

FINAL APPEAL DECISION: PA23-343

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

Hearing Issue: Appeal of the 2023 Tax Year Penalty

Hearing Date: September 10, 2024

Decision Date: September 27, 2024

AUTHORITY

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

JURISDICTION

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

HEARING RECORD

Appellant's, husband and wife, filed their 2023 tax return as Married Filing Joint with no dependents. Appellant 1 appeared at the Hearing. The Hearing was held by telephone, on September 10, 2024. The procedures to be followed during the Hearing were reviewed with Appellant 1 who was then sworn in. Exhibits were marked and admitted into evidence with no objections. The Hearing record consists of the Appellants' testimony and the following documents which were admitted into evidence:

- Exhibit 1: Health Connector Appeals Unit Notice of Hearing dated August 2, 2024.
- Exhibit 2: Appeal Case Information from Schedule HC 2023.
- Exhibit 3: Statement of Grounds for Appeal dated April 18, 2024, with attachments.
- Exhibit 4: In response to an Open Records Form Appellant provided health insurance information 2023 Form 1095B for Appellants; Form MA 1099-HC for Appellants.

FINDINGS OF FACT

The record shows, and I so find:

1. Appellants were age 26 in January 2023 filed their Federal Income Tax return as Married Filing Joint (Exhibit 2).
2. The Appellants lived in Middlesex County in 2023 (Exhibit 2 and Appellant Testimony).
3. The Appellants' Federal Adjusted Gross Income for 2023 was \$92,722 (Exhibit 2).
4. Appellant 1 was employed full time the entire year of 2023 while Appellant 2 did not begin working full time until July of 2023 when she received her Permanent Resident Card. Both

Appellants had a policy purchased via the Massachusetts Health Connector until July of 2023. Appellant 1 also had a policy through his employer. Appellant 2 ended her Health Connector purchased policy in July 2023 when she began employment full time and was able to purchase a policy through her employer (Appellant 1 Testimony and Exhibits 2 and 4)

5. Appellants have each been assessed a 2-month tax penalty for 2023 (Exhibit 2).
6. I take administrative notice of the financial information set forth in Tables 1 through 6 in the DOR 2023 Massachusetts Schedule HC Health Care Instructions and Worksheets. Tables 3 and 4 incorporate affordability and premium schedules adopted by the Board of Directors for the Commonwealth Health Insurance Connector Authority for 2023. Table 2 sets forth income at 300% of the Federal poverty level and Tables 5 and 6 set forth tax penalties in effect for 2023.
7. In accordance with Table 3 of Schedule HC for 2023, the Appellant filing their Federal Tax return as Married Filing Joint, with an annual adjusted gross income of \$92,722 could afford to pay \$618 per month for health insurance. In accordance with Table 4, Appellant 2 as an individual (husband covered by Medicare) living in Middlesex County, could have purchased private insurance for \$624 per month. Private insurance was not affordable for Appellant.
8. Appellant 1 testified that his tax filing mechanism did not have the option to explain the complex situation surrounding Appellants' health insurance scenario for 2023, thus leading to this appeal. He said he can prove that he and his wife had insurance for the entire year of 2023 via documents (Appellant Testimony).
9. The Appellants' income was more than 300% of the federal poverty level, which was \$54,930 for a household of two in 2023 (See Table 2 of Schedule HC-2023 and 956 CMR 12.04)(Exhibit 2).
10. Appellant 1 estimated the couple's monthly living expenses at approximately \$3,400 a month including rent and food. He added that both Appellants are currently insured (Appellant Testimony).

ANALYSIS AND CONCLUSIONS OF LAW

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

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

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

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

The Appellants filed their Federal tax return as Married Filing Joint and had an adjusted gross income of \$92,722. In accordance with Table 3 they could afford to pay \$618 per month for health insurance. According to Table 4, Appellants, living in Middlesex County, could have purchased private insurance for \$624 a month. See Schedule HC for 2023. Private insurance was not affordable for the Appellants in tax year 2023.

The Appellants would not have been eligible for ConnectorCare coverage based upon their income that was more than 300% of the federal poverty level which was \$54,930 for a household of two in 2023. See Table 2 of Schedule HC 2023 and 956 CMR 12.04 for eligibility criteria. Appellants would not have qualified for MassHealth based on the income requirements in 2023.

Appellants demonstrated via the records produced and Appellant 1's testimony that both Appellants were insured. The documents he produced in response to the Open Record request corroborated his explanation that he and his wife were covered via various insurance plans. Further, he explained he had two insurance plans at one time and his wife changed from the one purchased via the Health Connector to a plan through her employer. He testified credibly that his tax preparer did not, or could not account for this scenario and it was reported incorrectly on his tax return for 2023.

Appellant 1 credibly testified to no economic and personal hardships in 2023. I find that both Appellants were insured and made a good faith effort to comply with Massachusetts law and this is a matter of mistake, in that, their tax return did not reflect their insured status. Appellant 1 was credible in his testimony and forthcoming with information.

Given all of the factors described by Appellant 1 at the Hearing and in the documents he provided in response to the Open Record Form, I am waiving the penalties (2 months for each Appellant) against each. Appellants can and should amend their 2023 tax return to reflect that they did have health insurance for all 12 months of 2023.

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

PENALTY ASSESSED

Number of Months Appealed:

Appellant 1: 2 Number of Months Assessed: 0
Appellant 2: 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 2023.

NOTIFICATION OF YOUR RIGHT TO APPEAL TO COURT

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

Cc: Connector Appeals Unit

FINAL APPEAL DECISION: PA23-199

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

Hearing Issue: Appeal of the 2023 Tax Year Penalty

Hearing Date: July 9, 2024

Decision Date: August 25, 2024

AUTHORITY

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

JURISDICTION

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

HEARING RECORD

Appellant filed her 2023 tax return as Single with no dependents. The Hearing was held by telephone, on July 9, 2024. The procedures to be followed during the Hearing were reviewed with Appellant who was then sworn in. Exhibits were marked and admitted into evidence with no objections. The Hearing record consists of the Appellant's testimony and the following documents which were admitted into evidence:

Exhibit 1: Health Connector Appeals Unit Notice of Hearing dated June 6, 2024.

Exhibit 2: Appeal Case Information from Schedule HC 2023.2

Exhibit 3: Statement of Grounds for Appeal dated March 24, 2024, with attachments.

FINDINGS OF FACT

The record shows, and I so find:

1. Appellant was age 31 in January 2023, and filed her Federal Income Tax return as Single (Exhibit 2).
2. The Appellant lived in Middlesex County in 2023 (Exhibit 2 and Appellant Testimony).
3. The Appellant's Federal Adjusted Gross Income for 2023 was \$112,298 (Exhibit 2).
4. Appellant did not have health insurance for eight months of 2023 (Appellant's Spouse Testimony).
5. Appellant has been assessed a five-month tax penalty for 2023 (Exhibit 2).

6. I take administrative notice of the financial information set forth in Tables 1 through 6 in the DOR 2023 Massachusetts Schedule HC Health Care Instructions and Worksheets. Tables 3 and 4 incorporate affordability and premium schedules adopted by the Board of Directors for the Commonwealth Health Insurance Connector Authority for 2023. Table 2 sets forth income at 300% of the Federal poverty level and Tables 5 and 6 set forth tax penalties in effect for 2023.
7. In accordance with Table 3 of Schedule HC for 2023, the Appellant filing her Federal Tax return as Single, with an annual adjusted gross income of \$112,298 could afford to pay \$749 per month for health insurance. In accordance with Table 4, Appellant, age 31 living in Middlesex County, could have purchased private insurance for \$326 per month. Private insurance was affordable for Appellant.
8. Appellant testified she was unemployed for the first two month of 2023 and was then employed full time through two separate contracting arrangements. She said her contracting agency offered health insurance, but she had to refuse it due to it not being affordable. She said during her second contract from mid - 2023 until the end of the year she was able to afford health insurance and did get coverage during this period. She added that she was paid more under this contract, and she was able to then focus on paying down her debts (Appellant Testimony and Exhibit 2).
9. Appellant testified to economic hardship in her recent life. She stated she had to borrow money from friends when unemployed beginning in 2022 and was faced with large utility bills she could not afford. (Appellant Testimony and Exhibits 3). She also testified that she did not search for a health care plan on the Health Connector when laid off in 2022, because she felt her income was too high while working (Appellant Testimony).
10. The Appellant's income was more than 300% of the federal poverty level, which was \$40,770 for a household of one in 2023 (See Table 2 of Schedule HC-2023 and 956 CMR 12.04)(Exhibit 2).
11. Appellant credibly testified that her monthly living expenses in 2023 exceeded \$3,000 per month, including, but not limited to: a mortgage payment, auto payment and financial assistance for her father. In addition, she stated she currently has coverage under an employer's health insurance plan (Appellant Testimony).

ANALYSIS AND CONCLUSIONS OF LAW

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

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

Any health insurance policy must also satisfy the Massachusetts Minimum Credible Coverage (MCC) requirement to avoid the tax penalty. Mass. Gen. Laws c. 111M, sec. 2(b). In addition to financial hardship, the Connector may also consider the extent to which insurance obtained deviated from or substantially met minimum creditable coverage standards when determining if a penalty should be waived. See 956 CMR 5.03 and 6.08.

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

In accordance with Table 3 of Schedule HC for 2023, the Appellant filed her Federal tax return as Single and had an adjusted gross income of \$112,298. She testified that she could not afford to pay for health insurance via her employer at least initially. In accordance with Table 3 she could afford to pay \$749 per month. According to Table 4, Appellant age 31, living in Middlesex County, could have purchased private insurance for \$326 a month. See Schedule HC for 2023. Private insurance was affordable for the Appellant in tax year 2023.

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

Appellant purchasing a health care plan on her own would not have created an economic hardship in and of itself. However, Appellant testified to economic and personal hardships in 2023, including being unemployed for some of 2023 and providing financial assistance to her father. She was laid off from a full-time position in 2022 and did not collect unemployment compensation insurance and she was not re-employed until 2023. She stated her economic situation worsened while unemployed and she was dependent on the largess of others to pay monthly living expenses. She offered documentary evidence to support this contention. In addition, she believably testified that she made more money during her second contract in the second part of 2023.

The Appellant was detailed and honest in her testimony and in the documents she presented. Appellant bears some burden of responsibility to get insured. Her income in 2023 was high enough, even in the first half of 2023 to afford health insurance and she failed to do so. Accordingly, I am exercising my discretion as the Hearing Officer and in the interest of equity and fairness Appellant's penalty is reduced from five months to two months.

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

PENALTY ASSESSED

Number of Months Appealed: 5 Number of Months Assessed: 2

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

NOTIFICATION OF YOUR RIGHT TO APPEAL TO COURT

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

Cc: Connector Appeals Unit

FINAL APPEAL DECISION: PA23-203

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

Hearing Issue: Appeal of the 2023 Tax Year Penalty

Hearing Date: July 9, 2024

Decision Date: August 25, 2024

AUTHORITY

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

JURISDICTION

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

HEARING RECORD

Appellant filed his 2023 tax return as Single with no dependents. Appellant appeared at the Hearing. The Hearing was held by telephone, on July 9, 2024. The procedures to be followed during the Hearing were reviewed with Appellant who was then sworn in. Exhibits were marked and admitted into evidence with no objections. The Hearing record consists of the Appellant's testimony and the following documents which were admitted into evidence:

- Exhibit 1: Health Connector Appeals Unit Notice of Hearing dated June 6, 2024.
- Exhibit 2: Appeal Case Information from Schedule HC 2023.
- Exhibit 3: Statement of Grounds for Appeal dated March 27, 2024, with attachments.

FINDINGS OF FACT

The record shows, and I so find:

1. Appellant was age 25 in January 2023, and filed his Federal Income Tax return as Single (Exhibit 2).
2. The Appellant lived in Suffolk County in 2023 (Exhibit 2 and Appellant Testimony).
3. The Appellant's Federal Adjusted Gross Income for 2023 was \$59,428 (Exhibit 2).
4. Appellant did not have health insurance for seven months of 2023 (Appellant's Spouse Testimony).
5. Appellant has been assessed a four-month tax penalty for 2023 (Exhibit 2).

6. I take administrative notice of the financial information set forth in Tables 1 through 6 in the DOR 2023 Massachusetts Schedule HC Health Care Instructions and Worksheets. Tables 3 and 4 incorporate affordability and premium schedules adopted by the Board of Directors for the Commonwealth Health Insurance Connector Authority for 2023. Table 2 sets forth income at 300% of the Federal poverty level and Tables 5 and 6 set forth tax penalties in effect for 2023.
7. In accordance with Table 3 of Schedule HC for 2023, the Appellant filing his Federal Tax return as Single, with an annual adjusted gross income of \$59,428 could afford to pay \$376 per month for health insurance. In accordance with Table 4, Appellant, age 25 living in Suffolk County, could have purchased private insurance for \$312 per month. Private insurance was affordable for Appellant.
8. Appellant testified that he was employed full time at the start of 2023, and had health insurance through his full-time employer until May of 2023. He explained that he was laid off in early 2023 and could not afford the COBRA coverage offered and thus had no health insurance. He testified that he collected unemployment insurance for a period in 2023, was employed part time (with no health insurance) and testified that he began working full time in September of 2023 (Appellant Testimony and Exhibit 2).
9. He added that he did search on the Health Connector website, but could not afford any health insurance quotes and none were subsidized plans (Appellant Testimony).
10. The Appellant's income was more than 300% of the federal poverty level, which was \$40,770 for a household of one in 2023 (See Table 2 of Schedule HC-2023 and 956 CMR 12.04)(Exhibit 2).
11. Appellant testified that he had over \$3,000 a month in living expenses. He provided documentary evidence supporting his monthly unemployment insurance compensation, lease payment and providing financial assistance to his parent when a grandparent died. In addition, he testified that he now has health insurance (Appellant Testimony and Exhibit 3).

ANALYSIS AND CONCLUSIONS OF LAW

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

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

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

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

In accordance with Table 3 of Schedule HC for 2023, the Appellant filed his Federal tax return as Single and had an adjusted gross income of \$59,428. He could afford to pay for health insurance via the Health Connector or on the private market. In accordance with Table 3 he could afford to pay \$376 per month for health insurance. According to Table 4, Appellant age 25, living in Suffolk County, could have purchased private insurance for \$312 a month. See Schedule HC for 2023. Private insurance was affordable for the Appellant in tax year 2023.

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

Although Appellant could have afforded health insurance according to Table 4, he credibly testified to economic and personal hardships in 2023 and provided documents to support his monthly expenses. He was unemployed for a portion of 2023 and worked part time to make ends meet. He was forthcoming and organized in his testimony. Appellant purchasing a health care plan on his own would have created an economic hardship and deprived him of essentials. He testified to estimated monthly living expenses which exceeded his monthly take home pay from unemployment compensation insurance as well as a large unplanned expense to assist with his grandmother's funeral expenses. He testified credibly, that his unemployment insurance pay was reduced according to how much his part time job paid. Health insurance plans through the HealthConnector or on the private market were not affordable options to him.

Appellant faced economic hardships in 2023 including: losing his full-time employment and health insurance; and large monthly living expenses that were not extravagances. Given all of the factors faced by Appellant I am exercising my discretion as the Hearing Officer and his penalty of four months for 2023 is waived in its entirety.

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

PENALTY ASSESSED

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

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

NOTIFICATION OF YOUR RIGHT TO APPEAL TO COURT

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

Cc: Connector Appeals Unit

FINAL APPEAL DECISION: PA23-205

Appeal Decision: Appeal Granted; the tax penalty is waived

Hearing Issue: Appeal of the 2023 Tax Year Penalty

Hearing Date: July 9, 2024

Decision Date: August 25, 2024

AUTHORITY

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

JURISDICTION

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

HEARING RECORD

Appellant filed her 2023 tax return as Married Filing Separate. The Hearing was held by telephone, on July 9, 2024. The Appellant appeared as did her husband who served as her witness. The procedures to be followed during the Hearing were reviewed with both who were then sworn in. Exhibits were marked and admitted into evidence with no objections. The Hearing record consists of the Appellant and her husband's testimony and the following documents which were admitted into evidence:

- Exhibit 1: Health Connector Appeals Unit Notice of Hearing dated June 6, 2024.
- Exhibit 2: Appeal Case Information from Schedule HC 2023.2
- Exhibit 3: Statement of Grounds for Appeal dated June 6, 2024, with attachments.

FINDINGS OF FACT

The record shows, and I so find:

1. Appellant was age 34 in January 2023, and filed her Federal Income Tax return as Married Filing Separate (Exhibit 2).
2. The Appellant lived in Norfolk County in 2023 (Exhibit 2 and Appellant Testimony).
3. The Appellant's Federal Adjusted Gross Income for 2023 was \$82,925 (Exhibit 2).
4. Appellant did not have health insurance for twelve months of 2023 (Appellant's Spouse Testimony).
5. Appellant has been assessed a twelve-month tax penalty for 2023 (Exhibit 2).

6. I take administrative notice of the financial information set forth in Tables 1 through 6 in the DOR 2023 Massachusetts Schedule HC Health Care Instructions and Worksheets. Tables 3 and 4 incorporate affordability and premium schedules adopted by the Board of Directors for the Commonwealth Health Insurance Connector Authority for 2023. Table 2 sets forth income at 300% of the Federal poverty level and Tables 5 and 6 set forth tax penalties in effect for 2023.
7. In accordance with Table 3 of Schedule HC for 2023, the Appellant filing her Federal Tax return as Single, with an annual adjusted gross income of \$82,925 could afford to pay \$553 per month for health insurance. In accordance with Table 4, Appellant, age 34 living in Norfolk County, could have purchased private insurance for \$652 per month. Private insurance was not affordable for Appellant.
8. Appellant testified that she worked full time in 2023 and her employer did not offer health insurance. She further testified that she consistently owes taxes each year and stated she owed \$10,000 for tax 2023. (Appellant Testimony).
9. Appellant testified to economic hardship in her recent life. She testified to and referred to documents demonstrating growing monthly expenses including her rent and other bills. She credibly testified to estimated monthly living expense of over \$3,000. Appellant added that she provides financial support to her parents. Appellant's husband said he does not contribute to Appellant's monthly expenses and is currently receiving SNAP benefits to eat and Appellant stated her husband suffers from an illness and needs psychiatric treatment which they cannot afford (Appellant Testimony and Exhibit 3).
10. The Appellant's income was more than 300% of the federal poverty level, which was \$54,930 for a household of two in 2023 (See Table 2 of Schedule HC-2023 and 956 CMR 12.04)(Exhibit 2).

ANALYSIS AND CONCLUSIONS OF LAW

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

Any health insurance policy must also satisfy the Massachusetts Minimum Credible Coverage (MCC) requirement to avoid the tax penalty. Mass. Gen. Laws c. 111M, sec. 2(b). In addition to financial hardship, the Connector may also consider the extent to which insurance obtained deviated from or substantially met minimum creditable coverage standards when determining if a penalty should be waived. See 956 CMR 5.03 and 6.08.

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

In accordance with Table 3 of Schedule HC for 2023, the Appellant filed her Federal tax return as Married Filing Separate and had an adjusted gross income of \$82,925. She testified that she could not afford the quotes she received from the Massachusetts Health Connector, adding that her monthly living expenses have increased greatly over the last three years. In accordance with Table 3 she could afford to pay \$553 per month. According to Table 4, Appellant age 34, living in Norfolk County, could have purchased private insurance for \$652 a month. See Schedule HC for 2023. Private insurance was not affordable for the Appellant in tax year 2023.

The Appellant would not have been eligible for ConnectorCare coverage based upon their income that was more than 300% of the federal poverty level which was \$54,930 for a household of two in 2023. See Table 2 of Schedule HC 2023 and 956 CMR 12.04 for eligibility criteria. Appellant would not have qualified for MassHealth based on the income requirements in 2023.

Appellant purchasing a health care plan on her own would not have created a further economic hardship. A plan was not available via her employer and she could not afford the quotes she received from the Health Connector. Appellant testified to economic and personal hardships in 2023, including providing for her ill husband and financial assistance to her parents. She offered documentary evidence to support this contention. Her husband was similarly truthful, and testified to his own economic hardships¹.

The Appellant was detailed and honest in her testimony and in the documents she presented. Appellant had large monthly living expenses that would have consumed most of her income. Accordingly, I am exercising my discretion as the Hearing Officer and in the interest of equity and fairness Appellant's penalty is waived in its entirety.

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

¹ Appellant's husband is well served to inquire to various government programs to obtain health insurance, as the testimony indicated he suffers from an illness and receives SNAP benefits. He should inquire to programs such as MassHealth since it may be possible to apply for both programs simultaneously.

PENALTY ASSESSED

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

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

NOTIFICATION OF YOUR RIGHT TO APPEAL TO COURT

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

Cc: Connector Appeals Unit

FINAL APPEAL DECISION: PA23-320

Appeal Decision: Appeal Granted; the tax penalty for both Appellants is waived

Hearing Issue: Appeal of the 2023 Tax Year Penalty

Hearing Date: August 16, 2024

Decision Date: August 25, 2024

AUTHORITY

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

JURISDICTION

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

HEARING RECORD

Appellants 1 and 2 filed their 2023 tax return as Married Filing Joint with no dependents. The Hearing was held by telephone, on August 16, 2024. Appellant 1 the husband stated he represented his wife Appellant 2. The procedures to be followed during the Hearing were reviewed with Appellant 1 who was then sworn in. Exhibits were marked and admitted into evidence with no objections. The Hearing record consists of Appellant 1's testimony and the following documents which were admitted into evidence:

Exhibit 1: Health Connector Appeals Unit Notice of Hearing dated June 6, 2024.

Exhibit 2: Appeal Case Information from Schedule HC 2023.2

Exhibit 3: Statement of Grounds for Appeal dated June 6, 2024, with attachments.

FINDINGS OF FACT

The record shows, and I so find:

1. Appellant 1 was age 26 and Appellant 2 was age 25 in January 2023, and they filed their Federal Income Tax return as Married Filing Joint with no dependents (Exhibit 2).
2. Appellant 2 lived in Suffolk County in 2023 (Exhibit 2 and Appellant Testimony).
3. The Appellants' Federal Adjusted Gross Income for 2023 was \$110,982 (Exhibit 2).
4. Appellant 1 did not have health insurance for twelve months and Appellant 2 did not have insurance for nine months of 2023 (Appellant's Spouse Testimony).

5. Appellant 1 has been assessed a twelve-month tax penalty and Appellant 2 a four-month penalty for 2023 (Exhibit 2).
6. I take administrative notice of the financial information set forth in Tables 1 through 6 in the DOR 2023 Massachusetts Schedule HC Health Care Instructions and Worksheets. Tables 3 and 4 incorporate affordability and premium schedules adopted by the Board of Directors for the Commonwealth Health Insurance Connector Authority for 2023. Table 2 sets forth income at 300% of the Federal poverty level and Tables 5 and 6 set forth tax penalties in effect for 2023.
7. In accordance with Table 3 of Schedule HC for 2023, the Appellants filing their Federal Tax return as Married Filing Joint, with an annual adjusted gross income of \$110,982 could afford to pay \$740 per month for health insurance. In accordance with Table 4, Appellants (using older spouse's age of 26), living in Suffolk County, could have purchased private insurance for \$624 per month. Private insurance was affordable for Appellant.
8. Appellant 1 testified that he did not live in Massachusetts for 2023. He stated he was in his native country of Vietnam until December 2023 when a Visa was granted to him. He added that he obtained a permanent resident document or "green card" shortly after arriving in the U.S. on his Visa (Appellant Testimony and Exhibit 3).
9. Appellant 1 credibly testified that Appellant 2 worked full time for part of the year in 2023 and lost her job and health insurance through her employer around mid-year. He said he was not aware of Appellant 2 attempting to obtain health insurance via the Health Connector or other means (Appellant Testimony).
10. Appellant 1 did not testify to economic hardships and reported normal monthly living expenses. He said he was not required to have health insurance while living in Vietnam and his wife did not have health insurance for some months of 2023 due to her job loss. (Appellant Testimony).
11. The Appellants' income was more than 300% of the federal poverty level, which was \$54,930 for a household of two in 2023 (See Table 2 of Schedule HC-2023 and 956 CMR 12.04)(Exhibit 2).

ANALYSIS AND CONCLUSIONS OF LAW

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

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

Any health insurance policy must also satisfy the Massachusetts Minimum Credible Coverage (MCC) requirement to avoid the tax penalty. Mass. Gen. Laws c. 111M, sec. 2(b). In addition to financial hardship, the Connector may also consider the extent to which insurance obtained deviated from or substantially met minimum creditable coverage standards when determining if a penalty should be waived. See 956 CMR 5.03 and 6.08.

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

In accordance with Table 3 of Schedule HC for 2023, the Appellants filed their Federal tax return as Married Filing Joint and had an adjusted gross income of \$110,982. In accordance with Table 3 they could afford to pay \$740 per month. According to Table 4, Appellants (age 26), living in Suffolk County, could have purchased private insurance for \$624 a month. See Schedule HC for 2023. Private insurance was affordable for the Appellant in tax year 2023.

The Appellant would not have been eligible for ConnectorCare coverage based upon their income that was more than 300% of the federal poverty level which was \$54,930 for a household of two in 2023. See Table 2 of Schedule HC 2023 and 956 CMR 12.04 for eligibility criteria. Appellants would not have qualified for MassHealth based on the income requirements in 2023.

Although there was no evidence of monthly living expenses that would make purchasing a health care plan an economic hardship, Appellant 2 lost her employment and health insurance in 2023. The economic uncertainty of losing employment can be viewed as an economic hardship. Appellant 1 was credible in his testimony and in the documents presented. Appellant 1 demonstrated through documents and his testimony that he was not in the United States or Massachusetts (Appellant 1's Visa has an issue date of 13DEC2023) for 2023. Accordingly, I am exercising my discretion as the Hearing Officer and in the interest of equity and fairness Appellants' penalties are waived in their entirety. Appellants should revisit their tax filings for 2023 and consider filing an amended return to reflect their residency status.

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

PENALTY ASSESSED

Number of Months Appealed Appellant 1: 12 Number of Months Assessed: 0

Number of Months Appealed Appellant 2: 4 Number of Months Assessed: 0

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

NOTIFICATION OF YOUR RIGHT TO APPEAL TO COURT

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

Cc: Connector Appeals Unit

FINAL APPEAL DECISION: PA23-321

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

Hearing Issue: Appeal of the 2023 Tax Year Penalty

Hearing Date: August 16, 2024

Decision Date: August 28, 2024

AUTHORITY

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

JURISDICTION

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

HEARING RECORD

Appellant filed her 2023 tax return as Single with no dependents. Appellant appeared at the Hearing. The Hearing was held by telephone, on August 16, 2024. The procedures to be followed during the Hearing were reviewed with Appellant who was then sworn in. Exhibits were marked and admitted into evidence with no objections. The Hearing record consists of the Appellant's testimony and the following documents which were admitted into evidence:

Exhibit 1: Health Connector Appeals Unit Notice of Hearing dated July 11, 2024.

Exhibit 2: Appeal Case Information from Schedule HC 2023.

Exhibit 3: Statement of Grounds for Appeal postmarked April 11, 2024.

FINDINGS OF FACT

The record shows, and I so find:

1. Appellant was age 36 in January 2023, and filed her Federal Income Tax return as Single (Exhibit 2).
2. The Appellant lived in Suffolk County in 2023 (Exhibit 2 and Appellant Testimony).
3. The Appellant's Federal Adjusted Gross Income for 2023 was \$24,619 (Exhibit 2).
4. Appellant did not have health insurance for ten months of 2023 (Appellant's Testimony).
5. Appellant has been assessed a four-month tax penalty for 2023 (Exhibit 2).

6. I take administrative notice of the financial information set forth in Tables 1 through 6 in the DOR 2023 Massachusetts Schedule HC Health Care Instructions and Worksheets. Tables 3 and 4 incorporate affordability and premium schedules adopted by the Board of Directors for the Commonwealth Health Insurance Connector Authority for 2023. Table 2 sets forth income at 300% of the Federal poverty level and Tables 5 and 6 set forth tax penalties in effect for 2023.
7. In accordance with Table 3 of Schedule HC for 2023, the Appellant filing her Federal Tax return as Single, with an annual adjusted gross income of \$24,619 could afford to pay \$57 per month for health insurance. In accordance with Table 4, Appellant, age 36 living in Suffolk County, could have purchased private insurance for \$335 per month. Private insurance was not affordable for Appellant.
8. Appellant testified that she lost her full-time employment position in January of 2023 and was unemployed until September 2023. She credibly testified that she had a health insurance plan through the Health Connector for two months and was terminated from this plan. She added that she also received SNAP benefits and was similarly terminated from this benefit. She could not understand why she was terminated from both of these programs (Appellant Testimony).
9. The Appellant's income was less than 300% of the federal poverty level, which was \$40,770 for a household of one in 2023 (See Table 2 of Schedule HC-2023 and 956 CMR 12.04)(Exhibit 2).
10. Appellant testified that she moved from Massachusetts in 2024 and had over \$2,500 a month in living expenses including rent, food and emergency dental work she continued to pay for in 2023. (Appellant Testimony).

ANALYSIS AND CONCLUSIONS OF LAW

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

Any health insurance policy must also satisfy the Massachusetts Minimum Credible Coverage (MCC) requirement to avoid the tax penalty. Mass. Gen. Laws c. 111M, sec. 2(b). In addition to financial hardship, the Connector may also consider the extent to which insurance obtained deviated from or

substantially met minimum creditable coverage standards when determining if a penalty should be waived. See 956 CMR 6.08(2)(d).

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

In accordance with Table 3 of Schedule HC for 2023, the Appellant filed her Federal tax return as Single and had an adjusted gross income of \$24,619. In accordance with Table 3 she could afford to pay \$57 per month for health insurance. According to Table 4, Appellant age 36, living in Suffolk County, could have purchased private insurance for \$335 a month. See Schedule HC for 2023. Private insurance was not affordable for the Appellant in tax year 2023.

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

Appellant could not have afforded health insurance according to Table 4, and she credibly testified to economic and personal hardships in 2023. Her reported annual income was very low (\$24,619) and her monthly expenses were on the higher end - consuming most of her pay. She received unemployment compensation for the majority of 2023. She was unemployed in 2023 and purchasing a health care plan on her own would have created an economic hardship and deprived her of essentials. She testified to estimated monthly living expenses which exceeded her monthly take home pay from unemployment compensation insurance as well as a large unplanned dental expenses. Appellant moved from Massachusetts in 2024 and stated she is exploring whether she will move back to Massachusetts.

Appellant did not have access to an employer health insurance plan and she faced economic hardships in 2023 including: losing her employment and health insurance and SNAP benefits and large monthly living expenses. Given all of the factors faced by Appellant and her low income, I am exercising my discretion as the Hearing Officer and her penalty of four months for 2023 is waived in its entirety.

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

PENALTY ASSESSED

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

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

NOTIFICATION OF YOUR RIGHT TO APPEAL TO COURT

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

Cc: Connector Appeals Unit

Massachusetts Health Connector Appeals Unit

FINAL APPEAL DECISION: PA23-331

Appeal Decision: The penalty is upheld.

Hearing Issue: Appeal of the 2023 Tax Year Penalty

Hearing Date: August 19, 2024

Decision Date: August 28, 2024

AUTHORITY

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

JURISDICTION

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

HEARING RECORD

The Appellant appeared at the hearing, which was held by telephone on August 19, 2024. The procedures to be followed during the hearing were reviewed with the Appellant who was then sworn in. Exhibits were marked and admitted in evidence with no objection from the Appellant. The Appellant testified.

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

Exhibit 1:	Appeal Case Information from Schedule HC.	(1 P).
Exhibit 2:	Statement of Grounds for Appeal 2023 Signed by Appellant on 4/19/2024.	(2 PP).
Exhibit 2(a):	Appellant's Notarized Statement Sincerely Held Religious Beliefs dated 4/19/202.	(1 P).
Exhibit 3:	Health Connector's Notice of Hearing dated 7/11/2024.	(2 PP).

FINDINGS OF FACT

The record shows, and I so find:

1. The Appellant filed a 2023 Massachusetts tax return, was single, age 29 in 2023, had 0 dependents in 2023 and lived in Norfolk County. (Exhibit 1).
2. The Appellant through this appeal was claiming that he was exempt from the Massachusetts individual health care mandate based on a sincerely held religious exemption for refusing to obtain minimum creditable coverage. (Testimony, Exhibit 2,2(a)).
3. The Appellant, although he filed an affidavit with the Appeal, did not file a sworn affidavit with his personal income tax return stating that that his sincerely held religious beliefs are the basis of the refusal to obtain and maintain minimum creditable coverage during the 12 months of the taxable year for which the return was filed. (Exhibit 1).
4. I find that the Appellant did not claim the sincerely religious belief exemption basis for refusing to obtain minimum credible coverage health insurance with his personal tax return through the Department of Revenue("DOR") as required to claim the exemption, and further as outlined in Finding No. 3. (See Finding No. 3, Exhibit 1, 2,2(a)).

5. The Appellant testified that he was employed full time by two employers in 2023 and that he was offered eligible for Employer Sponsored Insurance (ESI) but did not know the amount of the employee share of the premiums. (Testimony, Exhibit 2(a)).
6. The Appellant testified that due to his religious beliefs, he did not need insurance because there is a higher power that keeps him safe and healthy. (Testimony).
7. The Appellant testified that he did not look into obtaining health insurance through the Connector due to his religious beliefs. (Testimony).
8. The Appellant's Federal Adjusted Gross Income for 2023 was \$99,373. (Exhibit 1).
9. The Appellant has been assessed a tax penalty for twelve (12) months in 2023. The Appellant has appealed against this assessment (Exhibits 1, 2).
10. According to Table 3, the Appellant could have afforded \$662.49 per month for health insurance in 2023. According to Table 4, the Appellant could have purchased insurance for \$312 per month.
11. The Appellant would not have been eligible for ConnectorCare coverage in 2023 because the Appellant's income was more than 300% of the poverty level, which was \$40,770.00 for a family of one (1). (See Table 2 of Schedule HC 2023).
12. In addition to the foregoing, I take administrative notice of the 2023 Schedule HC Instructions and Worksheets, available at <http://www.mass.gov/dor/docs/dor/health-care/2023> and in particular, Tables 1-6 which, as discussed below, include the Affordability Schedule and other financial information used in making 2023 individual mandate tax penalty determinations.

ANALYSIS AND CONCLUSIONS OF LAW

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

The Appellant submitted grounds with his appeal that during 2023: the individual mandate did not apply to him because he had sincerely held religious beliefs that are the basis of refusal to obtain minimum credible health insurance coverage. (Testimony, (Exhibits 2, 2(a)).

An individual will generally be exempt from the penalty under M.G.L. c. 111M, § 2 if he or she files a sworn affidavit with his or her personal income tax return stating that he or she did not have creditable coverage and that his or her sincerely held religious beliefs are the basis of the refusal to obtain and maintain creditable coverage during the 12 months of the taxable year for which the return was filed. (Emphasis added).

As noted in both the statute and the relevant portion of the regulations at 830 CMR 111M.2.1(6)(b), the Appellant when filing their taxes must submit the claim of exemption with their taxes and then be subject to potential penalty if they in fact used healthcare services. In this case, the Appellant did not claim the religious exemption on his Schedule HC as required pursuant to M.G.L. c. 111M, § 2 and 830 CMR 111M.2.1(6)(b). Accordingly, the Connector does not have jurisdiction to adjudicate this matter. If the Appellant wants to claim the religious exemption, he will need to amend his Schedule HC submission to the DOR.

Notwithstanding the above, the evidence provided by the Appellant established that his income for 2023: \$97,273, was more than 300% of the federal poverty level, which for 2023 was \$40,770 for an individual with a family size of one (1). According to Table 3 of Schedule HC for 2023 the Appellant could have afforded \$662.49 per month. According to Table 4, the Appellant, age 29, and with zero (0) dependents and living in Norfolk County during the time he was being penalized for not having insurance, could have purchased insurance for \$409.00 per month. Individual coverage was affordable through the individual market for the Appellant in 2023 (Schedule HC for 2023).

The Appellant also testified that he had access to employer health insurance (“ESI”) but that due to his religious beliefs, he did not need insurance because there is a higher power that keeps him safe and healthy. (Appellant’s Testimony). See 956 CMR 12.05 and 45 CFR section 155.305 (f)(1)(ii)(B).

Accordingly, where the Connector does not have jurisdiction to adjudicate this matter and given that affordable private insurance and ESI was available to the Appellant during the time he was being penalized and 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**.

PENALTY ASSESSED

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

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

NOTIFICATION OF YOUR RIGHT TO APPEAL TO COURT

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

Cc: Connector Appeals Unit Hearing Officer

ADDENDUM

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

FINAL APPEAL DECISION: PA23-341

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

Hearing Issue: Appeal of the 2023 Tax Year Penalty

Hearing Date: September 10, 2024

Decision Date: September 27, 2024

AUTHORITY

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

JURISDICTION

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

HEARING RECORD

Appellant's, husband and wife, filed their 2023 tax return as Married Filing Joint with no dependents. Appellants appeared at the Hearing. The Hearing was held by telephone, on September 10, 2024. The procedures to be followed during the Hearing were reviewed with Appellants who were then sworn in. Exhibits were marked and admitted into evidence with no objections. The Hearing record consists of the Appellants' testimony and the following documents which were admitted into evidence:

- Exhibit 1: Health Connector Appeals Unit Notice of Hearing dated August 2, 2024.
- Exhibit 2: Appeal Case Information from Schedule HC 2023.
- Exhibit 3: Statement of Grounds for Appeal dated April 17, 2024, with attachments.

FINDINGS OF FACT

The record shows, and I so find:

1. Appellant 1 was age 66 and Appellant 2 was 59 years old in January 2023 and filed their Federal Income Tax return as Married Filing Joint (Exhibit 2).
2. The Appellants lived in Middlesex County in 2023 (Exhibit 2 and Appellant Testimony).
3. The Appellants' Federal Adjusted Gross Income for 2023 was \$75,521 (Exhibit 2).
4. Appellant 1 retired from his full-time employer in early 2023 and is currently covered by Medicare (Appellant Testimony and Exhibit 3).

5. Appellant 2 did not have compliant health insurance for 10 months of 2023 (Appellant's Spouse Testimony).
6. Appellant 2 has been assessed a 7-month tax penalty for 2023 while no penalty has been assessed against Appellant 1 (Exhibit 2).
7. I take administrative notice of the financial information set forth in Tables 1 through 6 in the DOR 2023 Massachusetts Schedule HC Health Care Instructions and Worksheets. Tables 3 and 4 incorporate affordability and premium schedules adopted by the Board of Directors for the Commonwealth Health Insurance Connector Authority for 2023. Table 2 sets forth income at 300% of the Federal poverty level and Tables 5 and 6 set forth tax penalties in effect for 2023.
8. In accordance with Table 3 of Schedule HC for 2023, the Appellant filing their Federal Tax return as Married Filing Joint, with an annual adjusted gross income of \$75,521 could afford to pay \$503 per month for health insurance. In accordance with Table 4, Appellant 2 as an individual (husband covered by Medicare) living in Middlesex County, could have purchased private insurance for \$490 per month. Private insurance was not affordable for Appellant 2.
9. Appellant 2 testified that she was not employed in 2023 and searched for a health insurance plan via the Health Connector in late 2022 when her COBRA insurance was terminated. She credibly testified that she was inundated with phone calls from insurance companies and eventually found a plan that was affordable to her with a monthly premium of \$402.95. Both Appellants truthfully testified that they found the Health Connector a confusing entity. (Appellants Testimony)
10. Appellant 2 mistakenly believed the company she chose to purchase a policy from was affiliated with the HealthConnector, as she had recently entered her information there. She realized when preparing taxes for 2023 that the plan was not compliant with Massachusetts law (Appellants Testimony and Exhibit 3).
11. The Appellant's income was more than 300% of the federal poverty level, which was \$54,930 for a household of two in 2023 (See Table 2 of Schedule HC-2023 and 956 CMR 12.04)(Exhibit 2).
12. Appellants estimated their monthly living expenses at approximately \$4,000 a month. In addition, Appellant 2 testified that she currently has a health insurance plan via the Health Connector (Appellant Testimony).

ANALYSIS AND CONCLUSIONS OF LAW

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

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

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

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

In accordance with Table 3 of Schedule HC for 2023, the Appellant filed their Federal tax return as Married Filing Joint and had an adjusted gross income of \$75,521. Appellant 1 was covered by Medicare and Appellant 2 struggled to find an affordable health care insurance plan for 2023. In accordance with Table 3 she could afford to pay \$503 per month for health insurance. According to Table 4, Appellant 2, living in Middlesex County, could have purchased private insurance for \$490 a month at the individual rate. See Schedule HC for 2023. Private insurance was not affordable for the Appellant 2 in tax year 2023.

The Appellants would not have been eligible for ConnectorCare coverage based upon their income that was more than 300% of the federal poverty level which was \$54,930 for a household of two in 2023. See Table 2 of Schedule HC 2023 and 956 CMR 12.04 for eligibility criteria. Appellant 2 would not have qualified for MassHealth based on the income requirements in 2023.

Appellants credibly testified to economic and personal hardships in 2023 and high monthly living expenses. Appellant 1 retired from his full-time employer and is now covered by Medicare. Appellant 2 made a good faith effort to comply with Massachusetts law after registering with the Health Connector. Unfortunately, the plan she purchased, which was not inexpensive, was not MCC compliant. It deviated significantly from an MCC compliant plan as it more of an association for cost savings and other member benefits. Both Appellants were credible in their testimony and forthcoming with information.

The couple lives on a fixed income and Appellant 2 is not employed. Appellant 2 made efforts to obtain health insurance and by her mistake (which she acknowledged in her testimony) obtained a policy that was not MCC compliant. She then successfully obtained a policy for 2024 via the Health Connector.

Given all of the factors faced by Appellants, I am exercising my discretion as the Hearing Officer and Appellant 2's penalty of seven months for 2023 is waived in its entirety.

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

PENALTY ASSESSED

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

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

NOTIFICATION OF YOUR RIGHT TO APPEAL TO COURT

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

Cc: Connector Appeals Unit

FINAL APPEAL DECISION

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

Hearing Issue: Appeal of the 2023 Tax Year Penalty

Hearing Date: September 13, 2024

Decision Date: September 30, 2024

AUTHORITY

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

JURISDICTION

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

HEARING RECORD

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

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

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

CONNECTOR APPEALS UNIT



Exhibit 3	Correspondence from the Appellant.	1 page
Exhibit 4	Resident Charges And Payments Ledger Dated Between January 1 Of 2021 Through February 7 Of 2024	3 pages
Exhibit 5	EverSource Statements, Dated November 2023 and October 2023	4 pages
Exhibit 6:	Dated Correspondence To The Appellant With A 14 Day Notice To Quit (Dated December 2023).	2 pages
Exhibit 7:	Mandated Notice(s) Accompanying Notice To Quit For The Appellant	11 pages

FINDINGS OF FACT

The record shows, and I so find:

1. Appellant was 31 years old in the beginning of 2023. Appellant filed her 2023 Massachusetts tax return as Single. The Appellant has no dependents (Exhibit 1).
2. Appellant lived in Suffolk County, MA in 2023 (Exhibit 1).
3. Appellant's Federal Adjusted Gross Income for 2023 was \$59,353.00 (Exhibit 1, Appellant's Testimony). Appellant's Income was 437% of the Federal Poverty level and based on her income, if all other conditions were met, she would be INELIGIBLE based on income for ConnectorCare.
4. In 2023, the Appellant was employed as a Talent Acquisition Coordinator at a Foundation in a full-time capacity. (Appellant's Testimony).
5. The Appellant was employed for the full year and did not have any job disruptions during the year 2023.
6. The Appellant was offered health insurance in 2023, by her employer, at an approximate monthly cost of \$220.00. (Appellant's Testimony)
7. The Appellant does currently have Health Insurance. (Appellant's Testimony).. .
8. I take administrative notice of the financial information set forth in Tables 1 through 6 in the DOR 2023 Massachusetts Schedule HC Health Care Instructions and Worksheets. Tables 3 and 4 incorporate affordability and premium schedules adopted by the Board of Directors for the Commonwealth Health Insurance Connector Authority for 2023. Table 2 sets forth income at 300% of the Federal poverty level and Tables 5 and 6 set forth tax penalties in

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effect for 2023.

- 9. According to Table 3 of Schedule HC for 2023, The Appellant has no dependents, with an adjusted gross income of \$59,353.00 was deemed able to pay \$395.69 per month for health insurance, or 8.00% of her income. According to Table 4, Appellant, age 31 and living in Suffolk County, could have purchased private insurance for \$326.00 per month.
- 10. Private insurance was AFFORDABLE for the appellant in 2023 (Schedule HC for 2023).
- 11. In 2023, Appellant had the following monthly expenses for basic necessities¹:

<u>Rent or Mortgage</u>	\$1,473.00	<u>Car Insurance</u>	\$192.00	<u>Clothing</u>	\$50.00
<u>Property Taxes</u>	\$0.00	<u>Gas (Car)</u>	\$176.00	<u>Car</u>	\$480.00
<u>Cable/Internet</u>	\$100.00	<u>Food</u>	\$500.00	<u>Gas for Car</u>	\$176.00
<u>Heat</u>	\$50.00	<u>Cell Phone</u>	\$100.00		\$50.00
<u>Electricity</u>	\$65.00	<u>Household & Toiletries</u>	\$50.00		
				<u>Total:</u>	\$3,286.00

- 12. Upon examining the appellant's testimony, it was ascertained that her gross monthly income was \$4,946.08. Her necessary expenses were determined to be \$3,286.00 per month. After accounting for an approximation of federal and state taxes, this leaves a difference of \$678.93 in her monthly financial situation when considering Filing status, Adjusted Gross income and the number of Dependents in the 2023 tax year.
- 13. Appellant's statement of grounds for appeal was on the basis of:
 - a. During 2023, the expense of purchasing health insurance would have caused a serious deprivation of food, shelter, clothing or other necessities. Provide proof to show additional expenses above and beyond that which your income would cover. If you were eligible to receive government

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

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subsidized insurance, explain why obtaining that would cause serious deprivation; (Testimony of Appellant, Exhibit 2).

14. Appellant did not incur significant and unexpected increases in essential expenses as a result of domestic violence; the death of a spouse, family member, or partner who shared household expenses; the sudden responsibility for providing full care for an aging parent or other family member; or fire, flood, or other natural or man-made disaster in 2023 (Testimony of Appellant).
15. Appellant was not homeless, but did fall more than thirty days behind in rent payments in 2023. Appellant did not receive shut-off notices for basic utilities. Appellant provided evidence which was clear and convincing of these circumstances during the Appellant's testimony. (Testimony of Appellant and Exhibit 6)
16. The appellant provided testimony regarding her inability to afford the employer-sponsored health insurance due to its high cost. (Appellant's Testimony). She clarified that this insurance option was not available to her until approximately May 2023, coinciding with her transition from temporary to permanent employment status. (Appellant's Testimony). The appellant further stated that following this transition, there was a mandatory waiting period before she could access her full benefits package. (Appellant's Testimony).
17. According to her testimony, the appellant maintained full-time employment at the same organization throughout the entire year. She acknowledged her lack of awareness concerning the individual mandate law, noting that this was her first experience needing to secure personal Health Insurance coverage.
18. Additionally, the appellant disclosed financial difficulties, specifically mentioning rent arrears that resulted in the issuance of Notices to Quit. (Appellant's Testimony). These notices, dated 2023, were corroborated by the exhibit she submitted. (Exhibit 6.)
19. The Appellant has been assessed a penalty for not having health insurance in 2023 for 12 months.

ANALYSIS AND CONCLUSIONS OF LAW

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

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

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

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

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

Appellant’s Employment & Employer Based Insurance

The appellant provided testimony regarding her inability to afford the employer-sponsored health insurance due to its high cost. She clarified that this insurance option was not available to her until approximately May 2023, coinciding with her transition from temporary to permanent employment status. The appellant further stated that following this transition, there was a mandatory waiting period before she could access her full benefits package, including the employer-sponsored insurance.

According to her testimony, the appellant maintained full-time employment at the same organization throughout the entire year 2023, without any job disruptions. She acknowledged her lack of awareness concerning the individual mandate law, noting that this was her first experience needing to secure personal insurance coverage. The appellant testified that her employer offered health insurance in 2023 at an approximate monthly cost of \$220.00. However, she emphasized that this offer did not occur until May 2023, well after the start of the year.

Even then, she would have had to wait an additional period before becoming eligible

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for employer-sponsored insurance. The appellant stated that the offered insurance, priced at \$220 per month, was too expensive for her budget and she was unable to afford it.

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

During the hearing, the Appellant testified, which I found credible, that the cost of insurance offered by her employer was \$220.00 per month. This cost must be assessed against the state-determined affordability threshold.

For the plan year 2023, considering the Appellant's income and the guidelines set forth in Table 3, the employer-sponsored plan's coverage is deemed affordable if the employee's contribution for self-only coverage does not exceed 8.00% of the employee's projected household modified adjusted gross income. According to Massachusetts state-specific guidelines, the health insurance offered by the Appellant's employer was deemed to be affordable for the Appellant based on it being less than 8.00% of the Appellant-employee's projected household modified adjusted gross income.

The employer's offering was 4.45% of the employee's income. Because the appellant was employed and offered health insurance by their employer starting from May 2023, they are likely blocked from obtaining subsidized insurance through Connector Care from May 2023 onward.

ConnectorCare Eligibility

To be considered for ConnectorCare, with its state subsidies and tax credits, you can't be covered by affordable job-based insurance, as per the Affordable Care Act standards. See 956 CMR 12.05 and 45 CFR § 155.305(f)(1)(ii)(B). Only employer insurance that's affordable and meets minimum creditable coverage can disqualify you from getting assistance through the Health Connector to reduce your health plan cost. See 26 CFR § 1.36B-2(c)(3). Because the Appellant's employer's health coverage is deemed affordable, they are not eligible for ConnectorCare from May 2023 onward, when the employer-sponsored insurance was first offered.

In Massachusetts, you could get state help with ConnectorCare plans if your income is 300% of the FPL or less. For tax year 2023, the Appellant is ineligible for insurance through the ConnectorCare program. The Appellant testified to not applying through the Health Connector in tax year 2023. Despite the requirement set by the individual

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mandate, due diligence in seeking health coverage through the Health Connector was not conducted. As their income level was 436.74% of the Federal Poverty Level, the appellant would not have been eligible for subsidies or Advanced Premium Tax Credits (APTCs), due to exceeding the income threshold.

If you make more than 300% but less than 400% of the FPL, you might get a tax credit to cut down your health plan costs. To get this Advance Premium Tax Credit, your expected income must be at least 100% but less than 400% of the FPL. (45 CFR 155.305 (f) (1) (i)). Based on these rules, The Appellant's income does not qualify them for Advance Premium Tax Credits, as it does not lie within the required 300% to 400% FPL range.

Availability of Private Insurance

Private insurance was AFFORDABLE for the appellant on the open market during 2023. According to Tables 3 and 4 of the HC schedule for 2023, Appellant, with an adjusted gross income of \$59,353.00, was deemed to be able to afford health insurance on the private market. According to Table 3, Appellant could have afforded to pay \$395.69 per month; according to Table 4, Appellant, who was 31 years old in 2023, lived in Suffolk County and filed her 2023 Massachusetts taxes as a Single person with 0 dependents, would have had to pay \$326.00 for insurance on the private market. See 956 CMR 6.05 (1)(2), Schedule HC Tables 3 and 4, and Exhibit 1.

In light of the Appellant's gross income (\$4,946.08 per month), tax filing status, place of residence, and the expected affordable amount the Appellant could pay per the 2023 Schedule HC Tables (\$395.69 per month), the Appellant could have afforded private health insurance with a premium of \$326.00 per month. (2023 Schedule HC Tables).

Other Government-Sponsored Healthcare Programs

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

Financial Hardship Analysis

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

The evidence presented by the appellant in this case is sufficient to establish a financial hardship as defined by law. While the appellant testified that in 2023 they incurred basic monthly expenses of approximately \$3,286.00, with a monthly surplus of \$678.93 between income and expenses, this financial situation does not preclude

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the possibility of a hardship.

Crucially, the appellant has provided evidence of falling more than 30 days behind in rent payments, as demonstrated by the Notices to Quit dated in 2023. (See Exhibit 6). This circumstance aligns with the grounds for hardship appeal as outlined in 956 CMR 6.08(1)(a), which states that a hardship may exist if the appellant "was more than 30 days in arrears in rent or mortgage payments, or received an eviction or foreclosure notice."

Furthermore, according to 956 CMR 6.07(8), the Connector may waive the penalty in whole or in part if it determines that grounds for the hardship appeal existed for all or part of the calendar year for which the penalty was assessed.

Based on the documented rental arrears and the applicable legal provisions for hardship appeals, the appellant clearly meets the criteria for a hardship waiver.

Conclusion

The Appellant has demonstrated a financial hardship as defined by law. See 956 CMR 6.08(1)(a), which includes being more than 30 days in arrears in rent payments as grounds for a hardship appeal. The evidence provided by the Appellant, including Notices to Quit dated in 2023, supports this claim. Furthermore, 956 CMR 6.07(8) allows for the Connector to waive the penalty in whole or in part if grounds for hardship existed for all or part of the calendar year. Therefore, the 12-month penalty is waived.

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

PENALTY ASSESSED

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

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

NOTIFICATION OF YOUR RIGHT TO APPEAL TO COURT

If you disagree with this decision, you have the right to appeal to Court in accordance

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

Hearing Officer

cc. Connector Appeals Unit

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

FINAL APPEAL DECISION

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

Hearing Issue: Appeal of the 2023 Tax Year Penalty

Hearing Date: September 13, 2024

Decision Date: September 30, 2024

AUTHORITY

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

JURISDICTION

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

HEARING RECORD

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

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

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

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Exhibit 3 Statements From Credit Collection Services, dated February of 2024 (Date Of Service: August 12, 2023)

6 pages

FINDINGS OF FACT

The record shows, and I so find:

1. Appellant was 60 years old in the beginning of 2023. Appellant filed her 2023 Massachusetts tax return as Married filing Jointly. The Appellant has no dependents (Exhibit 1).
2. Appellant lived in Worcester County, MA in 2023 (Exhibit 1).
3. Appellant's Federal Adjusted Gross Income for 2023 was \$67,912.00 (Exhibit 1, Appellant's Testimony). Appellant's Income was 371% of the Federal Poverty level and based on her income, if all other conditions were met, he would be MAY BE ELIGIBLE for Advance Premium Tax Credits (300.1-400% FPL) for ConnectorCare.
4. In 2023, the Appellant was employed as a Senior Credit and Collections Specialist at a Wholesaler in a full-time capacity. (Appellant's Testimony).
5. The Appellant was employed for the full year and did not have any job disruptions during the year 2023.
6. The Appellant was offered health insurance in 2023, by her employer, at an approximate monthly cost of \$166.00. (Appellant's Testimony)
7. The Appellant does not currently have Health Insurance. (Appellant's Testimony).
8. I take administrative notice of the financial information set forth in Tables 1 through 6 in the DOR 2023 Massachusetts Schedule HC Health Care Instructions and Worksheets. Tables 3 and 4 incorporate affordability and premium schedules adopted by the Board of Directors for the Commonwealth Health Insurance Connector Authority for 2023. Table 2 sets forth income at 300% of the Federal poverty level and Tables 5 and 6 set forth tax penalties in effect for 2023.
9. According to Table 3 of Schedule HC for 2023, The Appellant has no dependents, with an adjusted gross income of \$67,912.00 was deemed able to pay \$430.11 per month for health insurance, or 7.60% of her income. According to Table 4, Appellant, age 60 and living in Worcester County, could have purchased private insurance for \$979.00 per month.
10. Private insurance was UNAFFORDABLE for the appellant in 2023 (Schedule

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HC for 2023).

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

<u>Rent or Mortgage</u>	\$1,731.00	<u>Car Insurance</u>	\$125.00	<u>House Maintenance</u>	\$200.00
<u>Household & Toiletries</u>	\$34.00	<u>Gas (Car)</u>	\$276.00	<u>Car Repairs</u>	\$153.00
<u>Cable/Internet</u>	\$250.00	<u>Food</u>	\$1,320.00	<u>Gas/Transportation Costs</u>	\$276.00
<u>Heat</u>	\$100.00	<u>Electricity</u>	\$275.00	<u>Clothing</u>	\$25.00
				<u>Car</u>	\$15.00
				<u>Total:</u>	\$4,504.00

12. Upon examining the appellant's testimony, it was ascertained that her gross monthly income was \$5,659.33. Her necessary expenses were determined to be \$4,504.00 per month. After accounting for an approximation of federal and state taxes, this leaves a difference of -\$18.39 in her monthly financial situation when considering Filing status, Adjusted Gross income and the number of Dependents in the 2023 tax year.

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

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

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

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

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15. Appellant did not fall more than thirty days behind in rent payments in 2023. Appellant did not receive any shut-off notices for basic utilities. There was no evidence or indication of this during the Appellant's testimony. (Testimony of Appellant)
16. The Appellants stated that their financial constraints prevented them from obtaining health insurance coverage due to insufficient income. (Appellant's Testimony).
17. In this particular case, the Appellant, who was the wife in the couple who was married and filing jointly, incurred a 12-month penalty, whereas the husband did not face any penalty as he was enrolled in Medicare. (Appellant's Testimony and Exhibit 1).

ANALYSIS AND CONCLUSIONS OF LAW

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

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

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

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

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Appellant's Employment & Employer Based Insurance

The Appellant was offered health insurance in 2023, by her employer, at an approximate monthly cost of \$166.00. (Appellant's Testimony) The Appellant was employed for the full year and did not have any job disruptions during the year 2023. (Appellant's Testimony).

In Massachusetts, the determination of affordability for employer-sponsored health plans, or Employer-Sponsored Insurance ("ESI"), is guided by state-specific guidelines. According to the 2023 Schedule HC instructions for the relevant tax year, the affordable premium is calculated based on a percentage of income that aligns with the individual's income range and filing status, as outlined in Table 3: Affordability, found on page HC-10. In this case, the maximum affordable amount for the Appellant, based on their income range and filing status, is 7.60%.

During the hearing, the Appellant testified, which I found credible, that the cost of insurance offered by her employer was \$166.00 per month. This cost must be assessed against the state-determined affordability threshold.

For the plan year 2023, considering the Appellant's income and the guidelines set forth in Table 3, the employer-sponsored plan's coverage is deemed affordable if the employee's contribution for self-only coverage does not exceed 7.60% of the employee's projected household modified adjusted gross income.

According to Massachusetts state-specific guidelines, the health insurance offered by the Appellant's employer was deemed to be affordable for the Appellant based on it being less than 7.60% of the Appellant-employee's projected household modified adjusted gross income. The employer's offering was 2.93% of the employee's income. Because the appellant was employed and offered health insurance by their employer during the time of the tax penalty, they are likely blocked from obtaining subsidized insurance through Connector Care.

ConnectorCare Eligibility

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

Availability of Private Insurance

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Private insurance was UNAFFORDABLE for the appellant on the open market during 2023. According to Tables 3 and 4 of the HC schedule for 2023, Appellant, with an adjusted gross income of \$67,912.00, was deemed to be unable to afford health insurance on the private market. According to Table 3, Appellant could have afforded to pay \$430.11 per month; according to Table 4, Appellant, who was 60 years old in 2023, lived in Worcester County and filed her 2023 Massachusetts taxes as a Married filing Jointly with 0 dependents, would have had to pay \$979.00 for insurance on the private market. See 956 CMR 6.05 (1)(2), Schedule HC Tables 3 and 4, and Exhibit 1.

Considering the Appellant's gross income (\$5,659.33 per month), tax filing status, place of residence, and the expected affordable amount the Appellant could pay per the 2023 Schedule HC Tables (\$430.11 per month), private health insurance with a premium of \$979.00 per month was unaffordable for the Appellant. (2023 Schedule HC Tables).

Other Government-Sponsored Healthcare Programs

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

Financial Hardship Analysis

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

Appellant has demonstrated a financial hardship. The appellant testified that in 2023 they incurred basic monthly expenses of approximately \$4,504.00. It's clearly challenging to manage a deficit when the monthly difference between income and expenses is \$-18.39. In such circumstances, it would be unfair to expect the appellant to make an additional expenditure for health insurance.

Conclusion

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

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

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PENALTY ASSESSED

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

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

NOTIFICATION OF YOUR RIGHT TO APPEAL TO COURT

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

Hearing Officer

cc. Connector Appeals Unit

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

Massachusetts Health Connector Appeals Unit

FINAL APPEAL DECISION: PA2343

Appeal Decision: The penalty is waived in full.

Hearing Issue: Appeal of the 2023 Tax Year Penalty

Hearing Date: May 7, 2024

Decision Date: September 10, 2024

AUTHORITY

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

JURISDICTION

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

HEARING RECORD

The appellant appeared at the hearing which was held by telephone on May 7, 2024. Her representative, an uncle, also appeared. The procedures to be followed during the hearing were reviewed with Appellant who was then sworn in. The representative was also sworn in. Exhibits were marked and admitted in evidence with no objection from the appellant. Appellant testified.

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

Exhibit 1: Statement of Grounds for Appeal signed by Appellant on March 6, 2024 with note attached

Exhibit 2: Appeal Case Information from Schedule HC 2023

Exhibit 3: Notice of Hearing sent to Appellant dated April 16, 2024 for May 7, 2024 hearing

FINDINGS OF FACT

The record shows, and I so find:

1. Appellant, who filed a 2023 Massachusetts tax return as a single person with no dependents claimed, was 21 years old in 2023 (Exhibit 2, Testimony of Appellant).
2. Appellant resided in Essex County in 2023 (Testimony of Appellant, Exhibit 2).
3. Appellant had a Federal Adjusted Income of \$30,963 in 2023 (Testimony of Appellant, Exhibit 2).
4. In the beginning of 2023, Appellant worked part-time as a van driver. She worked 29 or 30 hours a week and earned \$18 an hour. At the end of August, Appellant became a school bus driver. She worked 27 hours a week and earned \$31.00 an hour. She did not work and was not paid during school vacations. She did not receive unemployment compensation during the vacations. Her income varied from month to month (Testimony of Appellant).
5. Since birth, Appellant had health insurance under her father's plan. In 2023, her father changed jobs. When he did, his health insurance changed. He did not realize that his daughter was dropped from his plan. Appellant also did not know that she no longer had coverage. She found out she was uninsured when her 2023 tax return was done. Appellant does not know whether she could have obtained health insurance through work. Because she had always had coverage, she did not ask her employer about insurance. The day after she realized she had no coverage, Appellant applied for insurance through the Connector (Testimony of Appellant and of Representative).

6. Since Appellant did not have health insurance all of 2023, she has been assessed a tax penalty for twelve months. Appellant appealed the assessment on March 6, 2024 (Exhibits 1 and 2, Testimony of Appellant).
7. I take administrative notice of the financial information set forth in Tables 1 through 6 in the DOR 2023 Massachusetts Schedule HC Health Care Instructions and Worksheets. Tables 3 and 4 incorporate affordability and premium schedules adopted by the Board of Directors for the Commonwealth Health Insurance Connector Authority for 2023. Table 2 sets forth income at 300% of the Federal poverty level and Tables 5 and 6 set forth tax penalties in effect for 2023.
8. According to Table 3 of Schedule HC for 2023, the appellant with no dependents claimed with an adjusted gross income of \$30,963 could afford to pay \$105 per month for health insurance. According to Table 4, Appellant, 21 years old and living in Essex County, could have purchased insurance for \$312 per month for a plan for an individual. Insurance on the individual market was unaffordable for the appellant (Schedule HC for 2023 Tables 3 and 4, Exhibit 2).
9. According to Table 2 of Schedule HC for 2023, Appellant, who earned less than \$40,770 per year, would have been eligible for the ConnectorCare program based upon income and the lack of access to employer offered insurance (Table 2 of Schedule HC-2023, Exhibit 2, and Testimony of Appellant).
10. Appellant did not incur significant and unexpected increases in essential expenses because of domestic violence; the death of a spouse, family member, or partner who shared household expenses; the sudden responsibility for providing full care for an aging parent or other family member, or a natural or human-caused event which caused substantial personal damage in 2023 (Testimony of Appellant).
11. Appellant did not receive any shut-off notices for basic utilities in 2023 (Testimony of Appellant).
12. Appellant lived with her mother in 2023. Appellant paid her mother rent. During the year, she was unable to keep up with her rent payments if she was out of work because of school vacations, including the summer months (Testimony of Appellant).
13. The appellant had the following monthly expenses for basic necessities in 2023: rent-\$100; food, household items and personal care items-\$500 on average; cell phone-\$67; clothing-\$190; car insurance-\$460; gas-\$130 (Testimony of Appellant).
14. The day after Appellant realized she did not have health insurance, she applied to the Connector for coverage. She obtained coverage and as of the date of this hearing, still had insurance (Testimony of Appellant).

ANALYSIS AND CONCLUSIONS OF LAW

The issue on appeal is whether the tax penalty assessed by the Massachusetts Department of Revenue for 2023 should be waived, either in whole or in part.

G.L. c. 111M, § 2, also called the “individual mandate,” requires every adult resident of Massachusetts to obtain insurance coverage that meets minimum creditable standards set by the Commonwealth “[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 cover-

age to be three months. The Connector's regulations provide for a waiver of the tax penalty in the case of a financial hardship. See 956 CMR 6.08. Pursuant to 45 CFR 155.305(f), an individual is not eligible for an advance premium tax credit if the individual has access to affordable health insurance which meets minimum essential coverage as defined in the Patient Protection and Affordable Care Act.

Appellant had no health insurance which met the Commonwealth's standards in 2023. Appellant has been assessed a penalty for twelve months. The appellant has appealed the assessment. See Exhibits 1, 2,

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

According to Table 3 of Schedule HC for 2023, the appellant with no dependents claimed with an adjusted gross income of \$30,963 could afford to pay \$105 per month for health insurance. According to Table 4, Appellant, 21 years old and living in Essex County, could have purchased insurance for \$312 per month for a plan for an individual. Insurance on the individual market was unaffordable for the appellant. See Schedule HC for 2023 Tables 3 and 4, and Exhibit 2.

Appellant was eligible for enrollment in the ConnectorCare program. The appellant's annual Federal Adjusted Income was \$30,963, less than the income limit for one person (\$40,770). See 956 CMR 12.00 et. seq., Exhibit 2, and Table 2 of Schedule HC 2023. There is no evidence in the record that Appellant was eligible for any other government sponsored program.

Appellant was employed all 2023. Because she thought she was insured under her father's plan, she did not find out whether her employer offered health insurance. See the testimony of the appellant which I find to be credible.

Since the appellant could have obtained affordable health insurance through the ConnectorCare program, we need to determine if Appellant had a financial hardship such that the cost of purchasing health insurance would have caused Appellant to experience a serious deprivation of basic necessities or some other financial hardship as defined in 956 CMR 6.08 (a), (b), (d), and/or (e), and 6.08(3).

Appellant's income varied from month to month. Her hours changed, depending on school vacation schedules. Her income was lower from January through August than it was the rest of the year. She was not paid during the holidays, and summer breaks. She did not collect unemployment when she was out of work. She tried to give her mother, with whom she lived, money each month to cover household expenses, but, during the months when there were school vacations, Appellant often could not make payments to her mother. See the testimony of the appellant which I find to be credible.

Pursuant to 956 CMR 6.08(3) which provides that financial issues raised by the appellant may be taken into consideration when determining financial hardship, I find that the appellant experienced financial hardship during 2023. She was often unable to make any contribution towards household expenses (particularly during months when she was not paid because of school vacations). Her income varied month to month. She did not collect unemployment benefits when out of work.

I also note that the appellant thought she had health insurance during 2023. Appellant, who was 21 years old, was always covered by her father's insurance. When her father changed jobs, neither the father nor the appellant realized that the appellant had been dropped from the father's plan. The appellant did not realize she had no coverage until she did her 2023 taxes. The day after she found out that she did not have coverage, she applied through the

Connector for insurance. She was found to be eligible, enrolled in a plan, and has had coverage ever since. See the testimony of the appellant and her representative which I find to be credible.

Based upon the facts summarized above, I determine that pursuant to 956 CMR 6.08(1)(e), the appellant had a financial hardship in 2023, making health insurance unaffordable for the appellant.

Based on the facts and determinations noted above, Appellant's penalty is waived in its entirety.

Appellant should note that any waiver granted here is for 2023 only and is based upon the specific facts I have found to be true and should not assume that the same determination will be made should Appellant be assessed a penalty in the future.

PENALTY ASSESSED

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

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

NOTIFICATION OF YOUR RIGHT TO APPEAL TO COURT

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

Cc: Connector Appeals Unit

Hearing Officer

Massachusetts Health Connector Appeals Unit

FINAL APPEAL DECISION: PA2344

Appeal Decision: The penalty is waived in full.

Hearing Issue: Appeal of the 2023 Tax Year Penalty

Hearing Date: May 7, 2024

Decision Date: September 20, 2024

AUTHORITY

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

JURISDICTION

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

HEARING RECORD

The appellant appeared at the hearing which was held by telephone on May 7, 2024. Her representative, an uncle, also appeared. The procedures to be followed during the hearing were reviewed with Appellant who was then sworn in. The representative was also sworn in. Exhibits were marked and admitted in evidence with no objection from the appellant. Appellant testified.

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

Exhibit 1: Statement of Grounds for Appeal signed by Appellant on March 2, 2024 with note attached; received March 6, 2024

Exhibit 2: Appeal Case Information from Schedule HC 2023

Exhibit 3: Notice of Hearing sent to Appellant dated April 16, 2024 for May 7, 2024 hearing

FINDINGS OF FACT

The record shows, and I so find:

1. Appellant, who filed a 2023 Massachusetts tax return as a single person with no dependents claimed, was 23 years old in 2023 (Exhibit 2, Testimony of Appellant).
2. Appellant resided in Essex County in 2023 (Testimony of Appellant, Exhibit 2).
3. Appellant had a Federal Adjusted Income of \$34,267 in 2023 (Testimony of Appellant, Exhibit 2).
4. In 2023, Appellant worked part-time as a school bus driver. She worked 28 to 30 hours a week and earned \$31.00 an hour. She did not work and was not paid during school vacations. She did not receive unemployment compensation during the vacations. Her income varied from month to month (Testimony of Appellant).
5. Since birth, Appellant had health insurance under her father's plan. In 2023, her father changed jobs. When he did, his health insurance changed. He did not realize that his daughter was dropped from his plan. Appellant also did not know that she no longer had coverage. She found out she was uninsured when her 2023 tax return was done. Appellant does not know whether she could have obtained health insurance through work. Because she had always had coverage, she did not ask her employer about insurance. After she realized she had no coverage, Appellant applied for insurance through the Connector (Testimony of Appellant and of Representative, Exhibit 1).

6. Since Appellant did not have health insurance all of 2023, she has been assessed a tax penalty for twelve months. Appellant appealed the assessment on March 2, 2024 (Exhibits 1 and 2, Testimony of Appellant).

7. I take administrative notice of the financial information set forth in Tables 1 through 6 in the DOR 2023 Massachusetts Schedule HC Health Care Instructions and Worksheets. Tables 3 and 4 incorporate affordability and premium schedules adopted by the Board of Directors for the Commonwealth Health Insurance Connector Authority for 2023. Table 2 sets forth income at 300% of the Federal poverty level and Tables 5 and 6 set forth tax penalties in effect for 2023.

8. According to Table 3 of Schedule HC for 2023, the appellant with no dependents claimed with an adjusted gross income of \$34,267 could afford to pay \$138 per month for health insurance. According to Table 4, Appellant, 23 years old and living in Essex County, could have purchased insurance for \$312 per month for a plan for an individual. Insurance on the individual market was unaffordable for the appellant (Schedule HC for 2023 Tables 3 and 4, Exhibit 2).

9. According to Table 2 of Schedule HC for 2023, Appellant, who earned less than \$40,770 per year, would have been eligible for the ConnectorCare program based upon income (Table 2 of Schedule HC-2023, Exhibit 2, and Testimony of Appellant).

10. Appellant did not incur significant and unexpected increases in essential expenses because of domestic violence; the death of a spouse, family member, or partner who shared household expenses; the sudden responsibility for providing full care for an aging parent or other family member, or a natural or human-caused event which caused substantial personal damage in 2023 (Testimony of Appellant).

11. Appellant did not receive any shut-off notices for basic utilities in 2023 (Testimony of Appellant).

12. Appellant lived with her mother in 2023. Appellant paid her mother rent. During the year, she was unable to keep up with her rent payments if she was out of work because of school vacations, including the summer months (Testimony of Appellant).

13. The appellant had the following monthly expenses for basic necessities in 2023: rent-\$200; food, household items and personal care items-\$345 on average; cell phone-\$88; clothing-\$245; car insurance-\$204; gas-\$175; car payments-\$207 (through April). Appellant had a car accident during 2023; she had to pay \$500 for repairs to her car (Testimony of Appellant).

14. As soon as Appellant realized she did not have health insurance, she applied to the Connector for coverage. She obtained coverage and as of the date of this hearing, still had insurance (Testimony of Appellant).

ANALYSIS AND CONCLUSIONS OF LAW

The issue on appeal is whether the tax penalty assessed by the Massachusetts Department of Revenue for 2023 should be waived, either in whole or in part.

G.L. c. 111M, § 2, also called the “individual mandate,” requires every adult resident of Massachusetts to obtain insurance coverage that meets minimum creditable standards set by the Commonwealth “[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 cover-

age to be three months. The Connector's regulations provide for a waiver of the tax penalty in the case of a financial hardship. See 956 CMR 6.08. Pursuant to 45 CFR 155.305(f), an individual is not eligible for an advance premium tax credit if the individual has access to affordable health insurance which meets minimum essential coverage as defined in the Patient Protection and Affordable Care Act.

Appellant had no health insurance which met the Commonwealth's standards in 2023. Appellant has been assessed a penalty for twelve months. The appellant has appealed the assessment. See Exhibits 1, 2,

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

According to Table 3 of Schedule HC for 2023, the appellant with no dependents claimed with an adjusted gross income of \$34,267 could afford to pay \$138 per month for health insurance. According to Table 4, Appellant, 23 years old and living in Essex County, could have purchased insurance for \$312 per month for a plan for an individual. Insurance on the individual market was unaffordable for the appellant. See Schedule HC for 2023 Tables 3 and 4, and Exhibit 2.

Appellant was eligible for enrollment in the ConnectorCare program. The appellant's annual Federal Adjusted Income was \$34,267, less than the income limit for one person (\$40,770). See 956 CMR 12.00 et. seq., Exhibit 2, and Table 2 of Schedule HC 2023. There is no evidence in the record that Appellant was eligible for any other government sponsored program.

Appellant was employed all of 2023 (but did not receive pay during school vacations). Because she thought she was insured under her father's plan, she did not find out whether her employer offered health insurance. See the testimony of the appellant which I find to be credible.

Since the appellant could have obtained affordable health insurance through the ConnectorCare program, we need to determine if Appellant had a financial hardship such that the cost of purchasing health insurance would have caused Appellant to experience a serious deprivation of basic necessities or some other financial hardship as defined in 956 CMR 6.08 (a), (b), (d), and/or (e), and 6.08(3).

Appellant's income varied from month to month. Her hours changed, depending on school vacation schedules. She was not paid during the holidays, and summer breaks. She did not collect unemployment when she was out of work. She tried to give her mother, with whom she lived, rent every month, but, during the months when there were school vacations, Appellant could not make payments to her mother. See the testimony of the appellant which I find to be credible.

Pursuant to 956 CMR 6.08(1)(a) which provides that falling more than 30 days behind in rent payments constitutes a financial hardship, making the cost of health insurance unaffordable, I find that the cost of purchasing health insurance was unaffordable for the appellant. Even though Appellant's rent was \$200 a month, Appellant was unable to keep up with payments during the months when Appellant was not paid because of school vacations. Appellant did not collect unemployment benefits when she was out of work. See the testimony of the appellant which I find to be credible.

I also note that the appellant thought she had health insurance during 2023. Appellant, who was 23 years old, was always covered by her father's insurance. When her father changed jobs, neither the father nor the appellant realized that the appellant had been dropped from the father's plan. The appellant did not realize she had no coverage

until she did her 2023 taxes. As soon as she found out that she did not have coverage, she applied through the Connector for insurance. She was found to be eligible, enrolled in a plan, and has had coverage ever since. See the testimony of the appellant and her representative which I find to be credible.

Based upon the facts summarized above, I determine that pursuant to 956 CMR 6.08(1)(a), the appellant had a financial hardship in 2023, making health insurance unaffordable for the appellant.

Based on the facts and determinations noted above, Appellant's penalty is waived in its entirety.

Appellant should note that any waiver granted here is for 2023 only and is based upon the specific facts I have found to be true and should not assume that the same determination will be made should Appellant be assessed a penalty in the future.

PENALTY ASSESSED

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

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

NOTIFICATION OF YOUR RIGHT TO APPEAL TO COURT

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

Cc: Connector Appeals Unit

Hearing Officer

FINAL APPEAL DECISION: PA23-344

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

Hearing Issue: Appeal of the 2023 Tax Year Penalty

Hearing Date: September 10, 2024

Decision Date: September 25, 2024

AUTHORITY

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

JURISDICTION

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

HEARING RECORD

Appellant filed her 2023 tax return as Single. The Hearing was held by telephone, on September 10, 2024. The procedures to be followed during the Hearing were reviewed with Appellant who was then sworn in. Exhibits were marked and admitted into evidence with no objections. The Hearing Officer submitted an Open Record Form and did not receive anything 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 2, 2024.

Exhibit 2: Appeal Case Information from Schedule HC 2023.

Exhibit 3: Statement of Grounds for Appeal dated April 3, 2024, with attachments.

FINDINGS OF FACT

The record shows, and I so find:

1. Appellant was age 29¹ in January 2023, and filed her Federal Income Tax return as Single (Exhibit 2).
2. The Appellant lived in Barnstable County in 2023 (Exhibit 2 and Appellant Testimony).
3. The Appellant's Federal Adjusted Gross Income for 2023 was \$52,606 (Exhibit 2).

¹ Appellant noted in her testimony that her date of birth is incorrect on her Schedule HC contained in the file. Appellant should contact the Massachusetts DOR to correct this mistake.

4. Appellant did not have health insurance for twelve months of 2023 (Appellant's Spouse Testimony).
5. Appellant has been assessed a twelve-month penalty for 2023 (Exhibit 2).
6. I take administrative notice of the financial information set forth in Tables 1 through 6 in the DOR 2023 Massachusetts Schedule HC Health Care Instructions and Worksheets. Tables 3 and 4 incorporate affordability and premium schedules adopted by the Board of Directors for the Commonwealth Health Insurance Connector Authority for 2023. Table 2 sets forth income at 300% of the Federal poverty level and Tables 5 and 6 set forth tax penalties in effect for 2023.
7. In accordance with Table 3 of Schedule HC for 2023, the Appellant filing her Federal Tax return as Single, with an annual adjusted gross income of \$52,606 could afford to pay \$331 per month for health insurance. In accordance with Table 4, Appellant, age 29 living in Barnstable County, could have purchased private insurance for \$327 per month. Private insurance was affordable for Appellant.
8. Appellant testified that she had a health insurance plan in 2023 and was not aware of the requirements of Massachusetts law for compliance of plans (Appellant Testimony and Exhibit 3).
9. She testified that when filing her taxes she discovered that her insurance policy did not meet the requirements of Minimum Credible Coverage (MCC) under Massachusetts law. She added that her premium was nearly \$200 a month. Appellant stated that the insurer stated she would not receive tax forms to prove she was insured. She credibly stated that she did search for a plan on the Heath Connector website, and she found it confusing and insurance companies contacted her with offers of coverage via telephone calls. She believably stated that she believed she had adequate health insurance in 2023 (Appellant Testimony and Exhibit 3).
10. The Appellant's income was more than 300% of the federal poverty level, which was \$40,770 for a household of one in 2023 (See Table 2 of Schedule HC-2023 and 956 CMR 12.04)(Exhibit 2).
11. Appellant testified that she worked full-time in 2023 and her employer's health insurance plan was too expensive. She added that her monthly living expenses in 2023 were over \$2,300 including her rent and financial support to a minor relative. She credibly stated that when she discovered her plan was not MCC compliant she immediately found a plan that was and is now insured (Appellant Testimony).

ANALYSIS AND CONCLUSIONS OF LAW

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

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

Any health insurance policy must also satisfy the MCC requirement to avoid the tax penalty. Mass. Gen. Laws c. 111M, sec. 2(b). In addition to financial hardship, the Connector may also consider the extent to which insurance obtained deviated from or substantially met minimum creditable coverage standards when determining if a penalty should be waived. See 956 CMR 5.03 and 6.08.

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

In accordance with Table 3 of Schedule HC for 2023, the Appellant filed her Federal tax return as Single and had an adjusted gross income of \$52,606. In accordance with Table 3 she could afford \$331 per month. According to Table 4, Appellant age 25, living in Barnstable County, could have purchased private insurance for \$327 a month. See Schedule HC for 2023. Private insurance was affordable for the Appellant in tax year 2023.

The Appellant would not have been eligible for Connector Care coverage based upon their income that was more than 300% of the federal poverty level which was \$42,770 for a household of one in 2023. See Table 2 of Schedule HC 2023 and 956 CMR 12.04 for eligibility criteria. Appellant would not have qualified for MassHealth based on the income requirements in 2023.

Appellant did have a health insurance plan in 2023, which she credibly believed was compliant with Massachusetts law. Unfortunately for Appellant, the plan which she paid \$189.95 a month for, did not meet the definition of Minimum Credible Coverage under Massachusetts law. In this scenario it is necessary to evaluate if the plan obtained by Appellant deviated significantly from an MCC plan as defined in 950 CMR 5.09. Here, it appears the plan did significantly deviate from an MCC compliant plan as it only provided cost savings and personal health and medical fee negotiation tools. The literature provided to Appellant has disclosure language at the bottom stating the plan is not comprehensive health coverage and does not meet the ACA definition of minimum essential coverage.

The Appellant was honest and prepared in her testimony and in the documents she presented. The plan she purchased was not health insurance and was expensive. She was called after providing her information to the Health Connector and reasonably believed the product was health insurance. She was

attempting to get insured as she was aware of this requirement in Massachusetts. She had no reason to believe the plan was not compliant with the MCC requirements. Accordingly, I am exercising my discretion as the Hearing Officer and in the interest of equity and fairness Appellant's penalty is waived in the entirety.

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

PENALTY ASSESSED

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

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

NOTIFICATION OF YOUR RIGHT TO APPEAL TO COURT

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

Cc: Connector Appeals Unit

Massachusetts Health Connector Appeals Unit

FINAL APPEAL DECISION: PA 23-296

Appeal Decision Appeal Allowed

Hearing Issue: Appeal of the 2023 Tax Year Penalty

Hearing Date: August 9, 2024

Decision Date: September 18, 2024

AUTHORITY

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

JURISDICTION

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

HEARING RECORD

The Appellant appeared at the hearing, which was held by telephone, on August 9, 2024. The procedures to be followed during the hearing were reviewed with the Appellant who was then sworn in. Exhibits were marked and admitted into evidence with no objection from the Appellant.

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

- Exhibit 1: Notice of Hearing dated July 5, 2024
- Exhibit 2: Appeal Case Information from form Schedule HC
- Exhibit 3: Statement of Grounds for Appeal Dated April 5, 2024
- Exhibit 4: Open Records Documents

FINDINGS OF FACT

The record shows, and I so find:

1. The appellant is twenty-five years old and is single. He lives in New York.
2. The appellant lived in Massachusetts for part of the year 2023. He worked as a youth director. He had health insurance through his parents who live in New York, as shown in his Open Record documents from Excellus Blue Cross Blue Shield.
3. Appellant does have health insurance in 2024.
4. The Appellant did submit a Statement of Grounds for Appeal-2023 “ Other. During 2023 other circumstances, 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 2023. Table 1 sets forth the income eligibility standards for various family sizes at 150% of the federal poverty level and Table 2 sets forth the income eligibility standards for various family sizes at 300 per cent of the federal poverty level, which is the income eligibility standard for the government-subsidized health insurance program. See Mass. G.L. c. 118H, s.3(a)(1). Tables 5 and 6 set forth the tax penalties for 2023.
6. 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 \$26,451.00 was less than \$40,770.00. The monthly premium for health insurance available on the private market in Worcester County for a 24 year old single person was \$312.00. The tables reflect that Appellant could afford \$61.79 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 lived in Massachusetts for part of the year 2023. He worked as a youth director. He had health insurance through his parents who live in New York, as shown in his Open Record documents from Excellus Blue Cross Blue Shield.

The Appellant did submit a Statement of Grounds for Appeal-2023 “ Other. During 2023 other circumstances, 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 2023, 150 percent of the FPL was \$20,385.00 for a single person. In addition a lapse in coverage of 63 days or less is not subject to the section 2(b) penalty. See Administrative Bulletin 03-10 (Dec. 7, 2010), available at <https://www.mahealthconnector.org/portal/binary/com.epicentric.contentmanagement.servlet.ContentDeliveryServlet/Health%2520Care%2520Reform/Regulations/documents/Administrative%20Information%20Bulletin%2003-10.pdf>; see also 830 Mass. Code Regs. 111M.2.1(5)(c) (2008). Thus, no penalty is imposed for lapses in coverage consisting of three or fewer consecutive calendar months. *Id.*

Since Appellant’s 2023 income was more than 150 percent of the FPL, making 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 2023. In determining affordability, consideration is given first to the amount Appellant is deemed able to afford for health insurance premiums under the Affordability Schedule and second to the cost of health insurance that was available through employer-sponsored plans, government-subsidized programs or on the private insurance market. See 2023 Schedule HC Instructions and Worksheets, *supra*.

Appellant reported a federal AGI of \$26,451.00 in 2023, and Appellant’s filing status was single. EX 2. According to the Affordability Schedule established by the Connector’s board and included in the Instructions and Worksheets of the 2023 Massachusetts Schedule HC, Appellant could afford to pay \$61.79 monthly for health insurance. See 2023 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 \$312.00 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).

On these facts, I find that Appellant has shown that he had health insurance for 2023 through his parents. 956 Mass. Code Regs. 6.08(3) (2008). Accordingly, I conclude that he is exempt from a tax penalty because he had health insurance.

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

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 2023 for the amount equal to one half of the lowest cost health insurance plan available to you for each month you have been assessed the penalty, as listed above, plus applicable interest back to the due date of the return without regard to extension.

OR

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

NOTIFICATION OF YOUR RIGHT TO APPEAL TO COURT

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

Hearing Officer

Cc: Connector Appeals Unit

Massachusetts Health Connector Appeals Unit

FINAL APPEAL DECISION: PA 23-300

Appeal Decision Appeal Allowed

Hearing Issue: Appeal of the 2023 Tax Year Penalty

Hearing Date: August 9, 2024

Decision Date: September 18, 2024

AUTHORITY

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

JURISDICTION

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

HEARING RECORD

The Appellant appeared at the hearing, which was held by telephone, on August 9, 2024. The procedures to be followed during the hearing were reviewed with the Appellant who was then sworn in. Exhibits were marked and admitted into evidence with no objection from the Appellant.

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

- Exhibit 1: Notice of Hearing dated July 5, 2024
- Exhibit 2: Appeal Case Information from form Schedule HC
- Exhibit 3: Statement of Grounds for Appeal Dated April 2, 2024
- Exhibit 4: Open Record Documents

FINDINGS OF FACT

The record shows, and I so find:

1. The appellant is thirty-two years old and is single. He lives in Essex County, Massachusetts.
2. The appellant became unemployed in November 2022. During 2023 while still unemployed Appellant arranged to have health insurance through Socios Buenos but was not informed that this entity did not qualify as a health insurance company for Massachusetts health coverage. Appellant started a new job and received health insurance through his new employment.
3. Appellant does have health insurance in 2024.
4. The Appellant did submit a Statement of Grounds for Appeal-2023 “ During 2023, you purchased health insurance that didn’t meet 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”
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 2023. Table 1 sets forth the income eligibility standards for various family sizes at 150% of the federal poverty level and Table 2 sets forth the income eligibility standards for various family sizes at 300 per cent of the federal poverty level, which is the income eligibility standard for the government-subsidized health insurance program. See Mass. G.L. c. 118H, s.3(a)(1). Tables 5 and 6 set forth the tax penalties for 2023.
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, because Appellant’s income of \$100,437.00 was more than \$40,770.00. The monthly premium for health insurance available on the private market in Essex County for a 31 year old single person was \$326.00. The tables reflect that Appellant could afford \$669.58 This is less than what the appellant is deemed to afford. (Tables 2, 3 & 4 of the Schedule HC Instructions)

ANALYSIS AND CONCLUSIONS OF LAW

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

The appellant became unemployed in November 2022. During 2023 while still unemployed Appellant arranged to have health insurance through Socios Buenos but was not informed that this entity did not qualify as a health insurance company for Massachusetts health coverage. Appellant started a new job and received health insurance through his new employment.

The Appellant did submit a Statement of Grounds for Appeal-2023 “ During 2023, you purchased health insurance that didn’t meet 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”

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

Since Appellant’s 2023 income was more than 150 percent of the FPL, making 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 2023. In determining affordability, consideration is given first to the amount Appellant is deemed able to afford for health insurance premiums under the Affordability Schedule and second to the cost of health insurance that was available through employer-sponsored plans, government-subsidized programs or on the private insurance market. See 2023 Schedule HC Instructions and Worksheets, *supra*.

Appellant reported a federal AGI of \$100,437.00 in 2023, and Appellant’s filing status was single. EX 2. According to the Affordability Schedule established by the Connector’s board and included in the Instructions and Worksheets of the 2023 Massachusetts Schedule HC, Appellant could afford to pay

\$669.58 monthly for health insurance. See 2023 Schedule HC Instructions and Worksheets, *supra* at Table 3 *Id.* at Table 4.

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

On these facts, I find that Appellant has shown that he was precluded from purchasing affordable health insurance during his period of unemployment 2023. 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 **APPROVED**, and the 2023 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 2023 for the amount equal to one half of the lowest cost health insurance plan available to you for each month you have been assessed the penalty, as listed above, plus applicable interest back to the due date of the return without regard to extension.

OR

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

NOTIFICATION OF YOUR RIGHT TO APPEAL TO COURT

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

Hearing Officer

Cc: Connector Appeals Unit

Massachusetts Health Connector Appeals Unit

FINAL APPEAL DECISION: PA23-301

Appeal Decision Appeal Approved.

Hearing Issue: Appeal of the 2023 Tax Year Penalty

Hearing Date: August 13, 2024

Decision Date: September 4, 2024

AUTHORITY

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

JURISDICTION

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

HEARING RECORD

Appellant appeared at the hearing, which was held by telephone, on August 13, 2024. The hearing record consists of the Appellant's testimony, and the following documents which were admitted into evidence without objection by Appellant:

- Exhibit 1: Notice of Hearing (7-9-24) (2 pages);
- Exhibit 2: Information from Schedule HC TY 2023 (1 page);
- Exhibit 3: Statement of Grounds for Appeal (4-7-24) (with letter) (3 pages).

FINDINGS OF FACT

The record shows, and I so find:

1. Appellant, age 37 during 2023, from Essex County, filed single on the tax return with a family size of 1. (Exhibit 2).
2. Appellant did not have health insurance for 2023. Appellant had started a new job in December 2022 and signed up for the employer's health insurance. Appellant was unaware of a change in January 2023 that required Appellant to re-enroll in the employer's health insurance. When Appellant learned of this in March 2022, it was past the open enrollment period and Appellant tried several times to appeal and was rejected. (Appellant's testimony, Exhibits 2, 3).
3. Appellant married and now has health insurance through the spouse's employer as of January 1, 2024. (Appellant testimony).
4. Appellant's Federal Adjusted Gross Income for 2023 was \$131,432.00 (Exhibit 2).
5. I take administrative notice of the financial information set forth in Tables 1 through 6 in the DOR 2023 Massachusetts Schedule HC Health Care Instructions and Worksheets. Tables 3 and 4

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

6. Appellant could afford health insurance based on the tables in Schedule HC. According to Table 4, the health insurance would cost \$335.00 for individual coverage. According to Table 3, Appellant was deemed to afford \$876.00.
7. Private insurance was affordable for the Appellant in 2023. (Schedule HC for 2023).
8. Appellant's AGI was over 300% of the Federal Poverty Level for a family size of 1, and Appellant therefore would not have qualified for subsidized health insurance through the Health Connector. (Schedule HC for 2023).
9. Appellant claimed that they should be granted a waiver based on the grounds Appellant thought they had health insurance through the employer, but due to a change of insurance with the employer that Appellant was unaware of, Appellant did not have the insurance and could not obtain it. (Testimony of Appellant, Exhibit 3).
10. Appellant did not incur significant and unexpected increases in essential expenses as a result of domestic violence or the sudden responsibility for providing full care for an aging parent or other family member; and did not incur such expenses due to the death of a spouse, family member, or partner who shared household expenses. Appellant did not incur additional expenses as a result of a fire, flood, or other natural or man-made disaster in 2023 (Exhibit 3).
11. Appellant was not homeless, was not thirty days or more behind in rent in 2023 and did not receive eviction notices. Appellant did not receive a shut-off notice for basic utilities. (Appellant's Testimony, Exhibit 3).

ANALYSIS AND CONCLUSIONS OF LAW

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

G.L. c. 111M, § 2, also called the "individual mandate", requires every adult resident of Massachusetts to obtain insurance coverage "[s]o long as it is deemed affordable" under the schedule set by the board of directors for the Commonwealth Health Insurance Connector Authority. 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. <https://www.mahealthconnector.org/wp-content/uploads/rules-and-regulations/AdminBulletin03-10.pdf>. The connector's regulations provide for a waiver of the tax penalty in the case of financial hardship. See 956 CMR 6.08.

Appellant did not have health insurance for 2023. They have been assessed a tax penalty for twelve months. Appellant appealed the assessment. See Exhibits 2, and 3. To determine if the penalty should be waived in whole or in part, we must consider whether affordable insurance which met minimum creditable coverage standards was available to the Appellant through employment, through the private market, or through a government-sponsored program. If affordable insurance was available, we must

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

Private insurance was affordable for the Appellant during 2023. According to Tables 3 and 4 of the HC Schedule for 2023, Appellant, with an adjusted gross income of \$131,432.00 was deemed to have been able to afford health insurance on the private market. According to Table 3, Appellant could have afforded to pay \$876.00 per month; according to Table 4, Appellant, who was 37 years old in 2023, from Essex County, and filed the 2023 Massachusetts taxes as single with a family size of 1, would have had to pay \$335.00 for individual coverage per month for insurance on the private market. See CMR 6.05 (1)(2), Schedule HC Tables 3 and 4, and Exhibit 2.

With regard to the hardship waiver of the penalty, Appellant claimed that they should be granted a waiver based on the grounds Appellant thought they had health insurance, but when they discovered the employer had changed insurance, Appellant was unable to enroll in the new insurance despite several appeals. Appellant obtained health insurance as of January 1, 2024. For these reasons, the waiver of the penalty is approved.

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

PENALTY ASSESSED

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

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

NOTIFICATION OF YOUR RIGHT TO APPEAL TO COURT

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

Hearing Officer

Cc: Connector Appeals Unit

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

Massachusetts Health Connector Appeals Unit

FINAL APPEAL DECISION: PA23-302

Appeal Decision Appeal Approved.

Hearing Issue: Appeal of the 2023 Tax Year Penalty

Hearing Date: August 13, 2024

Decision Date: September 4, 2024

AUTHORITY

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

JURISDICTION

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

HEARING RECORD

Appellant appeared at the hearing, which was held by telephone, on August 13, 2024. The hearing record consists of the Appellant's testimony, and the following documents which were admitted into evidence without objection by Appellant:

- Exhibit 1: Notice of Hearing (7-9-24) (2 pages);
- Exhibit 2: Information from Schedule HC TY 2023 (1 page);
- Exhibit 3: Statement of Grounds for Appeal (4-10-24) (with letter and documents) (12 pages).

FINDINGS OF FACT

The record shows, and I so find:

1. Appellant, age 38 during 2023, from Hampshire County, filed single on the tax return with a family size of 1. (Exhibit 2).
2. Appellant did have health insurance for November and December of 2023, but not for the other months of 2023. Appellant did not initially sign up for health insurance with the employer and then had to wait for open enrollment in November 2023. Paying for health insurance privately was not something Appellant believed was affordable, with Appellant's partner being out of work, two children to also support and high credit card debt. (Appellant's testimony, Exhibits 2, 3).
3. Appellant now is unemployed and in school and intended to apply for MassHealth. (Appellant testimony, Exhibit 3).
4. Appellant's Federal Adjusted Gross Income for 2023 was \$61,831.00 (Exhibit 2).

5. Appellant's expenses for food, shelter, clothing and other necessities used all of the income. The expenses totaled \$5,501.00 without paying the minimum credit card payments each month, or \$66,012.00 per year. With the minimum credit card payments, that would have added an additional \$19,200.00 per year. (Appellant testimony).
6. I take administrative notice of the financial information set forth in Tables 1 through 6 in the DOR 2023 Massachusetts Schedule HC Health Care Instructions and Worksheets. Tables 3 and 4 incorporate affordability and premium schedules adopted by the Board of Directors for the Commonwealth Health Insurance Connector Authority for 2023. Table 2 sets forth income at 300% of the Federal poverty level and Tables 5 and 6 set forth tax penalties in effect for 2023.
7. Appellant could afford health insurance based on the tables in Schedule HC. According to Table 4, the health insurance would cost \$351.00 for individual coverage. According to Table 3, Appellant was deemed to afford \$412.00.
8. Private insurance was affordable for the Appellant in 2023. (Schedule HC for 2023).
9. Appellant's AGI was over 300% of the Federal Poverty Level for a family size of 1, and Appellant therefore would not have qualified for subsidized health insurance through the Health Connector. (Schedule HC for 2023).
10. Appellant claimed that they should be granted a waiver based on the grounds paying for health insurance would have caused a serious deprivation of food, shelter, clothing and other necessities. (Testimony of Appellant, Exhibit 3).
11. Appellant did not incur significant and unexpected increases in essential expenses as a result of domestic violence or the sudden responsibility for providing full care for an aging parent or other family member; and did not incur such expenses due to the death of a spouse, family member, or partner who shared household expenses. Appellant did not incur additional expenses as a result of a fire, flood, or other natural or man-made disaster in 2023 (Exhibit 3).
12. Appellant was not homeless, was not thirty days or more behind in rent in 2023 and did not receive eviction notices. Appellant did not receive a shut-off notice for basic utilities. (Appellant's Testimony, Exhibit 3).

ANALYSIS AND CONCLUSIONS OF LAW

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

G.L. c. 111M, § 2, also called the "individual mandate", requires every adult resident of Massachusetts to obtain insurance coverage "[s]o long as it is deemed affordable" under the schedule set by the board of directors for the Commonwealth Health Insurance Connector Authority. 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. <https://www.mahealthconnector.org/wp-content/uploads/rules-and-regulations/AdminBulletin03-10.pdf>. The connector's regulations provide for a waiver of the tax penalty in the case of financial hardship. See 956 CMR 6.08.

Appellant did have health insurance for November and December of 2023, but not for the other months of 2023. They have been assessed a tax penalty for seven months. Appellant appealed the assessment. See Exhibits 2, and 3. To determine if the penalty should be waived in whole or in part, we must consider whether affordable insurance which met minimum creditable coverage standards was available to the Appellant through employment, through the private market, or through a government-sponsored program. If affordable insurance was available, we must determine if such insurance was, in fact, not affordable to the Appellant because they experienced a financial hardship as defined in 956 CMR 6.08.

Private insurance was affordable for the Appellant during 2023. According to Tables 3 and 4 of the HC Schedule for 2023, Appellant, with an adjusted gross income of \$61,831.00 was deemed to have been able to afford health insurance on the private market. According to Table 3, Appellant could have afforded to pay \$412.00 per month; according to Table 4, Appellant, who was 38 years old in 2023, from Hampshire County, and filed the 2023 Massachusetts taxes as single with a family size of 1, would have had to pay \$351.00 for individual coverage per month for insurance on the private market. See CMR 6.05 (1)(2), Schedule HC Tables 3 and 4, and Exhibit 2.

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

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

PENALTY ASSESSED

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

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

NOTIFICATION OF YOUR RIGHT TO APPEAL TO COURT

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

Hearing Officer

Cc: Connector Appeals Unit

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

Massachusetts Health Connector Appeals Unit

FINAL APPEAL DECISION: PA23-303

Appeal Decision Appeal Approved.

Hearing Issue: Appeal of the 2023 Tax Year Penalty

Hearing Date: August 13, 2024

Decision Date: September 4, 2024

AUTHORITY

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

JURISDICTION

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

HEARING RECORD

Appellant appeared at the hearing, which was held by telephone, on August 13, 2024. The hearing record consists of the Appellant's testimony, and the following documents which were admitted into evidence without objection by Appellant:

- Exhibit 1: Notice of Hearing (7-9-24) (2 pages);
- Exhibit 2: Information from Schedule HC TY 2023 (1 page);
- Exhibit 3: Statement of Grounds for Appeal (4-7-24) (with letter and documents) (19 pages).

FINDINGS OF FACT

The record shows, and I so find:

1. Appellants, ages 39 and 36 during 2023, from Hampden County, filed married filing jointly on the tax return with a family size of 3. (Exhibit 2).
2. Appellants did have health insurance for January and February of 2023, but did not have it for the remaining months. Appellant was laid off at the beginning of 2023, and received some severance and unemployment, but also had to cash in stocks to meet expenses. (Appellant's testimony, Exhibits 2, 3).
3. Appellant's parents also immigrated to the United States and Appellants had expenses to bring them to the United States and to support them when they came, including medical costs as they did not qualify for insurance. (Exhibit 3, Testimony).
4. Appellants did obtain insurance for 2024. (Testimony, Exhibit 3).
5. Appellants' Federal Adjusted Gross Income for 2023 was \$162,904.00, though much of the income was through sale of stocks. (Exhibit 2, Testimony).

6. Appellants' expenses for food, shelter, clothing and other necessities used most of the income. The expenses totaled \$6,952.00, or \$83,424.00 per year. (Appellant testimony).
7. I take administrative notice of the financial information set forth in Tables 1 through 6 in the DOR 2023 Massachusetts Schedule HC Health Care Instructions and Worksheets. Tables 3 and 4 incorporate affordability and premium schedules adopted by the Board of Directors for the Commonwealth Health Insurance Connector Authority for 2023. Table 2 sets forth income at 300% of the Federal poverty level and Tables 5 and 6 set forth tax penalties in effect for 2023.
8. Appellants could afford health insurance based on the tables in Schedule HC. According to Table 4, the health insurance would cost \$891.00 for family coverage. According to Table 3, Appellants were deemed to afford \$1,086.00. If only the salary and unemployment are taken into account, then Appellants could not afford health insurance, as they would be deemed to afford \$753.00.
9. Private insurance was affordable for the Appellant in 2023, if all income is taken into account, but not if only salary and unemployment is taken into account. (Schedule HC for 2023).
10. Appellants' AGI was over 300% of the Federal Poverty Level for a family size of 3, and Appellant therefore would not have qualified for subsidized health insurance through the Health Connector. (Schedule HC for 2023).
11. Appellants claimed that they should be granted a waiver based on the grounds paying for health insurance would have caused a serious deprivation of food, shelter, clothing and other necessities. They also claimed that the sudden responsibility for caring for the parents, including sponsoring the parents immigration to the United States caused a hardship. (Testimony of Appellant, Exhibit 3).
12. Appellants did not incur significant and unexpected increases in essential expenses as a result of domestic violence but did incur such increases in expenses for the sudden responsibility for providing full care for an aging parent or other family member; and did not incur such expenses due to the death of a spouse, family member, or partner who shared household expenses. Appellants did not incur additional expenses as a result of a fire, flood, or other natural or man-made disaster in 2023 (Exhibit 3).
13. Appellants were not homeless, were not thirty days or more behind in rent in 2023 and did not receive eviction notices. Appellants did not receive a shut-off notice for basic utilities. (Appellant's Testimony, Exhibit 3).

ANALYSIS AND CONCLUSIONS OF LAW

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

G.L. c. 111M, § 2, also called the "individual mandate", requires every adult resident of Massachusetts to obtain insurance coverage "[s]o long as it is deemed affordable" under the schedule set by the board of directors for the Commonwealth Health Insurance Connector Authority. 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. <https://www.mahealthconnector.org/wp->

[content/uploads/rules-and-regulations/AdminBulletin03-10.pdf](#). The connector's regulations provide for a waiver of the tax penalty in the case of financial hardship. See 956 CMR 6.08.

Appellants did have health insurance for January and February of 2023, but not for the other months of 2023. However, for some reason, the tax penalty is for twelve months. Appellants appealed the assessment. See Exhibits 2, and 3. To determine if the penalty should be waived in whole or in part, we must consider whether affordable insurance which met minimum creditable coverage standards was available to the Appellants through employment, through the private market, or through a government-sponsored program. If affordable insurance was available, we must determine if such insurance was, in fact, not affordable to the Appellants because they experienced a financial hardship as defined in 956 CMR 6.08.

Private insurance was affordable for the Appellants during 2023 if all the income is considered. According to Tables 3 and 4 of the HC Schedule for 2023, Appellants, with an adjusted gross income of \$162,904.00 were deemed to have been able to afford health insurance on the private market. According to Table 3, Appellants could have afforded to pay \$1,086.00 per month; according to Table 4, Appellants, who were 39 and 36 years old in 2023, from Hampden County, and filed the 2023 Massachusetts taxes as married filing jointly with a family size of 3, would have had to pay \$891.00 for family coverage per month for insurance on the private market. See CMR 6.05 (1)(2), Schedule HC Tables 3 and 4, and Exhibit 2.

With regard to the hardship waiver of the penalty, Appellants claimed that they should be granted a waiver based on the grounds that paying for health insurance would have caused a serious deprivation of food, shelter, clothing and other necessities, and that they had sudden and unexpected increase in expenses due to the parents' immigration to the United States and staying with Appellants. Appellants' expenses for necessities used most of the income. For these reasons, the waiver of the penalty is approved.

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

PENALTY ASSESSED

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

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

NOTIFICATION OF YOUR RIGHT TO APPEAL TO COURT

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

Hearing Officer

Cc: Connector Appeals Unit

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

Massachusetts Health Connector Appeals Unit

FINAL APPEAL DECISION: PA23-304

Appeal Decision Appeal Approved.

Hearing Issue: Appeal of the 2023 Tax Year Penalty

Hearing Date: August 13, 2024

Decision Date: September 4, 2024

AUTHORITY

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

JURISDICTION

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

HEARING RECORD

Appellant appeared at the hearing, which was held by telephone, on August 13, 2024. The hearing record consists of the Appellant's testimony, and the following documents which were admitted into evidence without objection by Appellant:

- Exhibit 1: Notice of Hearing (7-9-24) (2 pages);
- Exhibit 2: Information from Schedule HC TY 2023 (1 page);
- Exhibit 3: Statement of Grounds for Appeal (4-8-24) (2 pages);
- Exhibit 4: Final appeal decision TY 2020 (12-23-21) (4 pages); and
- Exhibit 5: Final appeal decision TY 2022 (12-16-23) (4 pages).

FINDINGS OF FACT

The record shows, and I so find:

1. Appellant, age 47 during 2023, from Middlesex County, filed single on the tax return with a family size of 1. (Exhibit 2).
2. Appellant did have health insurance for March, April and May of 2023, but not for the other months of 2023. Appellant did not health insurance available with the employer and paying for health insurance privately was not something Appellant believed was affordable, with Appellant's expenses. (Appellant's testimony, Exhibits 2, 3).
3. Appellant lost their full-time job in May 2024 and has had to do temporary jobs to make ends meet. (Appellant testimony, Exhibit 3).
4. Appellant's Federal Adjusted Gross Income for 2023 was \$50,187.00 (Exhibit 2).

5. Appellant's expenses for food, shelter, clothing and other necessities used a good amount of the income. (Appellant testimony).
6. I take administrative notice of the financial information set forth in Tables 1 through 6 in the DOR 2023 Massachusetts Schedule HC Health Care Instructions and Worksheets. Tables 3 and 4 incorporate affordability and premium schedules adopted by the Board of Directors for the Commonwealth Health Insurance Connector Authority for 2023. Table 2 sets forth income at 300% of the Federal poverty level and Tables 5 and 6 set forth tax penalties in effect for 2023.
7. Appellant could not afford health insurance based on the tables in Schedule HC. According to Table 4, the health insurance would cost \$409.00 for individual coverage. According to Table 3, Appellant was deemed to afford \$317.00.
8. Private insurance was not affordable for the Appellant in 2023. (Schedule HC for 2023).
9. Appellant's AGI was over 300% of the Federal Poverty Level for a family size of 1, and Appellant therefore would not have qualified for subsidized health insurance through the Health Connector. (Schedule HC for 2023).
10. Appellant claimed that they should be granted a waiver based on the grounds paying for health insurance would have caused a serious deprivation of food, shelter, clothing and other necessities. (Testimony of Appellant, Exhibit 3).
11. Appellant did not incur significant and unexpected increases in essential expenses as a result of domestic violence or the sudden responsibility for providing full care for an aging parent or other family member; and did not incur such expenses due to the death of a spouse, family member, or partner who shared household expenses. Appellant did not incur additional expenses as a result of a fire, flood, or other natural or man-made disaster in 2023 (Exhibit 3).
12. Appellant was not homeless, was not thirty days or more behind in rent in 2023 and did not receive eviction notices. Appellant did not receive a shut-off notice for basic utilities. (Appellant's Testimony, Exhibit 3).

ANALYSIS AND CONCLUSIONS OF LAW

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

G.L. c. 111M, § 2, also called the "individual mandate", requires every adult resident of Massachusetts to obtain insurance coverage "[s]o long as it is deemed affordable" under the schedule set by the board of directors for the Commonwealth Health Insurance Connector Authority. 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. <https://www.mahealthconnector.org/wp-content/uploads/rules-and-regulations/AdminBulletin03-10.pdf>. The connector's regulations provide for a waiver of the tax penalty in the case of financial hardship. See 956 CMR 6.08.

Appellant did have health insurance for March, April and May of 2023, but not for the other months of 2023. They have been assessed a tax penalty for four months. Appellant appealed the assessment. See

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

Private insurance was not affordable for the Appellant during 2023. According to Tables 3 and 4 of the HC Schedule for 2023, Appellant, with an adjusted gross income of \$50, 187.00 was deemed to not have been able to afford health insurance on the private market. According to Table 3, Appellant could have afforded to pay \$317.00 per month; according to Table 4, Appellant, who was 47 years old in 2023, from Middlesex County, and filed the 2023 Massachusetts taxes as single with a family size of 1, would have had to pay \$409.00 for individual coverage per month for insurance on the private market. See CMR 6.05 (1)(2), Schedule HC Tables 3 and 4, and Exhibit 2.

With regard to the hardship waiver of the penalty, Appellant claimed that they should be granted a waiver based on the grounds that paying for health insurance would have caused a serious deprivation of food, shelter, clothing and other necessities. Appellant's expenses for necessities used a good deal of the income. For these reasons, the waiver of the penalty is approved.

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

PENALTY ASSESSED

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

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

NOTIFICATION OF YOUR RIGHT TO APPEAL TO COURT

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

Hearing Officer

Cc: Connector Appeals Unit

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

Massachusetts Health Connector Appeals Unit

FINAL APPEAL DECISION: PA23-306

Appeal Decision Appeal Approved.

Hearing Issue: Appeal of the 2023 Tax Year Penalty

Hearing Date: August 13, 2024

Decision Date: September 4, 2024

AUTHORITY

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

JURISDICTION

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

HEARING RECORD

Appellant appeared at the hearing, which was held by telephone, on August 13, 2024. The hearing record consists of the Appellant's testimony, and the following documents which were admitted into evidence without objection by Appellant:

- Exhibit 1: Notice of Hearing (7-9-24) (2 pages);
- Exhibit 2: Information from Schedule HC TY 2023 (1 page);
- Exhibit 3: Statement of Grounds for Appeal (4-8-24) (with documents) (41 pages).

FINDINGS OF FACT

The record shows, and I so find:

1. Appellant, age 26 during 2023, from Middlesex County, filed single on the tax return with a family size of 1. (Exhibit 2).
2. Appellant did not live in the United States during 2023. Appellant was living in London, England for the entire year, and had health care available through National Health Insurance and also had traveler's health insurance. (Appellant's testimony, Exhibits 2, 3).
3. Appellant had a signed lease submitted with the appeal. Though Appellant continued to use their parent's address in the United States for some matters, Appellant was not residing in Massachusetts during 2023. (Appellant testimony, Exhibit 3).
4. Appellant's Federal Adjusted Gross Income for 2023 was \$20,565.00 (Exhibit 2).
5. I take administrative notice of the financial information set forth in Tables 1 through 6 in the DOR 2023 Massachusetts Schedule HC Health Care Instructions and Worksheets. Tables 3 and 4 incorporate affordability and premium schedules adopted by the Board of Directors for the

- Commonwealth Health Insurance Connector Authority for 2023. Table 2 sets forth income at 300% of the Federal poverty level and Tables 5 and 6 set forth tax penalties in effect for 2023.
6. Appellant could not afford health insurance based on the tables in Schedule HC. According to Table 4, the health insurance would cost \$312.00 for individual coverage. According to Table 3, Appellant was deemed to afford \$48.00.
 7. Private insurance was not affordable for the Appellant in 2023. (Schedule HC for 2023).
 8. Appellant's AGI was under 300% of the Federal Poverty Level for a family size of 1, and Appellant therefore may have qualified for subsidized health insurance through the Health Connector, if Appellant had been living in Massachusetts. (Schedule HC for 2023).
 9. Appellant claimed that they should be granted a waiver based on the grounds they were not required to have health insurance in Massachusetts during 2023. (Testimony of Appellant, Exhibit 3).
 10. Appellant did not incur significant and unexpected increases in essential expenses as a result of domestic violence or the sudden responsibility for providing full care for an aging parent or other family member; and did not incur such expenses due to the death of a spouse, family member, or partner who shared household expenses. Appellant did not incur additional expenses as a result of a fire, flood, or other natural or man-made disaster in 2023 (Exhibit 3).
 11. Appellant was not homeless, was not thirty days or more behind in rent in 2023 and did not receive eviction notices. Appellant did not receive a shut-off notice for basic utilities. (Appellant's Testimony, Exhibit 3).

ANALYSIS AND CONCLUSIONS OF LAW

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

G.L. c. 111M, § 2, also called the "individual mandate", requires every adult resident of Massachusetts to obtain insurance coverage "[s]o long as it is deemed affordable" under the schedule set by the board of directors for the Commonwealth Health Insurance Connector Authority. 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. <https://www.mahealthconnector.org/wp-content/uploads/rules-and-regulations/AdminBulletin03-10.pdf>. The connector's regulations provide for a waiver of the tax penalty in the case of financial hardship. See 956 CMR 6.08.

Appellant did not have health insurance for 2023 in Massachusetts, but Appellant was not residing in Massachusetts during 2023. They have been assessed a tax penalty for twelve months. Appellant appealed the assessment. See Exhibits 2, and 3. To determine if the penalty should be waived in whole or in part, we must consider whether affordable insurance which met minimum creditable coverage standards was available to the Appellant through employment, through the private market, or through a government-sponsored program. If affordable insurance was available, we must determine if such

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

Private insurance was not affordable for the Appellant during 2023. According to Tables 3 and 4 of the HC Schedule for 2023, Appellant, with an adjusted gross income of \$20,565.00 was deemed to not have been able to afford health insurance on the private market. According to Table 3, Appellant could have afforded to pay \$48.00 per month; according to Table 4, Appellant, who was 26 years old in 2023, from Middlesex County, and filed the 2023 Massachusetts taxes as single with a family size of 1, would have had to pay \$312.00 for individual coverage per month for insurance on the private market. See CMR 6.05 (1)(2), Schedule HC Tables 3 and 4, and Exhibit 2.

With regard to the hardship waiver of the penalty, Appellant claimed that they should be granted a waiver based on the grounds that they were not required to have health insurance in Massachusetts during 2023 as they were living in England for the entire year. For these reasons, the waiver of the penalty is approved.

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

PENALTY ASSESSED

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

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

NOTIFICATION OF YOUR RIGHT TO APPEAL TO COURT

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

Hearing Officer

Cc: Connector Appeals Unit

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

Massachusetts Health Connector Appeals Unit

FINAL APPEAL DECISION: PA 23-351

Appeal Decision Appeal Allowed

Hearing Issue: Appeal of the 2023 Tax Year Penalty

Hearing Date: September 13, 2024

Decision Date: September 26, 2024

AUTHORITY

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

JURISDICTION

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

HEARING RECORD

The Appellant appeared at the hearing, which was held by telephone, on September 13, 2024. The procedures to be followed during the hearing were reviewed with 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 2, 2024
- Exhibit 2: Appeal Case Information from form Schedule HC
- Exhibit 3: Statement of Grounds for Appeal Dated April 19, 2024
- Exhibit 4: Open Records Documents

FINDINGS OF FACT

The record shows, and I so find:

1. The appellant is twenty-five years old and is single. She lives in Middlesex County.
2. The appellant works for a science company. Appellant had health insurance in 2023 through her father, who live in New York. When Appellant sent her proof of insurance to the Health connector the image was not readable. Appellant sent in her father's 1095-C that shows that the Appellant had coverage for 2023.
3. Appellant does have health insurance in 2024.
4. The Appellant did submit a Statement of Grounds for Appeal-2023 " Other. During 2023 other circumstances, 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 2023. Table 1 sets forth the income eligibility standards for various family sizes at 150% of the federal poverty level and Table 2 sets forth the income eligibility standards for various family sizes at 300 per cent of the federal poverty level, which is the income eligibility standard for the government-subsidized health insurance program. See Mass. G.L. c. 118H, s.3(a)(1). Tables 5 and 6 set forth the tax penalties for 2023.
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, because Appellant's income of \$80,677.00 was more than \$40,770.00. The monthly premium for health insurance available on the private market in Middlesex County for a 24 year old single person was \$312.00. The tables reflect that Appellant could afford \$537.84 This is less than what the appellant is deemed to afford. (Tables 2, 3 & 4 of the Schedule HC Instructions)

ANALYSIS AND CONCLUSIONS OF LAW

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

The appellant works for a science company. Appellant had health insurance in 2023 through her father, who live in New York. When, Appellant sent her proof of insurance to the Health connector the image was not readable. Appellant sent in her father’s 1095-C that shows that the Appellant had coverage for 2023.

The Appellant did submit a Statement of Grounds for Appeal-2023 “ Other. During 2023 other circumstances, 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 2023, 150 percent of the FPL was \$20,385.00 for a single person. In addition a lapse in coverage of 63 days or less is not subject to the section 2(b) penalty. See Administrative Bulletin 03-10 (Dec. 7, 2010), available at <https://www.mahealthconnector.org/portal/binary/com.epicentric.contentmanagement.servlet.ContentDeliveryServlet/Health%2520Care%2520Reform/Regulations/documents/Administrative%20Information%20Bulletin%2003-10.pdf>; see also 830 Mass. Code Regs. 111M.2.1(5)(c) (2008). Thus, no penalty is imposed for lapses in coverage consisting of three or fewer consecutive calendar months. *Id.*

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

Appellant reported a federal AGI of \$80,677.00 in 2023, and Appellant’s filing status was single. EX 2. According to the Affordability Schedule established by the Connector’s board and included in the Instructions and Worksheets of the 2023 Massachusetts Schedule HC, Appellant could afford to pay \$537.84 monthly for health insurance. See 2023 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 \$312.00 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).

On these facts, I find that Appellant has shown that she had health insurance for 2023 through her parent. 956 Mass. Code Regs. 6.08(3) (2008). Accordingly, I conclude that she is exempt from a tax penalty because he had health insurance.

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

PENALTY ASSESSED

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

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

OR

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

NOTIFICATION OF YOUR RIGHT TO APPEAL TO COURT

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

Hearing Officer

Cc: Connector Appeals Unit

Massachusetts Health Connector Appeals Unit

FINAL APPEAL DECISION: PA23-359

Appeal Decision Appeal Approved.

Hearing Issue: Appeal of the 2023 Tax Year Penalty

Hearing Date: September 11, 2024

Decision Date: September 17, 2024

AUTHORITY

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

JURISDICTION

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

HEARING RECORD

Appellant appeared at the hearing, which was held by telephone, on September 11, 2024. The hearing record consists of the Appellant's testimony, and the following documents which were admitted into evidence without objection by Appellant:

- Exhibit 1: Notice of Hearing (8-2-24) (2 pages);
- Exhibit 2: Information from Schedule HC TY 2023 (1 page);
- Exhibit 3: Statement of Grounds for Appeal (undated) (with letter) (3 pages).

FINDINGS OF FACT

The record shows, and I so find:

1. Appellant, age 37 during 2023, from Essex County, filed single on the tax return with a family size of 1. (Exhibit 2).
2. Appellant did have health insurance for some of the months of 2023, but the Schedule HC did not reflect that information. Appellant had lost a job in the beginning of 2023, but had health insurance through that employer for the first few months of 2023. Appellant then got another job but had to wait for the health insurance to start so did not have health insurance for three months, but then had it again for the remainder of the year. (Appellant's testimony, Exhibits 2, 3).
3. It is not clear why the Schedule HC does not reflect this insurance as Appellant indicated she believed it met Massachusetts standards. (Testimony).
4. Appellant's brother also died during this period. (Appellant testimony).

5. Appellant indicated that they tried to apply for MassHealth (Health Connector) but received many telephone calls and ended up being defrauded and reported it to the local police. (Testimony).
6. Appellant's Federal Adjusted Gross Income for 2023 was \$38,826.00 (Exhibit 2).
7. I take administrative notice of the financial information set forth in Tables 1 through 6 in the DOR 2023 Massachusetts Schedule HC Health Care Instructions and Worksheets. Tables 3 and 4 incorporate affordability and premium schedules adopted by the Board of Directors for the Commonwealth Health Insurance Connector Authority for 2023. Table 2 sets forth income at 300% of the Federal poverty level and Tables 5 and 6 set forth tax penalties in effect for 2023.
8. Appellant could not afford health insurance based on the tables in Schedule HC. According to Table 4, the health insurance would cost \$312.00 for individual coverage. According to Table 3, Appellant was deemed to afford \$156.00.
9. Private insurance was not affordable for the Appellant in 2023. (Schedule HC for 2023).
10. Appellant's AGI was under 300% of the Federal Poverty Level for a family size of 1, and Appellant therefore may have qualified for subsidized health insurance through the Health Connector. (Schedule HC for 2023).
11. Appellant claimed that they should be granted a waiver based on the grounds Appellant thought they had health insurance through the employer, but due to a change of insurance with the employer that Appellant was unaware of, Appellant did not have the insurance and could not obtain it. (Testimony of Appellant, Exhibit 3).
12. Appellant did not incur significant and unexpected increases in essential expenses as a result of domestic violence or the sudden responsibility for providing full care for an aging parent or other family member; and did not incur such expenses due to the death of a spouse, family member, or partner who shared household expenses. Appellant did not incur additional expenses as a result of a fire, flood, or other natural or man-made disaster in 2023 (Exhibit 3).
13. Appellant was not homeless, was not thirty days or more behind in rent in 2023 and did not receive eviction notices. Appellant did not receive a shut-off notice for basic utilities. (Appellant's Testimony, Exhibit 3).

ANALYSIS AND CONCLUSIONS OF LAW

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

G.L. c. 111M, § 2, also called the "individual mandate", requires every adult resident of Massachusetts to obtain insurance coverage "[s]o long as it is deemed affordable" under the schedule set by the board of directors for the Commonwealth Health Insurance Connector Authority. 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. <https://www.mahealthconnector.org/wp-content/uploads/rules-and-regulations/AdminBulletin03-10.pdf>. The connector's regulations provide for a waiver of the tax penalty in the case of financial hardship. See 956 CMR 6.08.

Appellant did have health insurance for some of the months of 2023, but it was not reflected on the Schedule HC. They have been assessed a tax penalty for twelve months. Appellant appealed the assessment. See Exhibits 2, and 3. To determine if the penalty should be waived in whole or in part, we must consider whether affordable insurance which met minimum creditable coverage standards was available to the Appellant through employment, through the private market, or through a government-sponsored program. If affordable insurance was available, we must determine if such insurance was, in fact, not affordable to the Appellant because they experienced a financial hardship as defined in 956 CMR 6.08.

Private insurance was not affordable for the Appellant during 2023. According to Tables 3 and 4 of the HC Schedule for 2023, Appellant, with an adjusted gross income of \$38,8262.00 was deemed to not have been able to afford health insurance on the private market. According to Table 3, Appellant could have afforded to pay \$156.00 per month; according to Table 4, Appellant, who was 27 years old in 2023, from Middlesex County, and filed the 2023 Massachusetts taxes as single with a family size of 1, would have had to pay \$312.00 for individual coverage per month for insurance on the private market. See CMR 6.05 (1)(2), Schedule HC Tables 3 and 4, and Exhibit 2.

With regard to the hardship waiver of the penalty, Appellant claimed that they should be granted a waiver based on the grounds Appellant they had health insurance for some of the months, and when they tried to enroll in MassHealth (Health Connector), they provided a phone number and then received many telephone calls and ended up being defrauded. Appellant the obtained insurance through a new employer later in 2023. For these reasons, the waiver of the penalty is approved.

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

PENALTY ASSESSED

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

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

NOTIFICATION OF YOUR RIGHT TO APPEAL TO COURT

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

Hearing Officer

Cc: Connector Appeals Unit

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

Massachusetts Health Connector Appeals Unit

FINAL APPEAL DECISION: PA23-362

Appeal Decision Appeal Approved.

Hearing Issue: Appeal of the 2023 Tax Year Penalty

Hearing Date: September 11, 2024

Decision Date: September 17, 2024

AUTHORITY

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

JURISDICTION

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

HEARING RECORD

Appellant appeared at the hearing, which was held by telephone, on September 11, 2024. The hearing record consists of the Appellant's testimony, and the following documents which were admitted into evidence without objection by Appellant:

- Exhibit 1: Notice of Hearing (8-2-24) (2 pages);
- Exhibit 2: Information from Schedule HC TY 2023 (1 page);
- Exhibit 3: Statement of Grounds for Appeal (undated) (with document) (3 pages).

FINDINGS OF FACT

The record shows, and I so find:

1. Appellant, age 34 during 2023, from Norfolk County, filed single on the tax return with a family size of 1. (Exhibit 2).
2. Appellant did have health insurance for 2023, through the employer, who is a large non-profit based in Washington, DC. (Testimony, Exhibit 3). The employer provided a 1095-C but not a 1099-HC. Appellant believed that the insurance meets Massachusetts requirements, and did not have any difficulty obtaining health care that Appellant needed. (Testimony).
3. Appellant's Federal Adjusted Gross Income for 2023 was \$128,534.00 (Exhibit 2).
4. I take administrative notice of the financial information set forth in Tables 1 through 6 in the DOR 2023 Massachusetts Schedule HC Health Care Instructions and Worksheets. Tables 3 and 4 incorporate affordability and premium schedules adopted by the Board of Directors for the Commonwealth Health Insurance Connector Authority for 2023. Table 2 sets forth income at 300% of the Federal poverty level and Tables 5 and 6 set forth tax penalties in effect for 2023.

5. Appellant could afford health insurance based on the tables in Schedule HC. According to Table 4, the health insurance would cost \$326.00 for individual coverage. According to Table 3, Appellant was deemed to afford \$856.00.
6. Private insurance was affordable for the Appellant in 2023. (Schedule HC for 2023).
7. Appellant's AGI was over 300% of the Federal Poverty Level for a family size of 1, and Appellant therefore would not have qualified for subsidized health insurance through the Health Connector. (Schedule HC for 2023).
8. Appellant claimed that they should be granted a waiver based on the grounds Appellant had health insurance through the employer and does not know why they did not receive a 1099-HC, but only a 1095-C. (Testimony of Appellant, Exhibit 3).
9. Appellant did not incur significant and unexpected increases in essential expenses as a result of domestic violence or the sudden responsibility for providing full care for an aging parent or other family member; and did not incur such expenses due to the death of a spouse, family member, or partner who shared household expenses. Appellant did not incur additional expenses as a result of a fire, flood, or other natural or man-made disaster in 2023 (Exhibit 3).
10. Appellant was not homeless, was not thirty days or more behind in rent in 2023 and did not receive eviction notices. Appellant did not receive a shut-off notice for basic utilities. (Appellant's Testimony, Exhibit 3).

ANALYSIS AND CONCLUSIONS OF LAW

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

G.L. c. 111M, § 2, also called the "individual mandate", requires every adult resident of Massachusetts to obtain insurance coverage "[s]o long as it is deemed affordable" under the schedule set by the board of directors for the Commonwealth Health Insurance Connector Authority. 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. <https://www.mahealthconnector.org/wp-content/uploads/rules-and-regulations/AdminBulletin03-10.pdf>. The connector's regulations provide for a waiver of the tax penalty in the case of financial hardship. See 956 CMR 6.08.

Appellant did have health insurance for 2023, through the employer, but did not receive a 1099-HC. They have been assessed a tax penalty for twelve months. Appellant appealed the assessment. See Exhibits 2, and 3. To determine if the penalty should be waived in whole or in part, we must consider whether affordable insurance which met minimum creditable coverage standards was available to the Appellant through employment, through the private market, or through a government-sponsored program. If affordable insurance was available, we must determine if such insurance was, in fact, not affordable to the Appellant because they experienced a financial hardship as defined in 956 CMR 6.08.

Private insurance was affordable for the Appellant during 2023. According to Tables 3 and 4 of the HC Schedule for 2023, Appellant, with an adjusted gross income of \$128,534.00 was deemed to have been able to afford health insurance on the private market. According to Table 3, Appellant could have afforded to pay \$856.00 per month; according to Table 4, Appellant, who was 34 years old in 2023, from Norfolk County, and filed the 2023 Massachusetts taxes as single with a family size of 1, would have had to pay \$326.00 for individual coverage per month for insurance on the private market. See CMR 6.05 (1)(2), Schedule HC Tables 3 and 4, and Exhibit 2.

With regard to the hardship waiver of the penalty, Appellant claimed that they should be granted a waiver based on the grounds Appellant had health insurance, through the employer, but did not receive a 1099-HC. The health insurance met all of Appellant's needs, and the employer is a national non-profit based in Washington, DC. Appellant will inquire about obtaining the proper form for Massachusetts. For these reasons, the waiver of the penalty is approved.

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

PENALTY ASSESSED

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

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

NOTIFICATION OF YOUR RIGHT TO APPEAL TO COURT

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

Hearing Officer

Cc: Connector Appeals Unit

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

Massachusetts Health Connector Appeals Unit

FINAL APPEAL DECISION: PA23-363

Appeal Decision Appeal Approved.

Hearing Issue: Appeal of the 2023 Tax Year Penalty

Hearing Date: September 11, 2024

Decision Date: September 17, 2024

AUTHORITY

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

JURISDICTION

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

HEARING RECORD

Appellant appeared at the hearing, which was held by telephone, on September 11, 2024. The hearing record consists of the Appellant's testimony, and the following documents which were admitted into evidence without objection by Appellant:

- Exhibit 1: Notice of Hearing (8-2-24) (2 pages);
- Exhibit 2: Information from Schedule HC TY 2023 (1 page);
- Exhibit 3: Statement of Grounds for Appeal (4-20-24) (2 pages); and
- Exhibit 4: Final appeal decision TY 2022 (12-6-23) (5 pages).

FINDINGS OF FACT

The record shows, and I so find:

1. Appellant, age 32 during 2023, from Worcester County, filed single on the tax return with a family size of 1. (Exhibit 2).
2. Appellant did have health insurance for 2023. For the first few months of 2023, Appellant had health insurance through EVOLVE, and it did not meet minimum creditable coverage. Appellant then asked the employer to assist with insurance and obtained insurance through Tufts (Silver Plan). Appellant did receive a 1099-HC for the months they had Tufts insurance through the Health Connector, and Appellant does not know why the Schedule HC does not reflect that information (Testimony).
3. Appellant's Federal Adjusted Gross Income for 2023 was \$66,091.00 (Exhibit 2).
4. Appellant's expenses for food, shelter, clothing and other necessities used a good amount of the income. The monthly expenses totaled \$4,415.00 or \$52,980.00 per year. (Appellant testimony).

5. I take administrative notice of the financial information set forth in Tables 1 through 6 in the DOR 2023 Massachusetts Schedule HC Health Care Instructions and Worksheets. Tables 3 and 4 incorporate affordability and premium schedules adopted by the Board of Directors for the Commonwealth Health Insurance Connector Authority for 2023. Table 2 sets forth income at 300% of the Federal poverty level and Tables 5 and 6 set forth tax penalties in effect for 2023.
6. Appellant could afford health insurance based on the tables in Schedule HC. According to Table 4, the health insurance would cost \$326.00 for individual coverage. According to Table 3, Appellant was deemed to afford \$440.00.
7. Private insurance was affordable for the Appellant in 2023. (Schedule HC for 2023).
8. Appellant's AGI was over 300% of the Federal Poverty Level for a family size of 1, and Appellant therefore would not have qualified for subsidized health insurance through the Health Connector. (Schedule HC for 2023).
9. Appellant claimed that they should be granted a waiver based on the grounds paying for health insurance would have caused a serious deprivation of food, shelter, clothing and other necessities. Appellant also claimed that paying for health insurance would have caused a serious deprivation of food, shelter, clothing and other necessities. (Testimony of Appellant, Exhibit 3).
10. Appellant did not incur significant and unexpected increases in essential expenses as a result of domestic violence or the sudden responsibility for providing full care for an aging parent or other family member; and did not incur such expenses due to the death of a spouse, family member, or partner who shared household expenses. Appellant did not incur additional expenses as a result of a fire, flood, or other natural or man-made disaster in 2023 (Exhibit 3).
11. Appellant was not homeless, was not thirty days or more behind in rent in 2023 and did not receive eviction notices. Appellant did not receive a shut-off notice for basic utilities. (Appellant's Testimony, Exhibit 3).

ANALYSIS AND CONCLUSIONS OF LAW

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

G.L. c. 111M, § 2, also called the "individual mandate", requires every adult resident of Massachusetts to obtain insurance coverage "[s]o long as it is deemed affordable" under the schedule set by the board of directors for the Commonwealth Health Insurance Connector Authority. 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. <https://www.mahealthconnector.org/wp-content/uploads/rules-and-regulations/AdminBulletin03-10.pdf>. The connector's regulations provide for a waiver of the tax penalty in the case of financial hardship. See 956 CMR 6.08.

Appellant did have health insurance for 2023, but for part of the year it did not meet minimum creditable coverage. They have been assessed a tax penalty for twelve months. Appellant appealed the assessment. See Exhibits 2, and 3. To determine if the penalty should be waived in whole or in part, we

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

Private insurance was affordable for the Appellant during 2023. According to Tables 3 and 4 of the HC Schedule for 2023, Appellant, with an adjusted gross income of \$66,091.00 was deemed to have been able to afford health insurance on the private market. According to Table 3, Appellant could have afforded to pay \$440.00 per month; according to Table 4, Appellant, who was 32 years old in 2023, from Norfolk County, and filed the 2023 Massachusetts taxes as single with a family size of 1, would have had to pay \$326.00 for individual coverage per month for insurance on the private market. See CMR 6.05 (1)(2), Schedule HC Tables 3 and 4, and Exhibit 2.

With regard to the hardship waiver of the penalty, Appellant claimed that they should be granted a waiver based on the grounds that paying for health insurance would have caused a serious deprivation of food, shelter, clothing and other necessities. In addition, Appellant claimed that they had insurance through the Health Connector (Tufts Silver Plan) for August through December 2023. Appellant had a 1099-HC for those months and does not know why the tax return does not reflect that information. Appellant's expenses for necessities used a good deal of the income. For these reasons, the waiver of the penalty is approved.

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

PENALTY ASSESSED

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

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

NOTIFICATION OF YOUR RIGHT TO APPEAL TO COURT

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

Hearing Officer

Cc: Connector Appeals Unit

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

Massachusetts Health Connector Appeals Unit

FINAL APPEAL DECISION: PA23-364

Appeal Decision Appeal Approved.

Hearing Issue: Appeal of the 2023 Tax Year Penalty

Hearing Date: September 11, 2024

Decision Date: September 17, 2024

AUTHORITY

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

JURISDICTION

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

HEARING RECORD

Appellant appeared at the hearing, which was held by telephone, on September 11, 2024. The hearing record consists of the Appellant's testimony, and the following documents which were admitted into evidence without objection by Appellant:

- Exhibit 1: Notice of Hearing (8-2-24) (2 pages);
- Exhibit 2: Information from Schedule HC TY 2023 (1 page);
- Exhibit 3: Statement of Grounds for Appeal (4-18-24) (with letter and documents) (5 pages);
- Exhibit 4: Final appeal decision TY 2018 (12-6-19) (3 pages); and
- Exhibit 5: Final appeal decision TY 2019 (5-20-20) (3 pages).

FINDINGS OF FACT

The record shows, and I so find:

1. Appellants, ages 64 and 59 during 2023, from Worcester County, filed married filing jointly on the tax return with a family size of 2. (Exhibit 2).
2. One of Appellants had health insurance, and the other Appellant did not have health insurance and paying for health insurance privately was not something Appellant believed was affordable, with Appellant's expenses. Appellant was retired and on a fixed income. (Appellant's testimony, Exhibits 2, 3).
3. Appellants' Federal Adjusted Gross Income for 2023 was \$42,908.00 (Exhibit 2).
4. Appellant's expenses for food, shelter, clothing and other necessities used all of the income. The monthly expenses totaled \$5,281.00 or \$63,372.00 per year. (Appellant testimony).
5. Appellant now has insurance through Medicare. (Testimony).

6. I take administrative notice of the financial information set forth in Tables 1 through 6 in the DOR 2023 Massachusetts Schedule HC Health Care Instructions and Worksheets. Tables 3 and 4 incorporate affordability and premium schedules adopted by the Board of Directors for the Commonwealth Health Insurance Connector Authority for 2023. Table 2 sets forth income at 300% of the Federal poverty level and Tables 5 and 6 set forth tax penalties in effect for 2023.
7. Appellant could not afford health insurance based on the tables in Schedule HC. According to Table 4, the health insurance would cost \$979.00 for family coverage. According to Table 3, Appellant was deemed to afford \$221.00.
8. Private insurance was not affordable for the Appellant in 2023. (Schedule HC for 2023).
9. Appellant's AGI was under 300% of the Federal Poverty Level for a family size of 2, and Appellant therefore may have qualified for subsidized health insurance through the Health Connector. (Schedule HC for 2023).
10. Appellant claimed that they should be granted a waiver based on the grounds paying for health insurance would have caused a serious deprivation of food, shelter, clothing and other necessities. (Testimony of Appellant, Exhibit 3).
11. Appellant did not incur significant and unexpected increases in essential expenses as a result of domestic violence or the sudden responsibility for providing full care for an aging parent or other family member; and did not incur such expenses due to the death of a spouse, family member, or partner who shared household expenses. Appellant did not incur additional expenses as a result of a fire, flood, or other natural or man-made disaster in 2023 (Exhibit 3).
12. Appellant was not homeless, was not thirty days or more behind in rent in 2023 and did not receive eviction notices. Appellant did not receive a shut-off notice for basic utilities. (Appellant's Testimony, Exhibit 3).

ANALYSIS AND CONCLUSIONS OF LAW

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

G.L. c. 111M, § 2, also called the "individual mandate", requires every adult resident of Massachusetts to obtain insurance coverage "[s]o long as it is deemed affordable" under the schedule set by the board of directors for the Commonwealth Health Insurance Connector Authority. 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. <https://www.mahealthconnector.org/wp-content/uploads/rules-and-regulations/AdminBulletin03-10.pdf>. The connector's regulations provide for a waiver of the tax penalty in the case of financial hardship. See 956 CMR 6.08.

One of Appellants had insurance, and the other Appellant did not have insurance 2023. They have been assessed a tax penalty for twelve months for one of them, and zero months for the other. Appellant appealed the assessment. See Exhibits 2, and 3. To determine if the penalty should be waived in whole or in part, we must consider whether affordable insurance which met minimum creditable coverage

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

Private insurance was not affordable for the Appellant during 2023. According to Tables 3 and 4 of the HC Schedule for 2023, Appellants, with an adjusted gross income of \$42,908.00 was deemed to not have been able to afford health insurance on the private market. According to Table 3, Appellant could have afforded to pay \$221.00 per month; according to Table 4, Appellant, who was 64 years old in 2023, from Worcester County, and filed the 2023 Massachusetts taxes as married filing jointly with a family size of 2, would have had to pay \$979.00 for family coverage per month for insurance on the private market. See CMR 6.05 (1)(2), Schedule HC Tables 3 and 4, and Exhibit 2.

With regard to the hardship waiver of the penalty, Appellant claimed that they should be granted a waiver based on the grounds that paying for health insurance would have caused a serious deprivation of food, shelter, clothing and other necessities. Appellant's expenses for necessities used all of the income. Appellant now has insurance through Medicare. For these reasons, the waiver of the penalty is approved.

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

PENALTY ASSESSED

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

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

NOTIFICATION OF YOUR RIGHT TO APPEAL TO COURT

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

Hearing Officer

Cc: Connector Appeals Unit

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

Massachusetts Health Connector Appeals Unit

FINAL APPEAL DECISION: PA23-369

Appeal Decision: Penalty Overturned in Full

Hearing Issue: Appeal of the 2023 Tax Year Penalty

Hearing Date: September 17, 2024

Decision Date: September 25, 2024

AUTHORITY

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

JURISDICTION

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

HEARING RECORD

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

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

FINDINGS OF FACT

The record shows, and I so find:

1. The appellant is 57-years-old, her husband is 58-years-old, and they have adult children. In 2023, she had minimum creditable coverage (MCC) health insurance from February through June. She resided in Berkshire County, MA in 2023. (Testimony, Ex. 2)
2. The appellant had health insurance through the Health Connector from February through June, 2023, and paid a monthly premium of approximately \$700.00. She was unable to continue to pay the cost and discontinued the insurance for the rest of the year. (Testimony)
3. The appellant had health insurance through the Health Connector on and off between 2020 and 2023. She has never been assessed a penalty for failure to obtain insurance. (Testimony)
4. The appellant's husband was diagnosed with ALS in 2020 and has had health insurance through Medicare since that time. (Testimony)

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

5. The appellant is self-employed. Her husband was also self-employed until he was no longer able to work due to his illness. (Testimony)
6. The appellant provided most of the care for her husband until 2023. Up until that point, he could be left on his own. By 2023, things had taken a turn for the worse. The appellant hired a nursing service to look after him while she was working and paid \$1200.00/month for that service. (Testimony)
7. In 2023, the appellant and her husband sold a rental property they owned. After the mortgage and other expenses were paid off, they were left with a profit of approximately \$20,000.00. The sale of the property inflated their income for that year and made it look far higher than usual. (Testimony)
8. The appellant could not estimate what income she earned from self-employment in 2023. (Testimony)
9. The appellant has been enrolled in health insurance through the Health Connector since January, 2024. (Testimony)
10. The appellant was assessed a penalty for not having health insurance for the 2020 tax year. She filed an appeal and the penalty was waived by the Health Connector without a hearing. (Testimony, Ex. 2)
11. The appellant and her husband reported an adjusted gross income of \$265,180.00 on their jointly filed 2023 federal tax return, and reported that they were married with no dependents. Of that amount, the husband received approximately \$1600.00/month in social security disability benefits. (Ex. 2)
12. In 2023, the appellant and her husband had regular monthly expenses of approximately \$4227.00 for their mortgage which included real estate taxes (\$1700.00), homeowner's insurance (\$123.00), trash collection (\$125.00), septic tank (\$29.00), heat (\$125.00), electricity (\$350.00), internet and cable service (\$300.00), cell phones (\$110.00), automobile payment (\$555.00), automobile insurance (\$150.00), gasoline (\$60.00) and food (\$600.00). In addition, they paid approximately \$1000.00/month towards credit card debt. (Testimony)

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

ANALYSIS AND CONCLUSIONS OF LAW

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

The appellant submitted a statement of grounds for appeal (Ex. 1) claiming that the individual mandate did not apply to her in 2023 because she incurred a significant, unexpected increase in essential expenses resulting directly from the sudden responsibility for providing full care for an aging parent or other family member. The appellant wrote on the statement that her husband has ALS.

The appellant had health insurance for the months of February through June. According to M.G.L. c. 111M, s. 2, residents are permitted a 63-day gap between periods of coverage without facing a tax penalty; for Tax Year 2023, Administrative Bulletin 03-10: Guidance Regarding M.G.L. c. 111M and M.G.L. c. 176Q, as implemented by 956 CMR 6.00, interprets the 63-day gap in coverage to be three months.

<https://www.mahealthconnector.org/wp-content/uploads/rules-and-regulations/AdminBulletin03-10.pdf> As a result, gaps of three months are not subject to penalty. Since the appellant had insurance for six months, she 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 her husband was diagnosed with ALS in 2020 and up until 2023, he could be left on his own. She testified that things took a turn for the worse in 2023, and she had to hire a nursing service to look after him while she worked. She testified that she paid \$1200.00/month for that service. She testified that she has had health insurance through the Health Connector on and off since 2020, and has never been subject to a penalty. She testified that she was enrolled in insurance for six months in 2023, but discontinued it because she could no longer afford the monthly premium of \$700.00. She testified that their joint income for 2023 looked much higher than usual due to the sale of a rental property for which they made a profit of approximately \$20,000.00 once the mortgage and other expenses were paid off. Finally, she testified that she has been enrolled in insurance through the Connector in 2024.

The evidence provided by the appellant established that their joint income for 2023, \$265,180.00, was more than 300% of the federal poverty level (FPL), which for 2023 was \$73,241.00 for a married couple with no dependents. Table 3 of the Affordability Schedule indicates that a married couple with no dependents with a federal adjusted gross income greater than \$73,241.00 is deemed to be able to afford a monthly premium of \$1768.00 (8.00% of \$265,180.00/12). Table 4 of the Premium Schedule indicates that a 56-year-old individual (the age of the younger of the two in 2023) in Berkshire County (where the appellant resided in 2023) could have purchased private insurance for \$1024.00 per month, less than the monthly amount deemed affordable from Table 3. Thus, according to the foregoing analysis, the appellant could have purchased affordable private health insurance in 2023.

Even though private health insurance may have been affordable to the appellant under the law, she may nevertheless not be subject to a penalty for failing to get health insurance for the months in question if she can show that she experienced a hardship during 2023. Examples of hardships include being homeless or overdue in rent or mortgage payments, receiving a shut-off notice for utilities, or incurring unexpected increases in basic living expenses due to domestic violence, death of a family member, sudden responsibility for providing care for a family member or fire, flood or natural disaster. In addition, the appellant's tax penalty for 2023 could be waived if she experienced financial circumstances such that the expense of purchasing health insurance would have caused her to experience a serious deprivation of food, shelter, clothing or other necessities. See 956 CMR 6.08.

The appellant maintains that the addition of \$1200.00/month for nursing care for her husband caused a significant and unexpected increase in her essential expenses. While the expense may not have been entirely unexpected nor the responsibility of providing full care for her husband sudden given the progression of his illness, the fact remains that she could not continue to work without hiring help to manage the situation. Moreover, the expenditure of \$1200.00/month constituted 28% of their regular monthly expenses of \$4227.00, which can hardly be characterized as an insignificant amount.

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

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

NOTIFICATION OF YOUR RIGHT TO APPEAL TO COURT

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

Hearing Officer

Cc: Connector Appeals Unit

Massachusetts Health Connector Appeals Unit

FINAL APPEAL DECISION: PA23-384

Appeal Decision: Penalty Overturned in Full

Hearing Issue: Appeal of the 2023 Tax Year Penalty

Hearing Date: August 27, 2024

Decision Date: September 23, 2024

AUTHORITY

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

JURISDICTION

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

HEARING RECORD

The appellant appeared at the hearing which was held by telephone on August 27, 2024, and testified under oath. The hearing record consists of her testimony and the following documents which were admitted into evidence without objection:

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

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

- Ex. 4—2024 Form MA 1099-HC

FINDINGS OF FACT

The record shows, and I so find:

1. The appellant is 27-years-old, is single, and does not have children. In 2023, she had minimum creditable coverage (MCC) health insurance from January through July. She resided in Middlesex County in 2023. (Testimony, Exs. 2,4)
2. The appellant was employed from January through April, 2023, at which time she was terminated from her position. She had employer health insurance during that period, and it continued until the end of July. (Testimony, Ex. 4)

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

3. The appellant was employed as an independent contractor from August through December. The employer did not offer health insurance. (Testimony)
4. The appellant did not investigate health insurance options after her employer health insurance ended in July. (Testimony)
5. The appellant has never been subject to a penalty for not obtaining health insurance prior to 2023. (Testimony)
6. The appellant has been employed in 2024 and has been enrolled in employer health insurance since March, 2024. (Testimony)
7. The appellant's grandfather died by suicide in September, 2023. Her grandmother lived by herself in Boston. Following the death, the appellant provided care for her grandmother approximately four afternoons per week after she finished her work. She did not use her car due to a lack of parking in Boston, and traveled back and forth between Woburn where she lived and Boston by Uber. Between September and December, she spent approximately \$300.00-\$500.00/week for transportation as well as food she bought for her grandmother. (Testimony, Ex. 1)
8. The appellant reported an adjusted gross income of \$57,945.00 on her 2023 federal tax return, and reported that she was single with no dependents. (Ex. 2)
9. In 2023, the appellant had regular monthly expenses of approximately \$2095.00 for rent which included heat, electricity and internet (\$1500.00), cell phone (\$25.00), automobile insurance (\$170.00), gasoline (\$200.00) and food (\$200.00). In addition, she paid approximately \$500.00/month towards credit card debt and \$300.00/month for a payment plan for legal services. (Testimony)

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

ANALYSIS AND CONCLUSIONS OF LAW

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

The appellant submitted a statement of grounds for appeal (Ex. 1) claiming that the individual mandate did not apply to her in 2023 because 1) the expense of purchasing health insurance would have caused a serious deprivation of food, clothing, shelter or other necessities and 2) she incurred a significant, unexpected increase in essential expenses resulting directly from the consequences of the death of a family member or partner with primary responsibility for child care where household expenses were shared.

The appellant did not have health insurance for the months of August through December. According to M.G.L. c. 111M, s. 2, residents are permitted a 63-day gap between periods of coverage without facing a tax penalty; for Tax Year 2023, Administrative Bulletin 03-10: Guidance Regarding M.G.L. c. 111M and M.G.L. c. 176Q, as implemented by 956 CMR 6.00, interprets the 63-day gap in coverage to be three months.

<https://www.mahealthconnector.org/wp-content/uploads/rules-and-regulations/AdminBulletin03-10.pdf>

As a result, gaps of three months are not subject to penalty. Since the appellant had insurance for the months of January through July, she was assessed and is appealing a penalty of two months (i.e., the months of uninsurance less the gap period of three months).

The appellant testified credibly that she was employed from January through April, at which time she was terminated from her position. She testified that she had employer health insurance during that period and it continued until the end of July. She testified that she started another job in August and no health insurance was available. She testified that she did not investigate health insurance options for the remainder of the year. She testified that her grandfather died by suicide in September, and she took care of her grandmother four afternoons per week. She testified that she traveled from Woburn to Boston by Uber and paid approximately \$300.00-\$500.00/week for transportation and food costs for her grandmother. Finally, she testified that she has been employed in 2024 and enrolled in employer health insurance since March, 2024.

The evidence provided by the appellant established that her income for 2023, \$57,945.00, was more than 300% of the federal poverty level (FPL), which for 2023 was \$40,770.00 for an individual. Table 3 of the Affordability Schedule indicates that an individual with no dependents with a federal adjusted gross income greater than \$54,361.00 is deemed to be able to afford a monthly premium of \$386.30 (8.00% of \$57,945.00/12). Table 4 of the Premium Schedule indicates that a 26 -year-old individual (the age of the appellant in 2023) in Middlesex County (where the appellant resided in 2023) could have purchased private insurance for \$312.00 per month, less than the monthly amount deemed affordable from Table 3. Thus, according to the foregoing analysis, the appellant could have purchased affordable private health insurance in 2023.

Even though private health insurance may have been affordable to the appellant under the law, she may nevertheless not be subject to a penalty for failing to get health insurance for the months in question if she can show that she experienced a hardship during 2023. Examples of hardships include being homeless or overdue in rent or mortgage payments, receiving a shut-off notice for utilities, or incurring unexpected increases in basic living expenses due to domestic violence, death of a family member, sudden responsibility for providing care for a family member or fire, flood or natural disaster. In addition, the appellant's tax penalty for 2023 could be waived if she experienced financial circumstances such that the expense of purchasing health insurance would have caused her to experience a serious deprivation of food, shelter, clothing or other necessities. See 956 CMR 6.08.

The evidence presented by the appellant in this case is sufficient to establish that she experienced a financial hardship as defined by law so as to waive her penalty for the months in question. The appellant testified that in 2023, she incurred basic monthly expenses of approximately \$2895.00, including payment of her credit card debt and legal services payment plan. Although those expenses were less than her regular monthly pre-tax income of approximately \$4829.00, the difference of \$1934.00 between income and expenses was inadequate to cover a private insurance premium of \$312.00/month, as well as the expenses of approximately \$1600.00/month she incurred while taking care of her grandmother from September through December. Hence, it is concluded that the totality of the evidence presented by the appellant established that she experienced financial circumstances such that the expense of purchasing health insurance that met minimum creditable coverage standards would have caused her to experience a serious deprivation of food, shelter, clothing or other necessities. See 956 CMR 6.08 (1)(e).

This conclusion makes it unnecessary to analyze the appeal on the second ground on which it was filed-i.e., a significant, unexpected increase in essential expenses resulting directly from the consequences of the death of a family member or partner with primary responsibility for childcare where household expenses were shared.

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

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 2023 for the amount equal to one half of the lowest cost health insurance plan available to you for each month you have been assessed the penalty, as listed above, plus applicable interest back to the due date of the return without regard to extension.

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

NOTIFICATION OF YOUR RIGHT TO APPEAL TO COURT

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

Hearing Officer

Cc: Connector Appeals Unit

Massachusetts Health Connector Appeals Unit

FINAL APPEAL DECISION: PA2340

Appeal Decision: The penalty is waived in full.

Hearing Issue: Appeal of the 2023 Tax Year Penalty

Hearing Date: May 7, 2024

Decision Date: August 28, 2024

AUTHORITY

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

JURISDICTION

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

HEARING RECORD

The appellant appeared at the hearing which was held by telephone on May 7, 2024. The procedures to be followed during the hearing were reviewed with Appellant who was then sworn in. Exhibits were marked and admitted in evidence with no objection from the appellant. Appellant testified.

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

Exhibit 1: Statement of Grounds for Appeal signed by Appellant on February 28, 2024 with shut-off notices attached

Exhibit 2: Appeal Case Information from Schedule HC 2023

Exhibit 3: Notice of Hearing sent to Appellant dated April 16, 2024 for May 7, 2024 hearing

FINDINGS OF FACT

The record shows, and I so find:

1. Appellant, who filed a 2023 Massachusetts tax return as a single person with no dependents claimed, was 51 years old in 2023 (Exhibit 2, Testimony of Appellant).
2. Appellant resided in Worcester County in 2023 (Testimony of Appellant, Exhibit 2).
3. Appellant had a Federal Adjusted Income of \$28,758 in 2023 (Testimony of Appellant, Exhibit 2).
4. Appellant was unemployed all of 2023. He lost his job in 2022 and during that year, he collected unemployment compensation. In 2023, he had to take money out of his 401K to pay for expenses since he was no longer eligible for benefits. The appellant was still unemployed as of the date of this hearing (Testimony of Appellant).
5. Appellant did not have health insurance all of 2023. The appellant has been assessed a tax penalty for twelve months. Appellant appealed the assessment on February 28, 2024 (Exhibits 1 and 2, Testimony of Appellant).
6. I take administrative notice of the financial information set forth in Tables 1 through 6 in the DOR 2023 Massachusetts Schedule HC Health Care Instructions and Worksheets. Tables 3 and 4 incorporate affordability and premium schedules adopted by the Board of Directors for the Commonwealth Health Insurance Connector Authority for 2023. Table 2 sets forth income at 300% of the Federal poverty level and Tables 5 and 6 set forth tax penalties in effect for 2023.

7. According to Table 3 of Schedule HC for 2023, the appellant with no dependents claimed with an adjusted gross income of \$28,758 could afford to pay \$98 per month for health insurance. According to Table 4, Appellant, 51 years old and living in Worcester County, could have purchased insurance for \$475 per month for a plan for an individual. Insurance on the individual market was unaffordable for the appellant (Schedule HC for 2023 Tables 3 and 4, Exhibit 2).
8. According to Table 2 of Schedule HC for 2023, Appellant, who earned less than \$40,770 per year, would have been eligible for the ConnectorCare program based upon income and the lack of access to employer offered insurance (Table 2 of Schedule HC-2023, Exhibit 2, and Testimony of Appellant).
9. Appellant did not incur significant and unexpected increases in essential expenses because of domestic violence; the death of a spouse, family member, or partner who shared household expenses; the sudden responsibility for providing full care for an aging parent or other family member, or a natural or human-caused event which caused substantial personal damage in 2023 (Testimony of Appellant).
10. Appellant received a shut-off notice for gas and electricity in December, 2023 (Testimony of Appellant).
11. Appellant fell more than thirty days behind in mortgage payments in November or December, 2023 (Testimony of Appellant).
12. The appellant had the following monthly expenses for basic necessities in 2023: mortgage, property taxes, and home owner's insurance-\$1,150; electricity and gas-\$250; heat-\$180; telephone and internet-\$170; car insurance-\$100; gas-\$100; food-\$450; clothing-\$10 (Testimony of Appellant).

ANALYSIS AND CONCLUSIONS OF LAW

The issue on appeal is whether the tax penalty assessed by the Massachusetts Department of Revenue for 2023 should be waived, either in whole or in part.

G.L. c. 111M, § 2, also called the "individual mandate," requires every adult resident of Massachusetts to obtain insurance coverage that meets minimum creditable standards set by the Commonwealth "[s]o long as it is deemed affordable" under the schedule set by the board of directors for the Commonwealth Health Insurance Connector Authority. Residents who do not obtain insurance are subject to a tax penalty for "each of the months" that the individual did not have health insurance as required by the individual mandate. There is a three-month grace period to allow the taxpayer to obtain health insurance coverage or to make the transition between health insurance policies. See G. L. c. 111M, sec. 2(b) and for Tax Year 2010, Administrative Bulletin 03-10: Guidance Regarding M.G.L. c. 111M and M.G.L. c. 176Q, as implemented by 956 CMR 6.00, which interprets the 63-day gap in coverage to be three months. The Connector's regulations provide for a waiver of the tax penalty in the case of a financial hardship. See 956 CMR 6.08. Pursuant to 45 CFR 155.305(f), an individual is not eligible for an advance premium tax credit if the individual has access to affordable health insurance which meets minimum essential coverage as defined in the Patient Protection and Affordable Care Act.

Appellant had no health insurance which met the Commonwealth's standards in 2023. Appellant has been assessed a penalty for twelve months. The appellant has appealed the assessment, claiming that he had received shut-off notices for basic utilities. See Exhibits 1, 2,

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

According to Table 3 of Schedule HC for 2023, the appellant with no dependents claimed with an adjusted gross income of \$28,758 could afford to pay \$98 per month for health insurance. According to Table 4, Appellant, 51 years old and living in Worcester County, could have purchased insurance for \$475 per month for a plan for an individual. Insurance on the individual market was unaffordable for the appellant. See Schedule HC for 2023 Tables 3 and 4, and Exhibit 2.

Appellant was eligible for enrollment in the ConnectorCare program. The appellant's annual Federal Adjusted Income was \$28,758, less than the income limit for one person (\$40,770). Appellant also was not offered health insurance through employment. See 956 CMR 12.00 et. seq., Exhibit 2, and Table 2 of Schedule HC 2023. There is no evidence in the record that Appellant was eligible for any other government sponsored program.

Appellant was unemployed all 2023. He had no access to insurance through employment. See the testimony of the appellant which I find to be credible.

Since the appellant could have obtained affordable health insurance through the ConnectorCare program, we need to determine if Appellant had a financial hardship such that the cost of purchasing health insurance would have caused Appellant to experience a serious deprivation of basic necessities or some other financial hardship as defined in 956 CMR 6.08 (a), (b), (d), and/or (e), and 6.08(3).

Appellant had the following monthly expenses for basic necessities in 2023 : mortgage, property taxes, and home owner's insurance-\$1,150; electricity and gas-\$250; heat-\$180; telephone and internet-\$170; car insurance-\$100; gas-\$100; food-\$450; clothing-\$10. See the testimony of the appellant which I find to be credible.

Appellant's Federal Adjusted Gross Income in 2021 was \$24,890, or about \$2,000 a month before taxes. His expenses amounted to approximately \$2,600. Appellant had no disposable income after paying for basic necessities. He ran a deficit every month. Even paying for ConnectorCare would have been out of reach for the appellant. See Exhibits 1 and 2 and the testimony of the appellant which I find credible.

Based upon the facts summarized above, I determine that pursuant to 956 CMR 6.08(1)(e), the cost of insurance would have caused Appellant to experience a serious deprivation of basic necessities. This constitutes financial hardship, making health insurance unaffordable for the appellant.

Based on the facts and determinations noted above, Appellant's penalty is waived in its entirety.

Appellant should note that any waiver granted here is for 2023 only and is based upon the specific facts I have found to be true and should not assume that the same determination will be made should Appellant be assessed a penalty in the future.

PENALTY ASSESSED

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

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

NOTIFICATION OF YOUR RIGHT TO APPEAL TO COURT

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

Cc: Connector Appeals Unit

Hearing Officer

Massachusetts Health Connector Appeals Unit

FINAL APPEAL DECISION: PA22-898

Appeal Decision: Penalty Overturned in Full
Hearing Issue: Appeal of the 2022 Tax Year Penalty
Hearing Date: April 17, 2024
Decision Date: September 20, 2024

AUTHORITY

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

JURISDICTION

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

HEARING RECORD

Appellant appeared at the hearing, which was held by telephone, on April 17, 2024. 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 22, 2023
- Exhibit 3: Correspondence from Health Connector, dated March 12, 2024
- Exhibit 4: None
- Exhibit 5: Prior notice of hearing from the Health Connector, dated October 10, 2023

FINDINGS OF FACT

The record shows, and I so find:

1. Appellant and Appellant Spouse filed a tax return as married filing jointly with no dependents claimed for 2022 (Exhibit 1).
2. Appellant Spouse was ill in 2022 and passed away in January 2023 (Testimony of Appellant).
3. Appellant was 61 and Appellant Spouse was 63 years old in 2022 (Exhibit 1).
4. Appellant and Appellant Spouse resided in Bristol County Massachusetts in 2022 (Exhibit 1 and Testimony of Appellant)
5. Appellants had an Adjusted Gross Income for 2022 of \$51,709 (Exhibit 1).
6. Appellants struggled to pay expenses in 2022 (Testimony of Appellant).
7. Appellants received an eviction notice for failure to pay rent during the time of Appellant Spouse's illness in 2022 (Exhibit 2 and Testimony of Appellant).
8. Appellants received two shut off notices for utilities during 2022 (Testimony of Appellant).
9. I take administrative notice of the financial information set forth in Tables 1 through 6 in the DOR 2022 Massachusetts Schedule HC Health Care Instructions and Worksheets. Tables 3 and 4 incorporate affordability and premium schedules adopted by the Board of Directors for the Commonwealth Health Insurance Connector

Authority for 2022. Table 2 sets forth income at 300% of the Federal poverty level and Tables 5 and 6 set forth tax penalties in effect for 2022.

10. According to Table 3 of Schedule HC for 2022 a married couple filing jointly with no dependents, with an adjusted gross income of \$51,709 could afford to pay \$213 per month for private insurance. According to Table 4, Appellants, who were 61 and 63 with no dependents and lived in Bristol County could have purchased private insurance for a cost of \$869 per month.

11. Private insurance was not considered affordable for Appellants in 2022 (Schedule HC for 2022).

12. Appellants, earning less than \$52,260 would have been income eligible for government subsidized health insurance (Schedule HC for 2022).

13. Appellant did not have health insurance during 2022 (Testimony of Appellant and Exhibit 1).

14. Appellants have been assessed a penalty for twelve months for 2022 (Exhibit 1).

15. Appellants filed a Hardship Appeal on March 22, 2023 (Exhibit 2).

ANALYSIS AND CONCLUSIONS OF LAW

G.L c. 111M, § 2, also called the “individual mandate,” requires every adult resident of Massachusetts to obtain health insurance that meets minimum creditable coverage standards “[s]o long as it is deemed affordable” under the schedule set by the board of directors for the Commonwealth Health Insurance Connector Authority. Residents who do not obtain insurance or who do not obtain insurance that meets the minimum creditable coverage standard are subject to a tax penalty for “each of the months” that the individual did not have health insurance as required by the individual mandate. There is a three-month grace period to allow the taxpayer to obtain health insurance coverage or to make the transition between health insurance policies. See G. L. c. 111M, sec. 2(b) and for Tax Year 2022, Administrative Bulletin 03-10: Guidance Regarding M.G.L. c. 111M and M.G.L. c. 176Q, as implemented by 956 CMR 6.00, which interprets the 63-day gap in coverage to be three months. The Connector’s regulations provide for a waiver of the tax penalty in the case of a financial hardship. See 956 CMR 6.08.

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

Government subsidized health insurance was considered affordable for Appellants in 2022, so we must consider whether the purchase of insurance would have caused Appellants to experience a hardship. Appellant Spouse was ill in 2022 and passed away in early 2023. Appellants struggled to pay for all necessities. Appellants received an eviction notice and shut off notices of utilities. I find that Appellants suffered a hardship and health insurance was not affordable for 2022. See Schedule HC for 2022, 956 CMR 6.08 1(a) and (b), Exhibits 1, 2 and Testimony of Appellant, which I find to be credible.

I find the penalty assessed against Appellants for 2022 should be waived in its entirety.

PENALTY ASSESSED

Number of Months Appealed: 12

Number of Months Assessed: 0

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

OR

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

NOTIFICATION OF YOUR RIGHT TO APPEAL TO COURT

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

Massachusetts Health Connector Appeals Unit

FINAL APPEAL DECISION: PA23-130

Appeal Decision: Penalty Overturned in Full
Hearing Issue: Appeal of the 2023 Tax Year Penalty
Hearing Date: June 11, 2024
Decision Date: September 23, 2024

AUTHORITY

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

JURISDICTION

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

HEARING RECORD

Appellant appeared at the hearing, which was held by telephone, on June 11, 2024. 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: Statement of Grounds and supporting documents dated March 9, 2024
- Exhibit 3: Correspondence from Health Connector, dated May 15, 2024

FINDINGS OF FACT

The record shows, and I so find:

1. Appellant was 57 years old in 2023 and resided in Middlesex County (Exhibit 1).
2. Appellant filed a Massachusetts 2023 tax return as single with no dependents claimed (Exhibit 1).
3. Appellant had an Adjusted Gross Income for 2023 of \$70,166 (Exhibit 1).
4. In 2022, Appellant had been covered by employer sponsored health insurance (Testimony of Appellant).
5. Due to changes by the employer, the health insurance changed for 2023 and Appellant had a very long waiting period to get coverage (Testimony of Appellant).
6. Appellant had multiple serious medical issues, including very high blood pressure in 2023 (Testimony of Appellant).
7. In 2023, Appellant was unable to pass the physical examination required by Appellant's employer (Testimony of Appellant).
8. Appellant lost Appellant's job due to the failure to pass the physical examination (Testimony of Appellant).
9. Appellant struggled to pay for food, rent, and utilities due to the loss of employment (Testimony of Appellant).
10. Appellant applied for help and subsidized health insurance (Testimony of Appellant).
11. Appellant began subsidized health insurance in early 2024 (Testimony of Appellant).

12. Appellant is unable to work and is seeking other forms of assistance to help with living expenses (Testimony of Appellant).
13. I take administrative notice of the financial information set forth in Tables 1 through 6 in the DOR 2023 Massachusetts Schedule HC Health Care Instructions and Worksheets. Tables 3 and 4 incorporate affordability and premium schedules adopted by the Board of Directors for the Commonwealth Health Insurance Connector Authority for 2023. Table 2 sets forth income at 300% of the Federal poverty level and Tables 5 and 6 set forth tax penalties in effect for 2023.
13. According to Table 3 of Schedule HC for 2023 a person filing as single with no dependents claimed with an adjusted gross income of \$70,166.00 could afford to pay \$468 per month for private insurance. According to Table 4, Appellant, who was 57 years old and lived in Middlesex County could have purchased private insurance for a cost of \$490 per month.
14. Private insurance was not considered affordable for Appellant in 2023 (Schedule HC for 2023).
15. Appellant, earning more than \$38,640 would not have been income eligible for government subsidized health insurance (Schedule HC for 2023).
16. Appellant did not have health insurance for twelve months of 2023 (Exhibit 1 and Testimony of Appellant).
17. Appellant has been assessed a penalty for twelve months for 2023 (Exhibit 1).
18. Appellant filed a hardship Appeal on March 9, 2024 (Exhibit 2).

ANALYSIS AND CONCLUSIONS OF LAW

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

Appellant has been assessed a tax penalty for twelve months. To determine if the penalty should be waived in whole or in part, we must consider whether affordable insurance was available to Appellant, before we consider whether Appellant suffered a financial hardship. In 2023, private health insurance was not considered affordable for Appellant. Appellant was not eligible for government subsidized health insurance. I find that affordable insurance was not available to Appellant in 2023. See Schedule HC for 2023, 956 CMR 6.00 and 6.02, Exhibits 1, 2, and Testimony of Appellant, which I find to be credible.

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

PENALTY ASSESSED

Number of Months Appealed: 12

Number of Months Assessed: 0

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

OR

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

NOTIFICATION OF YOUR RIGHT TO APPEAL TO COURT

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

Massachusetts Health Connector Appeals Unit

FINAL APPEAL DECISION: PA23131

Appeal Decision: Penalty Overturned in Full
Hearing Issue: Appeal of the 2023 Tax Year Penalty
Hearing Date: June 11, 2024
Decision Date: September 26, 2024

AUTHORITY

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

JURISDICTION

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

HEARING RECORD

Appellant appeared at the hearing, which was held by telephone on June 11, 2024. The procedures to be followed during the hearing were reviewed with Appellant. Appellant was sworn in. Exhibits were marked and admitted in evidence with no objection from Appellant. Appellant testified. At the end of the hearing, the record was left open so that Appellant could submit further information about health insurance. Appellant submitted further documents, and they have been admitted as Exhibit 4. The record is now closed.

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

- Exhibit 1: Schedule HC for Healthcare from DOR
- Exhibit 2: Notice of Appeal and supporting documents dated March 17, 2024
- Exhibit 3: Correspondence from Health Connector dated May 15, 2024
- Exhibit 4: Documents about Appellant's employer sponsored health insurance

FINDINGS OF FACT

The record shows, and I so find:

1. Appellant was 27 years old in 2023. Appellant filed a Massachusetts 2023 tax return as single with no dependents claimed (Exhibit 1).
2. Appellant resided in Worcester County, MA from January through October 2023 (Exhibit 1 and Testimony of Appellant).
3. Appellant moved out of state in October 2023 (Testimony of Appellant).
4. Appellant had an Adjusted gross income of \$69, 833 for 2023 (Exhibit 1 and Testimony of Appellant).
5. Appellant was covered by government subsidized insurance that met Massachusetts Creditable Coverage standards from January through May 2023 (Exhibit 1 and Testimony of Appellant).
6. Appellant began a new job in a different state and began employer sponsored health insurance in May 2023 (Exhibits 1, 4 and Testimony of Appellant).
7. Appellant was covered by the employer sponsored health insurance from May 2023 through December 2023 (Exhibit 4 and Testimony of Appellant).

8. Appellant’s employer sponsored health insurance was from a different state (Exhibit 4 and Testimony of Appellant).
9. Appellant’s employer sponsored health insurance provided coverage for a comprehensive set of services (Exhibit 4).
10. The employer sponsored insurance had no charge for a preventative care visit (Exhibit 4).
11. The employer sponsored health insurance did not have caps on total benefits for a particular illness or for a single year and there were no caps on prescription drugs (Exhibit 4).
12. Appellant’s plan had a deductible of \$3,000 per year, which is slightly higher than the Massachusetts standard of \$2,750. The plan has an out-of-pocket limit of \$6,000 which meets the Massachusetts standard (Exhibit 4).
11. Appellant’s Appeal Case Information from Schedule HC 2023 shows that Appellant was uninsured for six months in 2023 (Exhibit 1).
12. Appellant has been assessed a penalty for two months for 2023 (Exhibit 1).
13. Appellant filed an appeal on March 17, 2024 (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. 956 CMR 6.08 (2)(d) provides that the Connector may also consider the extent to which insurance obtained deviated from or substantially met minimum creditable coverage standards when determining if a penalty should be waived.

Appellant has been assessed a tax penalty for two months. Appellant was insured by a Health Insurance Plan that met Massachusetts Creditable Coverage Standards from January through May 2023. Appellant began a new job in another state in May 2024. Beginning in May 2024, Appellant was covered under the new employer’s health insurance for the remainder of 2024. The health insurance was comprehensive and substantially met the Massachusetts Creditable Coverage standards. See 956 CMR 6.08(2)(d), 2023 Massachusetts Schedule HC Healthcare, Exhibits 1, 4 and Testimony of Appellant, which I find to be credible.

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

PENALTY ASSESSED

Number of Months Appealed: 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.

Massachusetts Health Connector Appeals Unit

FINAL APPEAL DECISION: PA23134

Appeal Decision: Penalty Overturned in Full
Hearing Issue: Appeal of the 2023 Tax Year Penalty
Hearing Date: June 11, 2024
Decision Date: September 21, 2024

AUTHORITY

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

JURISDICTION

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

HEARING RECORD

Appellant appeared at the hearing, which was held by telephone, on June 11, 2024. 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 18, 2024
- Exhibit 3: Correspondence from Health Connector, dated May 15, 2024

FINDINGS OF FACT

The record shows, and I so find:

1. Appellant was 33 years old in 2023 (Exhibit 1).
2. Appellant lived in Middlesex County Massachusetts in 2023 (Exhibit 1 and Testimony of Appellant)
3. Appellant filed a Massachusetts 2023 tax return as single with no dependents claimed (Exhibit 1).
4. Appellant had an Adjusted Gross Income for 2023 of \$38,763 (Exhibit 1).
5. Appellant was unemployed in early 2023 (Testimony of Appellant).
6. When Appellant was unemployed, Appellant struggled to pay for basic expenses, including rent, food, car payment and insurance (Testimony of Appellant).
7. In June 2023, Appellant began a job that offered employer sponsored health insurance after a waiting period and when Appellant worked a certain number of hours (Testimony of Appellant).
8. Appellant became eligible and enrolled in employer sponsored insurance in October 2023 (Exhibit 1 and Testimony of Appellant).
9. I take administrative notice of the financial information set forth in Tables 1 through 6 in the DOR 2023 Massachusetts Schedule HC Health Care Instructions and Worksheets. Tables 3 and 4 incorporate affordability and premium schedules adopted by the Board of Directors for the Commonwealth Health Insurance Connector Authority for 2023. Table 2 sets forth income at 300% of the Federal poverty level and Tables 5 and 6 set forth tax penalties in effect for 2023.

10. According to Table 3 of Schedule HC for 2023 a person filing as single with no dependents, with an adjusted gross income of \$38,763 could afford to pay \$157 per month for private insurance. According to Table 4, Appellant, who was 33 years old with no dependents and lived in Middlesex County could have purchased private insurance for a cost of \$342 per month.
11. Private insurance was not considered affordable for Appellant in 2023 (Schedule HC for 2023).
12. Appellant, earning less than \$40,770 would have been income eligible for government subsidized health insurance (Schedule HC for 2023).
13. Appellant did not have health insurance during January through September 2023 (Exhibit 2 and Testimony of Appellant).
14. Appellant has been assessed a penalty for six months for 2023 (Exhibit 1).
15. Appellant filed a hardship Appeal on March 18, 2023 (Exhibit 2).

ANALYSIS AND CONCLUSIONS OF LAW

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

Appellant has been assessed a tax penalty for six 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.

Government subsidized health insurance was available and considered affordable for Appellant in 2023, so we must consider whether the purchase of insurance would have caused Appellant to experience a hardship. Appellant was unemployed and struggled to pay for basic expenses from January through June 2023. Appellant began a new job in June that offered employer sponsored health insurance, which began in October 2023. Given these circumstances, I find that Appellant suffered a hardship. See Schedule HC for 2023, 956 CMR 6.08 (1)(e), Exhibits 1, 2 and Testimony of Appellant, which I find to be credible.

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

PENALTY ASSESSED

Number of Months Appealed: 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 2023 for the amount equal to one half of the lowest cost health insurance plan available to you for each month you have been assessed the penalty, as listed above, plus applicable interest back to the due date of the return without regard to extension.

OR

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

NOTIFICATION OF YOUR RIGHT TO APPEAL TO COURT

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

Massachusetts Health Connector Appeals Unit

FINAL APPEAL DECISION: PA23-286

Appeal Decision: Appeal Approved in Part/ Denied in Part.

Hearing Issue: Appeal of the 2023 Tax Year Penalty

Hearing Date: August 5, 2024

Decision Date: September , 2024

AUTHORITY

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

JURISDICTION

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

HEARING RECORD

The Appellant appeared at the Hearing, which was held by telephone, on August 5, 2024. The procedures to be followed during the hearing were reviewed with the Appellant who was then sworn in. Exhibits were marked and admitted into evidence with no objection from the Appellant. The hearing record consists of the Appellant's testimony and the following documents which were admitted into evidence:

- Exhibit 1: Health Connector Appeals Unit Notice of Hearing dated July 5, 2024.
- Exhibit 2: Appeal Case Information from Schedule HC- 2023.
- Exhibit 3: Statement of Grounds for Appeal dated March 28, 2024 .
- Exhibit 4: The Appellant's letter in support of the Appeal, with attachments.
- Exhibit 5: Appellant's Form 1095-C 2023.
- Exhibit 6: Health Connector Appeals Unit Open Record Form dated August 5, 2024.
- Exhibit 7: Additional information submitted by the Health Connector on August 16, 2024.

FINDINGS OF FACT

The record shows, and I so find:

1. The Appellant, age 26 in June 2023, filed their Federal Income Tax return as a single person with no dependents claimed (Exhibit 2).
2. The Appellant lived in Middlesex County in tax year 2023 (Exhibit 2).
3. The Appellant's Federal Adjusted Gross Income for 2023 was \$48,551 (Exhibit 2).
4. According to the Appellant's Schedule HC for 2023, the Appellant had health insurance for November and December but did not have health insurance for the period of January through October in tax year 2023 (Exhibit 2).

5. The Appellant has been assessed a seven-month tax penalty for 2023. The Appellant filed an appeal of the assessment in March 2024 (Exhibits 2, 3, 4).
6. I take administrative notice of the financial information set forth in Tables 1 through 6 in the DOR 2023 Massachusetts Schedule HC Health Care Instructions and Worksheets. Tables 3 and 4 incorporate affordability and premium schedules adopted by the Board of Directors for the Commonwealth Health Insurance Connector Authority for 2023. Table 2 sets forth income at 300% of the Federal poverty level and Tables 5 and 6 set forth tax penalties in effect for 2023.
7. In accordance with Table 3 of Schedule HC for 2023, the Appellant filing the Federal tax return as a single person with no dependents claimed, with an annual adjusted gross income of \$48,551 could afford to pay \$307 per month for health insurance. In accordance with Table 4, the Appellant, age 26, living in Middlesex County, could have purchased private insurance for \$312 per month for a plan (Schedule HC for 2023). Private insurance was not affordable for the Appellant in 2023.
8. The Appellant's Form 1095-C for tax year 2023 indicates that the Appellant's employer for the period of January through July offered the Appellant employee sponsored health insurance at a monthly cost of \$57.09. The Appellant was advised that this form shows only that insurance was offered, not that the Appellant enrolled (Exhibit 5).
9. When asked, the Appellant testified that they did not take their employer's health insurance because they had health insurance through the Health Connector (Appellant Testimony).
10. The Appellant submitted documentation with their appeal request verifying that the Appellant had paid monthly premiums of \$286.50 to the Health Connector for a health plan for the months of January through April in tax year 2023 (Exhibit 4).
11. The Appellant testified that he did have health insurance through the Health Connector for a period of time, but it was terminated because he did not submit proof of residency when requested. The Appellant acknowledged receiving multiple notices from the Health Connector but stated honestly that they did not read them. The Appellant said that when they found out their insurance had been cancelled, they submitted proof of residency, and their health insurance was reinstated in November 2023 (Appellant Testimony).
12. The Record was left open until August 19, 2024 to allow the Health Connector to submit documentation of the dates of the Appellant's 2023 coverage as well as notices related to the Requests for Information and termination of the Appellant's ConnectorCare (Exhibit 7).
13. On August 16, 2024 Health Connector submitted documentation verifying that the Appellant was enrolled in a Health Connector Plan with Advance Premium Tax Credits (APTC) for the months of January through April as well as November and December in tax year 2023. The Health Connector contacted the Appellant on December 8, 2022, February 6, 2023 and April 6, 2023 and advised the Appellant that they must submit updated proof of residency. The Appellant's Health Connector plan was terminated effective May 2023 because the Appellant did not submit acceptable proof of Massachusetts residency (Exhibit 7).
14. The information from Health Connector was sent to the Appellant on August 16, 2024 and the Appellant was given until September 2, 2024 to submit a written response, if any (Exhibits 6, 7).

15. The Appellant did not submit any additional information during the record open period.
16. The Appellant had health insurance for the periods of January through April, November and December in tax year 2023. The Appellant did not have health insurance for the six-month period of May through October 2023 and is therefore subject to a three-month penalty (Exhibits 2, 3, 7).
17. The Appellant did not offer any evidence or testimony regarding financial hardship. The Appellant testified credibly that they did not read the notices issued by the Health Connector regarding their requirement to submit proof of residency (Appellant Testimony).

ANALYSIS AND CONCLUSIONS OF LAW

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

According to the Appellant’s Schedule HC for tax year 2023, the Appellant had health insurance for the months of November and December but was uninsured for the period of January through October in tax year 2023. As a result, the Appellant was assessed a seven-month penalty. The Appellant appealed the assessment citing circumstances other than financial hardship as the basis for the appeal.

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

In accordance with Table 3 of Schedule HC for 2023, the Appellant filing the Federal tax return as a single person with no dependents claimed with an adjusted gross income of \$48,551 could afford to pay \$307 per month for health insurance. According to Table 4, the Appellant, age 26, living in Middlesex County, could have purchased a private insurance plan for \$312 per month. See Schedule HC for 2023. Private insurance was not affordable for the Appellant in tax year 2023.

The Appellant’s employer offered health insurance coverage for the period of January through July at a monthly cost of \$57.09. It is unclear if this insurance met Massachusetts standards, but the Appellant chose not to enroll because they had health insurance through the Health Connector.

The Appellant would not have been eligible for ConnectorCare coverage based upon the Appellant’s income of \$48,551 that was greater than 300% of the federal poverty level which was \$40,770 for their household of one. See Table 2 of Schedule HC 2023 and 956 CMR 12.04 for eligibility criteria.

The evidence submitted establishes that the Appellant was enrolled in a Health Connector plan with APTC for the months of January through April, November and December in tax year 2023. The Appellant’s monthly premium of \$286.50 was less than the \$312 deemed affordable to the Appellant in accordance with Table 3 of Schedule HC for 2023.

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

The Appellant did not offer any evidence or testimony to indicate financial hardship was the reason their health insurance lapsed. The Appellant testified that they became aware that their insurance was terminated for failing to submit proof of residency. The Appellant acknowledged receiving notices from the Health Connector and stated that they did not read them. This is not a valid reason to waive the tax penalty.

Given the Appellant had coverage for six months and the fact that there is a three-month grace period as outlined above, the Appellant is subject to a tax penalty for six months.

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

PENALTY ASSESSED

Appellant Number of Months Appealed: 7 Number of Months Assessed: 3

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

NOTIFICATION OF YOUR RIGHT TO APPEAL TO COURT

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

Cc: Connector Appeals Unit