenue Schedule HC Health Care Instructions and Worksheets (Schedule HC Instructions). Tables 3 & 4 incorporate the affordability schedules adopted by the board of directors of the Commonwealth Health Insurance Connector Authority for 2021. Table 1 sets forth the income eligibility standards for various family sizes at 150% of the federal poverty level and Table 2 sets forth the income eligibility standards for various family sizes at 300 per cent of the federal poverty level, which is the income eligibility standard for the government-subsidized health insurance program. See Mass. G.L. c. 118H, s.3(a)(1). Tables 5 and 6 set forth the tax penalties for 2021.
6. Based on the appellant’s federal adjusted gross income and the above referenced tables, I find the appellant would not have been eligible for subsidized health insurance, since Appellant’s income of \$59,047.00 was more than \$51,720.00. The monthly premium for health insurance available on the private market in Essex County for a 61 year old married person was \$802.00. The tables reflect that Appellant could afford \$366.58 This is more than what the appellant is deemed to afford. (Tables 2, 3 & 4 of the Schedule HC Instructions)

ANALYSIS AND CONCLUSIONS OF LAW

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

Appellant testified that he and his spouse are not US citizens. The Appellant testified that he and his spouse at one time had work permits but the permits expired. The Appellant testified that that they are unable to verify that they are lawfully present in Massachusetts and therefore their applications for health insurance have been denied. Appellants have been in the United States for over 22 years.

The Appellant did submit a Statement of Grounds for Appeal-2021 but did not sign the statement or check a box but should have filed under “During 2021, the expense of purchasing health insurance would have caused a serious deprivation of food, shelter, clothing or other necessities”

The Health Care Reform Act of 2006 requires every adult resident of Massachusetts to obtain and maintain creditable insurance coverage “so long as it is deemed affordable” under the schedule established by the board of the Connector. Mass. Gen. Laws ch. 111M, § 2(a). Massachusetts residents who fail to indicate on their state tax returns that they obtained the mandated creditable coverage are subject to a tax penalty for each month in which that the individual did not have creditable health insurance. *Id.* at § 2(b). However, individuals with incomes up to 150 percent of the Federal Poverty Level (“FPL”) are not subject to any penalty for non-compliance with the individual mandate. See Massachusetts Department of Revenue Technical Information Release (“TIR”) 13-1, available at <http://www.mass.gov/dor/businesses/help-and-resources/legal-library/tirs/tirs-by-years/2013-releases/tir-13-1.html>. For 2021, 150 percent of the FPL was \$25,860.00 for a married person *Id.* In addition, a lapse in coverage of 63 days or less is not subject to the section 2(b) penalty. See Administrative Bulletin 03-10 (Dec. 7, 2010), available at <https://www.mahealthconnector.org/portal/binary/com.epicentric.contentmanagement.servlet.ContentDeliveryServlet/Health%2520Care%2520Reform/Regulations/documents/Administrative%20Information%20Bulletin%2003-10.pdf>; see also 830 Mass. Code Regs. 111M.2.1(5)(c) (2008). Thus, no penalty is imposed for lapses in coverage consisting of three or fewer consecutive calendar months. *Id.*

Since Appellant’s 2021 income was more than 150 percent of the FPL, making him potentially subject to an individual mandate penalty, the threshold issue to be addressed is whether creditable health insurance coverage was affordable to him in 2021. In determining affordability, consideration is given first to the amount Appellant is deemed able to afford for health insurance premiums under the Affordability Schedule and second to the cost of health insurance that was available through employer-sponsored plans, government-subsidized programs or on the private insurance market. See 2021 Schedule HC Instructions and Worksheets, *supra*.

Appellant reported a federal AGI of \$59,047.00 in 2021, and Appellant’s filing status was married. EX 2. According to the Affordability Schedule established by the Connector’s board and included in the Instructions and Worksheets of the 2021 Massachusetts Schedule HC, Appellant could afford to pay \$366.58 Table 3. Private insurance would have been available to him from the Premium Tables, at a cost of \$802.00 monthly for coverage, which is more than they can pay. *Id.* at Table 4. Appellants are subject to the tax penalty unless appellants demonstrate a hardship. 956 Mass. Code Regs. 6.07(1) (2008). To prevail on a hardship appeal, an appellant must establish that “based on all his circumstances, minimum creditable coverage was not affordable to him[er] because [s]he experienced a hardship.” *Id.* at 6.08(1).

Based on the documentation in the record, and the Appellant's testimony, it appears the Appellant and his spouse have been unable to verify their immigration status. Under 45 CFR S. 155.305(a), only persons who are lawfully present in the United States and who are otherwise eligible may purchase health and dental insurance through the Health Connector. The Appellant and his wife did not have access to a government sponsored health insurance program. Since the Appellant and his wife did not have access to affordable health insurance in 2021, the twelve-month penalty for both household members is waived in full. Appellant is deemed to afford \$366.58 for health insurance coverage because of his income. Private insurance in the market place was \$802.00 per month, which is more than he could afford. On these facts, I find that Appellant has shown that he was precluded from purchasing affordable health insurance during 2020. 956 Mass. Code Regs. 6.08(3) (2008). Accordingly, I conclude that he is exempt from a tax penalty for her non-compliance with the individual mandate.

Accordingly, Appellant's appeal is **ALLOWED**, and the 2021 penalty assessed is **OVERTURNED**.

PENALTY ASSESSED

Number of Months Appealed: ____24____ Number of Months Assessed: ____0____

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

OR

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

NOTIFICATION OF YOUR RIGHT TO APPEAL TO COURT

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

Hearing Officer

Cc: Connector Appeals Unit

Massachusetts Health Connector Appeals Unit

FINAL APPEAL DECISION: PA21-2004

Appeal Decision Appeal Allowed

Hearing Issue: Appeal of the 2021 Tax Year Penalty

Hearing Date: September 6, 2022

Decision Date: September 12, 2022

AUTHORITY

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

JURISDICTION

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

HEARING RECORD

The Appellant appeared at the hearing, which was held by telephone, on September 6, 2022. The procedures to be followed during the hearing were reviewed with the Appellant who was then sworn in. Exhibits were marked and admitted into evidence with no objection from the Appellant.

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

- Exhibit 1: Notice of Hearing dated August 10, 2022
- Exhibit 2: Appeal Case Information from form Schedule HC
- Exhibit 3: Statement of Grounds for Appeal, dated April 4, 2022
- Exhibit 4: Written Statement of Appeal Dated April 4, 2022

FINDINGS OF FACT

The record shows, and I so find:

1. The appellant is forty-one years old and is single. She lives in Bristol County, Massachusetts. Appellant works in the design business.
2. Appellant left her job in August of last year to accept a new position. She had to wait 90 days before her health insurance would become active. Appellant left that position to return to her old position in November 2021, but she had to wait another 90 days for her health insurance to become active, which it did in January of 2022.
3. Appellant does have health insurance in 2022.
4. The Appellant's monthly expenses totaled \$2,865.00, consisting of rent \$1,000.00, internet & cable \$35.00, car loan \$321.00, car insurance \$67.00, car gas \$140.00, food \$600.00, credit card \$70.00, electric \$200.00, storage \$84.00, personal loan \$76.00, care for dogs and cat \$20.00.
5. The Appellant did submit a Statement of Grounds for Appeal-2021. "During 2021, the expense of purchasing health insurance would have caused a serious deprivation of food, shelter, clothing or other necessities" .
6. I take administrative notice of the information set forth in tables 1 through 6 in the Department of Revenue Schedule HC Health Care Instructions and Worksheets (Schedule HC Instructions). Tables 3 & 4 incorporate the affordability schedules adopted by the board of directors of the Commonwealth Health Insurance Connector Authority for 2021. Table 1 sets forth the income eligibility standards for various family sizes at 150% of the federal poverty level and Table 2 sets forth the income eligibility standards for various family sizes at 300 per cent of the federal poverty level, which is the income eligibility standard for the government-subsidized health insurance program. See Mass. G.L. c. 118H, s.3(a)(1). Tables 5 and 6 set forth the tax penalties for 2021.
7. Based on the appellant's federal adjusted gross income and the above referenced tables, I find the appellant would not have been eligible for subsidized health insurance, since Appellant's income of \$49,278.00 was more than \$38,280.00. The monthly premium for health insurance available on the private market in Bristol County for a 40 year old single person was \$294.00. The tables reflect that Appellant could afford \$312.09 This is less than what the appellant is deemed to afford. (Tables 2, 3 & 4 of the Schedule HC Instructions)

ANALYSIS AND CONCLUSIONS OF LAW

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

Appellant left her job in August of last year to accept a new position. She had to wait 90 days before her health insurance would become active. Appellant left that position to return to her old position in November 2021, but she had to wait another 90 days for her health insurance to become active, which it did in January of 2022.

The Appellant did submit a Statement of Grounds for Appeal-2021 “During 2021, the expense of purchasing health insurance would have caused a serious deprivation of food, shelter, clothing or other necessities”

The Health Care Reform Act of 2006 requires every adult resident of Massachusetts to obtain and maintain creditable insurance coverage “so long as it is deemed affordable” under the schedule established by the board of the Connector. Mass. Gen. Laws ch. 111M, § 2(a). Massachusetts residents who fail to indicate on their state tax returns that they obtained the mandated creditable coverage are subject to a tax penalty for each month in which that the individual did not have creditable health insurance. *Id.* at § 2(b). However, individuals with incomes up to 150 percent of the Federal Poverty Level (“FPL”) are not subject to any penalty for non-compliance with the individual mandate. See Massachusetts Department of Revenue Technical Information Release (“TIR”) 13-1, available at <http://www.mass.gov/dor/businesses/help-and-resources/legal-library/tirs/tirs-by-years/2013-releases/tir-13-1.html>. For 2021, 150 percent of the FPL was \$19,140.00 for a single person. *Id.* In addition, a lapse in coverage of 63 days or less is not subject to the section 2(b) penalty. See Administrative Bulletin 03-10 (Dec. 7, 2010), available at <https://www.mahealthconnector.org/portal/binary/com.epicentric.contentmanagement.servlet.ContentDeliveryServlet/Health%2520Care%2520Reform/Regulations/documents/Administrative%20Information%20Bulletin%2003-10.pdf>; see also 830 Mass. Code Regs. 111M.2.1(5)(c) (2008). Thus, no penalty is imposed for lapses in coverage consisting of three or fewer consecutive calendar months. *Id.*

Since Appellant’s 2021 income was more than 150 percent of the FPL, making her potentially subject to an individual mandate penalty, the threshold issue to be addressed is whether creditable health insurance coverage was affordable to her in 2021. In determining affordability, consideration is given first to the amount Appellant is deemed able to afford for health insurance premiums under the Affordability Schedule and second to the cost of health insurance that was available through employer-sponsored plans, government-subsidized programs or on the private insurance market. See 2021 Schedule HC Instructions and Worksheets, *supra*.

Appellant reported a federal AGI of \$49,278.00 in 2021, and Appellant’s filing status was single. EX 2. According to the Affordability Schedule established by the Connector’s board and included in the Instructions and Worksheets of the 2021 Massachusetts Schedule HC, Appellant could afford to pay \$312.09 monthly for health insurance. See 2021 Schedule HC Instructions and Worksheets, *supra* at Table 3. Private insurance would have been available to her from the Premium Tables, at a cost of \$294.00 monthly for coverage. *Id.* at Table 4.

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

Appellant is deemed to afford \$312.09 for health insurance coverage because of her income. Private insurance in the marketplace was \$294.00 per month, which is less than she could afford. The only reason the Appellant did not have health insurance in 2021 was that she changed jobs and had to wait for her health insurance for 90 days twice because the job she went to was not the right fit for her. On these facts, I find that Appellant has shown that she was precluded from purchasing affordable health insurance during 2021. 956 Mass. Code Regs. 6.08(3) (2008). Accordingly, I conclude that she is exempt from a tax penalty for her non-compliance with the individual mandate.

Accordingly, Appellant’s appeal is **ALLOWED**, and the 2021 penalty assessed is **OVERTURNED**.

PENALTY ASSESSED

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

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

OR

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

NOTIFICATION OF YOUR RIGHT TO APPEAL TO COURT

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

Hearing Officer

Cc: Connector Appeals Unit

Massachusetts Health Connector Appeals Unit

FINAL APPEAL DECISION: PA21-2007

Appeal Decision: Penalty Overturned in Full

Hearing Issue: Appeal of the 2021 Tax Year Penalty

Hearing Date: September 7, 2022

Decision Date: September 22, 2022

AUTHORITY

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

JURISDICTION

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

HEARING RECORD

The appellants, husband and wife, appeared at the hearing which was held by telephone on September 7, 2022 and testified under oath. The hearing record consists of their testimony and the following documents which were admitted into evidence without their objection:

Ex. 1—Statement of Grounds for Appeal—2021

Ex. 2—Appeal Case Information from Schedule HC ¹

Ex. 3—Notice of Hearing

FINDINGS OF FACT

The record shows, and I so find:

1. The appellant wife is 31-years-old, the appellant husband is 34-years-old, and they do not have children. In 2021, they had health insurance for the entire year. They resided in Middlesex County in 2021. (Testimony)
2. The appellants have both been working for the same employer for approximately six years. Prior to 2021, they had health insurance in some years and not in others. They have paid a penalty in the past for not having insurance, but this is the first year that they have appealed the assessment of the penalty. (Testimony)
3. The appellants enrolled in the health insurance offered by their employer during the open enrollment period for 2021. The employer offered three different plans. The plan in which they enrolled cost \$200.00/month each. (Testimony)

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

4. During the open enrollment period for 2022 which was held at the end of 2021, the employer notified the employees that the insurance plans they offered for 2021 did not comply with Massachusetts minimum creditable coverage (MCC) standards. The employer further advised its employees that the issue of non-compliance had come to its attention midway through 2022 due to a change in state rules. Employees were told that the main area of deviation pertained to the amount of the deductible. This was the first notice that the appellants received regarding the fact that their 2021 insurance did not meet state MCC standards. (Testimony)
5. At the time the appellants received the information regarding the MCC issue, there was little time left in the open enrollment period. During the remaining time they had, they investigated their insurance options through the Health Connector and determined that a monthly premium would be more than double what they paid for their employer insurance. They decided to remain enrolled in their employer's plan for 2022 as a result of the cost difference. (Testimony)
6. The appellants prepared their 2021 tax return and were assessed a twelve-month penalty for failure to obtain MCC insurance. (Testimony, Ex. 2)
7. Massachusetts MCC-compliant plans must provide the following coverage: ambulatory patient services, diagnostic imaging and screening procedures, emergency services, hospitalization, maternity and newborn care, medical/surgical care, mental health and substance abuse services, prescription drugs and radiation/chemotherapy. Annual deductibles cannot exceed \$2000.00 for an individual and \$4000.00 for a family for in-network services. Out-of-pocket spending for in-network covered services cannot exceed \$5000.00 for an individual and \$10,000.00 for a family. Prescription drug deductibles cannot exceed \$250.00 for an individual and \$500.00 for a family, and there can be no limits on prescription drug benefits and for the amount paid for a particular illness in a single year. See 956 CMR 5.03.
<http://www.mass.gov/dor/tax-professionals/current-year-tax-information/health-care-faqs-for-insurance-carriers/general-questions.html>
8. The appellants reported an adjusted gross income of \$91,691.00 on their jointly filed 2021 federal tax return, and reported that they were married with no dependents. (Ex. 2)

ANALYSIS AND CONCLUSIONS OF LAW

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

The appellants submitted a statement of grounds for appeal (Ex. 1) claiming that the individual mandate did not apply to them during 2021 because they purchased health insurance that did not meet minimum creditable coverage standards since that is what their employer offered, and they felt that their circumstances prevented them from buying other insurance that met the requirements. They also submitted a letter with their statement in which they stated in part that their employer did not offer insurance that met MCC standards, and what it did offer more or less conformed to state requirements.

The appellants did not have MCC compliant insurance from January through December. According to M.G.L. c. 111M, s. 2, residents are permitted a 63-day gap between periods of coverage without facing a tax penalty; for Tax Year 2021, Administrative Bulletin 03-10: Guidance Regarding M.G.L. c. 111M and M.G.L. c. 176Q, as

implemented by 956 CMR 6.00, interprets the 63-day gap in coverage to be three months. As a result, gaps of three months are not subject to penalty. Since the appellants are considered to have been uninsured for the entire year due to the MCC issue, they were assessed and are appealing a penalty of twelve months.

The appellant wife testified credibly that prior to 2021, they had health insurance in some years and not in others. She testified that they have paid a penalty in the past for being uninsured, but that this was the first year they appealed the penalty. She testified that she and her husband enrolled in employer insurance during the open enrollment period for 2021. She testified that during the open enrollment period for 2022 at the end of 2021, the employer notified its employees that the insurance plans it offered for 2021 did not comply with state MCC standards, and that the issue of noncompliance had only come to its attention midway through 2022 due to an apparent change in state rules. She testified that they investigated other health insurance options for 2022 through the Health Connector during the limited time they had left, and determined that the cost would be at least double what they were paying for employer health insurance. Finally, she testified that they decided to remain enrolled in employer insurance for 2022 because that was the more affordable option

The evidence provided by the appellants established that their income for 2021, \$91,691.00, was greater than 300% of the federal poverty level (FPL), which for 2021 was \$51,720.00 for a two-person family. Table 3 of the Affordability Schedule indicates that a married couple filing jointly with no dependents with a federal adjusted gross income greater than \$68,961.00 is deemed to be able to afford a monthly premium of \$611.27 (8.0% of \$91,691.00/12). Table 4 of the Premium Schedule indicates that a 33-year-old individual (the age of the older of the two appellants in 2021) in Middlesex County (where the appellants resided in 2021) could have purchased private health insurance for \$535.00 per month, less than the monthly amount deemed affordable from Table 3. Thus, according to the foregoing analysis, the appellants could have purchased affordable private health insurance in 2021.

Inasmuch as the appellants were completely unaware of the fact that their health insurance deviated from MCC standards until the end of 2021, there is nothing they could have done at that point in time to remedy the problem. However, pursuant to the foregoing affordability analysis, they are advised to investigate the cost of private health insurance for 2023 through the Health Connector in the event that their employer health insurance is still non-compliant.

Based on the totality of the evidence, it is concluded that the appellants should not be subject to a penalty for the months for which they were assessed because they had no knowledge that their health insurance did not conform with MCC requirements until the end of 2021. Their request for a waiver from the penalty is **granted**. The determination that they are eligible for a waiver is with respect to 2021, only and is based upon the extent of information submitted by them in this appeal.

PENALTY ASSESSED

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

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

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

NOTIFICATION OF YOUR RIGHT TO APPEAL TO COURT

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

Hearing Officer

Cc: Connector Appeals Unit

Massachusetts Health Connector Appeals Unit

FINAL APPEAL DECISION: PA21-2009

Appeal Decision: Penalty Overturned in Full

Hearing Issue: Appeal of the 2021 Tax Year Penalty

Hearing Date: September 7, 2022

Decision Date: September 23, 2022

AUTHORITY

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

JURISDICTION

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

HEARING RECORD

The appellant appeared at the hearing which was held by telephone on September 7, 2022 and testified under oath. The hearing record consists of his testimony and the following documents which were admitted into evidence without his objection:

- Ex. 1—Statement of Grounds for Appeal—2021
- Ex. 2—Appeal Case Information from Schedule HC ¹
- Ex. 3—Final Appeal Decision in PA20-727 dated November 17, 2021
- Ex. 4—Notice of Hearing

FINDINGS OF FACT

The record shows, and I so find:

1. The appellant is 62-years-old and is married. His wife is 67-years-old. In 2021, the appellant had health insurance through two different providers. He had private health insurance from January through November, 2021, and had insurance through MassHealth in December. His wife was enrolled in Medicare in 2021. In 2021, he lived in Hampden County. (Testimony, Ex. 2)
2. The appellant was enrolled in employer health insurance in January and February, 2020, at which point the company went out of business and he lost his insurance. He investigated insurance options on the private market and enrolled in a plan in or around May, 2020, for which he paid approximately \$250.00/month. When his 2020 tax return was prepared in 2021, he learned for the first time that his insurance did not meet state minimum creditable coverage (MCC) standards. He was assessed a penalty which he appealed. Upon discovering that his insurance did not conform to state requirements, the

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

appellant enrolled in a different plan in or around March, 2021, which he was assured met MCC standards. (Testimony)

3. A hearing was held by the Health Connector for the appeal of the 2020 tax penalty. The hearing officer waived the penalty and determined that the appellant did not become aware of the MCC issue until early in 2021. The hearing officer concluded that the appellant had no affordable options available to him because he did not have access to employer health insurance, did not qualify for subsidized insurance and could not afford private insurance. (Ex. 3)
4. After the hearing in November, the appellant discovered that his second insurance plan did not meet MCC standards. He terminated the insurance and enrolled in MassHealth for the month of December. He remained enrolled until he got a new job in 2022 at which point he enrolled in employer health insurance beginning in July. (Testimony)
5. Massachusetts MCC-compliant plans must provide the following coverage: ambulatory patient services, diagnostic imaging and screening procedures, emergency services, hospitalization, maternity and newborn care, medical/surgical care, mental health and substance abuse services, prescription drugs and radiation/chemotherapy. Annual deductibles cannot exceed \$2000.00 for an individual and \$4000.00 for a family for in-network services. Out-of-pocket spending for in-network covered services cannot exceed \$5000.00 for an individual and \$10,000.00 for a family. Prescription drug deductibles cannot exceed \$250.00 for an individual and \$500.00 for a family, and there can be no limits on prescription drug benefits and for the amount paid for a particular illness in a single year. See 956 CMR 5.03.
<http://www.mass.gov/dor/tax-professionals/current-year-tax-information/health-care-faqs-for-insurance-carriers/general-questions.html>
6. The appellant and his wife reported an adjusted gross income of \$65,228.00 on their jointly filed 2021 federal tax return, and reported that they were married with no dependents. (Ex. 2)

ANALYSIS AND CONCLUSIONS OF LAW

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

The appellant submitted a statement of grounds for appeal (Ex. 1) claiming that the individual mandate did not apply to him during 2021, but did not specify a ground for the appeal. He also submitted a letter with his statement in which he stated in part that after he lost his job in 2020, he enrolled in an insurance plan which he discovered did not comply with state MCC requirements when he filed his 2020 tax returns in early 2021. He stated that he switched to another plan in March, 2021, which he was advised also did not meet MCC standards in November, 2021. He stated that he then was able to enroll in MassHealth and remained enrolled until he obtained employer provided health insurance in 2022.

The appellant did not have MCC compliant insurance from January through November. According to M.G.L. c. 111M, s. 2, residents are permitted a 63-day gap between periods of coverage without facing a tax penalty; for Tax Year 2021, Administrative Bulletin 03-10: Guidance Regarding M.G.L. c. 111M and M.G.L. c. 176Q, as implemented by 956 CMR 6.00, interprets the 63-day gap in coverage to be three months. As a result, gaps of three months are not subject to penalty. Since the appellant is considered to have been uninsured for eleven

months, he was assessed and is appealing a penalty of eight months (i.e., the months of uninsurance less the gap period of three months).

The appellant testified credibly that he lost his job and health insurance in February, 2020, and enrolled in a private insurance plan for which he paid approximately \$250.00/month in May, 2020. He testified that when he prepared his 2020 tax return in early 2021, he learned for the first time that his insurance did not comply with state MCC requirements. He testified that he dropped that plan and enrolled in another plan in March, 2021, which he was assured met state standards. He testified that following a hearing on his appeal of the 2020 tax penalty in November, 2021, he learned that the second plan also did not meet state standards and terminated his enrollment. Finally, he testified that he enrolled in MassHealth for the month of December, and remained enrolled until he got a new job and enrolled in employer health insurance in July, 2022.

The evidence provided by the appellant established that his joint income for 2021, \$65,228.00, was greater than 300% of the federal poverty level (FPL), which for 2021 was \$51,720.00 for a two-person family. Table 3 of the Affordability Schedule indicates that a married couple filing jointly with no dependents with a federal adjusted gross income between \$60,341.00 and \$68,960.00 is deemed to be able to afford a monthly premium of \$413.11 (7.60% of \$65,228.00/12). Table 4 of the Premium Schedule indicates that a 66-year-old individual (the age of the older of the two spouses in 2021) in Hampden County (where the appellant resided in 2021) could have purchased private health insurance for \$849.00 per month, more than the monthly amount deemed affordable from Table 3. Thus, according to the foregoing analysis, the appellant could not have purchased affordable private health insurance in 2021.

With the exception of the month of December, the appellant was enrolled in two health insurance plans in 2021 that did not meet MCC standards. While he established that he was completely unaware that neither of the plans complied with state requirements, it strains credulity that he ran into the same situation with the second plan in that he had just been apprised that his first plan was not MCC-compliant. Nonetheless, he will be accorded the benefit of the doubt since there is no evidence that he was attempting to evade the requirements of the mandate. That point is underscored by the fact that he was enrolled in employer health insurance before he lost his job and enrolled in it again after he got a new job in July, 2022. Furthermore, the appellant had no affordable option besides his non-compliant plans in that he did not have access to employer insurance, he did not qualify for subsidized insurance through the Health Connector, and he could not afford to purchase private health insurance.

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

PENALTY ASSESSED

Number of Months Appealed: 8

Number of Months Assessed: 0

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

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

NOTIFICATION OF YOUR RIGHT TO APPEAL TO COURT

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

Hearing Officer

Cc: Connector Appeals Unit

Massachusetts Health Connector Appeals Unit

FINAL APPEAL DECISION: PA21-2029

Appeal Decision: Appeal Approved.

Hearing Issue: Appeal of the 2021 Tax Year Penalty

Hearing Date: September 16, 2022

Decision Date: September 26, 2022

AUTHORITY

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

JURISDICTION

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

HEARING RECORD

The Appellant appeared at the hearing, which was held telephonically on September 16, 2022. The procedures to be followed during the hearing were reviewed with the Appellant who was then sworn in. Exhibits were marked and admitted into evidence with no objection from the Appellant. The hearing record consists of the Appellant's testimony and the following documents which were admitted into evidence:

- Exhibit 1: Health Connector Appeals Unit Notice of Hearing dated August 12, 2022.
- Exhibit 2: Appeal Case Information from Schedule HC 2021.
- Exhibit 3: Statement of Grounds for Appeal signed by the Appellant on April 19, 2022.
- Exhibit 4: Appellant's letter in support of this appeal, with attachments.
- Exhibit 5: Additional information submitted by the Appellant on September 9, 2022.

FINDINGS OF FACT

The record shows, and I so find:

1. The Appellant, age 61 in July 2021, filed their 2021 Federal Income Tax return as a single person with no dependents claimed (Exhibit 2).
2. The Appellant was a resident of Middlesex County in 2021 (Exhibit 2).
3. According to the information on the Appellant's Schedule HC 2021, the Appellant did not have health insurance that met minimum essential coverage for the period of January through July in tax year 2021 (Exhibit 2).
4. The Appellant has been assessed a four-month tax penalty. The Appellant filed an appeal of the assessment in April 2022 (Exhibits 2, 3, 4).
5. The Appellant's Federal Adjusted Gross Income for 2021 was \$22,290 (Exhibit 2).

6. The Appellant submitted documentation from the Social Security Administration verifying that the Appellant had Medicare Part A and Part B coverage for all months of tax year 2021. The Appellant verified quarterly payments of \$445.50 for their 2021 coverage (Exhibits 4, 5).
7. The Appellant testified that H and R Block prepared their 2021 income tax return. The Appellant said that they noticed that the Appellant’s Form 1095-B contained an error showing coverage for August through December only. The Appellant said that they telephoned Social Security and were told that a corrected form would be sent out within seven days, but the Appellant never received it. The Appellant said that they still have Medicare coverage.

ANALYSIS AND CONCLUSIONS OF LAW

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

The Appellant filed their 2021 income tax return as a single person with no dependents. According to the information in the Appellant’s Schedule HC 2021, the Appellant did not have health insurance for the period of January through July in tax year 2021. The Appellant was assessed a four-month penalty. The Appellant filed an appeal of the penalty in April, 2022.

The Appellant testified that they had Medicare Parts A and B for all of tax year 2021. The Appellant’s credible testimony was supported by documentation from the Social Security Administration verifying the Appellant’s coverage as well as the quarterly payments of \$445.50 made by the Appellant to maintain coverage. The Appellant should not be subject to a tax penalty for tax year 2021.

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

PENALTY ASSESSED

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

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

NOTIFICATION OF YOUR RIGHT TO APPEAL TO COURT

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

Cc: Connector Appeals Unit

Massachusetts Health Connector Appeals Unit

FINAL APPEAL DECISION: PA21-2033

Appeal Decision: Appeal Approved.

Hearing Issue: Appeal of the 2021 Tax Year Penalty

Hearing Date: September 16, 2022

Decision Date: September 26, 2022

AUTHORITY

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

JURISDICTION

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

HEARING RECORD

The Appellant appeared at the hearing, which was held by telephone, on September 16, 2022. The procedures to be followed during the hearing were reviewed with the Appellant who was then sworn in. Exhibits were marked and admitted into evidence with no objection from the Appellant. The hearing record consists of the Appellant's testimony and the following documents which were admitted into evidence:

- Exhibit 1: Health Connector Appeals Unit Notice of Hearing dated August 12, 2022
- Exhibit 2: Appeal Case Information from Schedule HC 2021.
- Exhibit 3: The Statement of Grounds for Appeal signed by the Appellant on April 7, 2022.
- Exhibit 4: The Appellant's letter in support of the appeal, with attachments.
- Exhibit 5: A copy of the Direct Health LP Emergency Management Alliance Benefits for the Appellant's health insurance purchased by the Appellant on July 13, 2021.

FINDINGS OF FACT

The record shows, and I so find:

1. The Appellant, age 31 in June 2021 filed their Federal Income Tax return as a single person with no dependents claimed (Exhibit 2).
2. The Appellant lived in Hampshire County, MA in 2021 (Exhibit 2).
3. The Appellant's Federal Adjusted Gross Income for 2021 was \$27,957 (Exhibit 2).
4. The Appellant had health insurance for the period of January through July but did not have insurance that met Massachusetts minimum creditable coverage requirements (MCC) for the months of August through December in tax year 2021 (Exhibits 2, 3, 4, 5 and Appellant Testimony).

5. The Appellant has been assessed a two-month tax penalty for 2021. The Appellants filed an appeal of the assessment in April 2022 (Exhibits 2, 3, 4).
6. I take administrative notice of the financial information set forth in Tables 1 through 6 in the DOR 2021 Massachusetts Schedule HC Health Care Instructions and Worksheets. Tables 3 and 4 incorporate affordability and premium schedules adopted by the Board of Directors for the Commonwealth Health Insurance Connector Authority for 2021. Table 2 sets forth income at 300% of the Federal poverty level and Tables 5 and 6 set forth tax penalties in effect for 2021.
7. In accordance with Table 3 of Schedule HC for 2021, the Appellant filing the Federal tax return as a single person with no dependents claimed, with an annual adjusted gross income of \$27,957 could afford to pay \$98 per month for health insurance. In accordance with Table 4, the Appellant age 31, living in Hampshire County, could have purchased private insurance for \$283 per month for a plan (Schedule HC for 2020). Private insurance was not affordable for the Appellant in 2021.
8. The Appellant would have been eligible for ConnectorCare coverage in 2021 because the Appellant's income of \$27,957 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. The Appellant testified that they quit their job in April 2021 and lost their employer sponsored health insurance. The Appellant started a new job with an independent contractor who did not offer health insurance. The Appellant was being paid \$13.50 per hour to start. The Appellant said that they applied for health insurance at the Health Connector and paid \$271.17 monthly for their health plan. The Appellant explained that they had difficulty paying this much for health insurance and started looking for a less expensive alternative. On July 13, 2021 the Appellant purchased health insurance through the Emergency Management Alliance (EMA). The monthly premium was \$177.52. The Appellant indicated that they were not aware that this plan did not meet Massachusetts requirements until they filed their income tax return for 2021. The Appellant learned that the plan did not meet Massachusetts requirements because it did not offer maternity coverage or mental health services and did not cover any pre-existing conditions. The Appellant testified that the plan covered medical visits, medication and hospital services and was sufficient to meet their needs. The Appellant's credible testimony is supported by documentation submitted by the Appellant including a Summary of Benefits for the EMA plan and verification of the premium payments made for health insurance coverage (Exhibits 4, 5 and Appellant Testimony).
10. The Appellant testified that they were not aware that they could request financial assistance when they applied for health insurance at the Health Connector in April 2021. The Appellant said that they would have requested help if they knew about ConnectorCare. The Appellant verified that they paid \$271.17 for coverage through the Health Connector for the months of May and June 2021 (Exhibit 4 and Appellant Testimony).
11. The Appellant lived with a friend and did not have expenses for rent, heat, and electricity. The Appellant did have other living expenses including: car payment-\$275; car insurance-\$120; gasoline-\$195, telephone-\$25 and food-\$434. The Appellant said that they also continued to make student loan payments of \$250-\$300 monthly (Appellant Testimony)

12. In accordance with Table 3 of HC 2021, the Appellant was determined financially able to pay \$98 monthly for health care. The Appellant paid \$177.52 monthly for the EMA health insurance coverage that did not meet MCC requirements. This is more than the \$98 deemed affordable to the Appellant (Schedule HC-2021 and Exhibits 4, 5).

ANALYSIS AND CONCLUSIONS OF LAW

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

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

The Appellant had health insurance that met Massachusetts MCC standards for the period of January through July in tax year 2021. The Appellant purchased health insurance that did not meet MCC requirements for the period of August through December and consequently has been assessed a two-month penalty. The Appellant asserts that the penalty should not apply in this case because of financial hardship.

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

In accordance with Table 3 of Schedule HC for 2021, the Appellant filing the Federal tax return as a single person with no dependents claimed with an adjusted gross income of \$27,957 could afford to pay \$98 per month for health insurance. According to Table 4, the Appellant, age 31, living in Hampshire County, could have purchased a private insurance plan for \$283 month. See Schedule HC for 2020. Private insurance was not affordable for the Appellants in tax year 2021.

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

The Appellant testified credibly that they applied for health insurance at the Health Connector in April when their employer sponsored health insurance ended. The Appellant verified that they paid a monthly premium of \$271.17 for the months of May and June 2021. This is more than the \$98 deemed affordable under Table 3 of

Schedule HC-2021. The Appellant mistakenly did not specifically request financial assistance when they applied and testified credibly that they were not aware of the ConnectorCare program. The Appellant was struggling financially and purchased an EMA health insurance policy on July 13, 2021 which was effective August 1, 2021. The Appellant testified that the plan met their needs and included coverage for routine care, medication, and hospital services. The Appellant submitted a Summary of Benefits verifying the Appellant's' insurance substantially met other MCC requirements. 956CMR 6.08(2)(d).

The Appellant paid \$177.52 monthly for the EMA health coverage that did not meet MCC requirements. Given the Appellant's living expenses and the fact that they Appellant paid significantly more than the \$98 deemed affordable for their health insurance, purchasing additional health insurance would have caused the Appellant to experience a significant financial hardship. The Appellant's two-month penalty is waived. See 956 CMR 6.08(1)(e).

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

Massachusetts Health Connector Appeals Unit

FINAL APPEAL DECISION: PA21-2034

Appeal Decision: Appeal Approved.

Hearing Issue: Appeal of the 2021 Tax Year Penalty

Hearing Date: September 16, 2022

Decision Date: September 26, 2022

AUTHORITY

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

JURISDICTION

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

HEARING RECORD

The Appellant appeared at the hearing, which was held by telephone, on September 16, 2022. The procedures to be followed during the hearing were reviewed with the Appellant who was then sworn in. Exhibits were marked and admitted into evidence with no objection from the Appellant. The hearing record consists of the Appellant's testimony and the following documents which were admitted into evidence:

- Exhibit 1: Health Connector Appeals Unit Notice of Hearing dated August 12, 2022.
- Exhibit 2: Appeal Case Information from Schedule HC 2021.
- Exhibit 3: Statement of Grounds for Appeal, with attachments dated April 9, 2022.

FINDINGS OF FACT

The record shows, and I so find:

1. The Appellant, age 26 in April, 2021 filed their 2021 Federal Income Tax return as a single person with no dependents claimed (Exhibit 2).
2. The Appellant lived in Worcester County, MA in 2021 (Exhibit 2).
3. The Appellant's Federal Adjusted Gross Income for 2021 was \$41,209 (Exhibit 2).
4. According to the Schedule HC 2021, the Appellant had health insurance for the months of June, July, and October through December. The Appellant did not have health insurance for the periods of January through May and August through September in tax year 2021. The Appellant has been assessed a two-month penalty (Exhibit 2).
5. 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 claimed, with an annual adjusted gross income of \$41,209 could afford to pay \$256 per month for health insurance. In accordance with Table 4, the Appellant, age 26, living in Worcester County, could have purchased private insurance for \$263 per month for a plan (Schedule HC for 2021). Private insurance was not affordable for the Appellant in tax year 2021.
8. The Appellant testified that they had health insurance for the period of January through April under their parent's employer sponsored policy. The Appellant explained that the insurance ended when they turned 26. The Appellant applied for health insurance at the Health Connector and received subsidies for the months of June and July. The Appellant said that they signed an offer of employment as a teacher on July 6, 2021 and expected their insurance to start in August. The employer sponsored health insurance did not become effective until October 2021. The Appellant's credible testimony is supported by documentation submitted with their Appeal Request (Exhibit 3 and Appellant Testimony).
9. The Appellant was not financially eligible for ConnectorCare coverage in 2021 because the Appellant's income of \$41,209 was greater than 300% of the federal poverty level, which was \$38,280 for a household of one in 2021 (See Table 2 of Schedule HC-2020 and 956 CMR 12.04) (Exhibit 2).
10. The Appellant had health insurance coverage for the periods of January through April, June, July, and October through December. For the months of May, August and September the Appellant did not have access to affordable health insurance through the private market, their employer, or a government sponsored program. See Tables 3 and 4 of Schedule HC-2021 (Exhibits 2, 3 and Appellant Testimony).

ANALYSIS AND CONCLUSIONS OF LAW

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

The Appellant filed their 2021 tax return as a single person with no dependents claimed. According to the Appellant's Schedule HC the Appellant did not have health insurance for the periods of January through May, August, and September in tax year 2021. The Appellant has been assessed a two-month penalty. The Appellant appealed the penalty in March 2022.

The Appellant testified credibly that for the period of January through April until they turned age 21, they were covered under their parent's employer sponsored health insurance. The Appellant June and July. The Appellant signed an offer of employment on July 6, 2021 expecting their employer sponsored health insurance to begin in August. The employer did not provide this coverage until October 2021. The Appellant was therefore without health insurance for only three months in tax year 2021. Given the three-month grace period cited above, the Appellant should not be subject to a tax penalty for tax year 2021.

In addition, the Appellant did not have access to employer sponsored health insurance during the months of May, August, and September in tax year 2021. Private insurance was not affordable. The Appellant was not financially eligible for ConnectorCare coverage in 2021 because the Appellant's income of \$41,209 was greater than 300% of the federal poverty level, which was \$38,280 for a household of one in 2021. Because of this, the two-month penalty must be waived in full. See Massachusetts General Laws, Chapter 111M, Section 2.

The Appellant should note that the waiver of their penalty is based upon the facts that I have determined to be true in 202. 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 you reside, or Suffolk County Superior Court within thirty (30) days of your receipt of this decision.

Cc: Connector Appeals Unit