Massachusetts Health Connector Appeals Unit

FINAL APPEAL DECISION: PA18-823

Appeal Decision: Appeal Approved

Hearing Issue: Appeal of the 2018 Tax Year Penalty
Hearing Date: November 13, 2019
Decision Date: November 26, 2019

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 November 13, 2019.

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

Exhibit 1: Notice of Hearing dated October 4, 2019
Exhibit 2: Appeal Case Information from form Schedule HC
Exhibit 3: Statement of Grounds for Appeal dated May 15, 2019
Exhibit 4: Written Statement of Appeal

FINDINGS OF FACT
The record shows, and I so find:

1. The appellant is forty one years old and is single. He lives in Plymouth County, Massachusetts.

2. Appellant works as a school bus driver. He is going to work for the Boston Public school system and will be applying for health insurance through their system in 2020.

3. Appellant state he can’t afford health insurance. His company did not offer health insurance in 2018. He was getting divorced and was out of his home. He lived with friends and now lives with a friend and he paid rent wherever he stayed.

4. Appellant does not have health insurance in 2019.

5. Appellant has three children and pays child support of $1,200.00 per month. His house is in the process of being foreclosed.

6. The Appellant’s monthly expenses totaled $3,988.00, consisting of rent $600.00, cell phone $53.00, car $400.00, car insurance $235.00, car gas $280.00, food $800.00, credit card $145.00, clothing $200.00, toiletries $75.00, child support $1,200.00, attorney fees $1,000.00.

7. The Appellant did submit a Statement of Grounds for Appeal-2018 under the grounds for Appeal, “During 2019, you were homeless, more than thirty days in arrears in rent or mortgage payments; or received an eviction or foreclosure notice: but also should have appealed under “During 2018, the expense of purchasing health insurance would have caused a serious deprivation of food, shelter, clothing or other necessities.” I will hear the appeal under both grounds.

8. I take administrative notice of the information set forth in tables 1 through 6 in the Department of Revenue Schedule HC Health Care Instructions and Worksheets (Schedule HC Instructions). Tables 3 & 4 incorporate the affordability schedules adopted by the board of directors of the Commonwealth Health Insurance Connector Authority for 2018. Table 1 sets forth the income eligibility standards for various family sizes at 150% of the federal poverty level and Table 2 sets forth the income eligibility standards for various family sizes at 300 per cent of the federal poverty level, which is the income eligibility standard for the government-subsidized health insurance program. See Mass. G.L. c. 118H, s.3(a)(1). Tables 5 and 6 set forth the tax penalties for 2018.

9. 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 $70,287.00 was more than $36,180.00. The monthly premium for health insurance available on the private market in Plymouth County for a 40 year old single person was $310.00. The tables reflect that Appellant could afford $471.50. This is less
than what the appellant is deemed to afford. (Tables 2, 3 & 4 of the Schedule HC Instructions)

ANALYSIS AND CONCLUSIONS OF LAW

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

The Appellant did submit a Statement of Grounds for Appeal-2018 under the grounds for Appeal, “During 2019, you were homeless, more than thirty days in arrears in rent or mortgage payments; or received an eviction or foreclosure notice: but also should have appealed under “During 2018, the expense of purchasing health insurance would have caused a serious deprivation of food, shelter, clothing or other necessities.” I will hear the appeal under both grounds.

The Health Care Reform Act of 2006 requires every adult resident of Massachusetts to obtain and maintain creditable insurance coverage “so long as it is deemed affordable” under the schedule established by the board of the Connector. Mass. Gen. Laws ch. 111M, § 2(a). Massachusetts residents who fail to indicate on their state tax returns that they obtained the mandated creditable coverage are subject to a tax penalty for each month in which that the individual did not have creditable health insurance. Id. at § 2(b). However, individuals with incomes up to 150 percent of the Federal Poverty Level (“FPL”) are not subject to any penalty for non-compliance with the individual mandate. See Massachusetts Department of Revenue Technical Information Release (“TIR”) 13-1, available at http://www.mass.gov/dor/businesses/help-and-resources/legal-library/tirs/tirs-by-years/2013-releases/tir-13-1.html. For 2018, 150 percent of the FPL was $18,090.00 for a single person with zero dependents. Id. In addition, a lapse in coverage of 63 days or less is not subject to the section 2(b) penalty. See Administrative Bulletin 03-10 (Dec. 7, 2010), available at https://www.mahealthconnector.org/portal/binary/com.epicentric.contentmanagement.servlet.ContentDeliveryServlet/Health%2520Care%2520Reform/Regulations/documents/Administrative%20Information%20Bulletin%202003-10.pdf; see also 830 Mass. Code Regs. 111M.2.1(5)(c) (2008). Thus, no penalty is imposed for lapses in coverage consisting of three or fewer consecutive calendar months. Id.

Since Appellant’s 2018 income was more than 150 percent of the FPL, making 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 2018. In determining affordability, consideration is given first to the amount Appellant is deemed able to afford for health insurance premiums under the Affordability Schedule and second to the cost of health insurance that was available through employer-sponsored plans, government-subsidized programs or on the private insurance market. See 2018 Schedule HC Instructions and Worksheets, supra.

Appellant reported a federal AGI of $70,287.00 in 2018, 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 2018 Massachusetts Schedule HC, Appellant could afford to pay $471.50 monthly for health insurance. See 2018 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 $310.00 monthly for coverage with zero dependents Id. at Table 4.

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

Appellant suffered a housing dislocation due to going through a divorce. He lived with friends as he could and paid them rent. He has three children and has to pay $1,200.00 in child support. His employer did not offer health insurance. These circumstances have greatly impacted his ability to obtain health insurance.

On these facts, I find that Appellant has shown that he was precluded from purchasing affordable health insurance during 2018. 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. The Appellant is informed that this decision shall have no precedential impact on any future decisions.

Accordingly, Appellant’s appeal is ALLOWED, and the 2018 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 2018 for the amount equal to one half of the lowest cost health insurance plan available to you for each month you have been assessed the penalty, as listed above, plus applicable interest back to the due date of the return without regard to extension.

OR

If the number of months assessed is zero (0) because your penalty has been overturned, the Connector has notified the Department of Revenue that you should NOT be assessed a penalty for Tax Year 2018.

NOTIFICATION OF YOUR RIGHT TO APPEAL TO COURT
If you disagree with this decision, you have the right to appeal to Court in accordance with Chapter 30A of the Massachusetts General Laws. To appeal, you must file a complaint with the Superior Court for the county where you reside, or Suffolk County Superior Court within thirty (30) days of your receipt of this decision.
Cc: Connector Appeals Unit
Massachusetts Health Connector Appeals Unit

FINAL APPEAL DECISION: PA18-825

Appeal Decision: Appeal Allowed

Hearing Issue: Appeal of the 2018 Tax Year Penalty
Hearing Date: November 13, 2019
Decision Date: November 26, 2019

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 November 13, 2019.

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

Exhibit 1: Notice of Hearing dated October 4, 2019
Exhibit 2: Appeal Case Information from form Schedule HC
Exhibit 3: Statement of Grounds for Appeal, date May 17, 2019
Exhibit 4: Written Statement of Appeal

FINDINGS OF FACT

The record shows, and I so find:
1. The appellant is fifty-three years old and is single. She lives in Middlesex County, Massachusetts.

2. Appellant works as a financial analyst.

3. She does have health insurance in 2019.

4. Appellant worked as a temporary employee in 2018 and her employer did not offer health insurance to temporary employees. Appellant had an emotional conflict with her daughter that led her to obtain a temporary restraining order against her daughter that remains in effect. Due to this traumatic conflict, Appellant had difficulty paying her bills, as shown in Exhibit four and lost the financial support she was receiving from her daughter.

5. The Appellant’s monthly expenses totaled $3,745.00, consisting of rent $750.00, heat and electric $175.00, apartment insurance $11.00 internet and cable $135.00, cell phone $99.00, car payment $260.00, car insurance $75.00, car gas $200.00, food $800.00, credit card $2,000.00, clothing $200.00, toiletries $40.00, IRS $120.00.

6. The Appellant did submit a Statement of Grounds for Appeal-2018 under the grounds for Appeal, “During 2018, you received a shut-off notice; were shut-off; or were refused delivery of essential utilities (gas, electric, heating oil, water, primary telephone) and “During 2018, you incurred a significant, unexpected increase in essential expenses resulting directly from the consequences of domestic violence.”

7. I take administrative notice of the information set forth in tables 1 through 6 in the Department of Revenue Schedule HC Health Care Instructions and Worksheets (Schedule HC Instructions). Tables 3 & 4 incorporate the affordability schedules adopted by the board of directors of the Commonwealth Health Insurance Connector Authority for 2018. Table 1 sets forth the income eligibility standards for various family sizes at 150% of the federal poverty level and Table 2 sets forth the income eligibility standards for various family sizes at 300 per cent of the federal poverty level, which is the income eligibility standard for the government-subsidized health insurance program. See Mass. G.L. c. 118H, s.3(a)(1). Tables 5 and 6 set forth the tax penalties for 2018.

8. Based on the appellant’s federal adjusted gross income and the above referenced tables, I find the appellant would not have been eligible for subsidized health insurance, since Appellant’s income of $81,221.00 was more than $36,180.00. The monthly premium for health insurance available on the private market in Middlesex County for a 52 year old single person was $411.00. The tables reflect that Appellant could afford $544.85. This is less than what the appellant is deemed to afford. (Tables 2, 3 & 4 of the Schedule HC Instructions)

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

The Appellant did submit a Statement of Grounds for Appeal-2018 under the grounds for Appeal, “During 2018, you received a shut-off notice; were shut-off; or were refused delivery of essential utilities (gas, electric, heating oil, water, primary telephone) and “During 2018, you incurred a significant, unexpected increase in essential expenses resulting directly from the consequences of domestic violence.”

Appellant was a temporary employee and her employer did not offer health insurance to temporary employees. Appellant had a traumatic incident with her daughter that led to her obtaining a restraining order against her daughter and loss of economic support from her daughter.

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 the individual did not have creditable health insurance. Id. at § 2(b). However, individuals with incomes up to 150 percent of the Federal Poverty Level (“FPL”) are not subject to any penalty for non-compliance with the individual mandate. See Massachusetts Department of Revenue Technical Information Release (“TIR”) 13-1, available at http://www.mass.gov/dor/businesses/help-and-resources/legal-library/tirs/tirs-by-years/2013-releases/tir-13-1.html. For 2018, 150 percent of the FPL was $18,090.00 for a single person with one dependent. Id. In addition, a lapse in coverage of 63 days or less is not subject to the section 2(b) penalty. See Administrative Bulletin 03-10 (Dec. 7, 2010), available at https://www.mahealthconnector.org/portal/binary/com.epicentric.contentmanagement.servlet.ContentDeliveryServlet/Health%2520Care%2520Reform/Regulations/documents/Administrative%20Information%20Bulletin%202003-10.pdf; see also 830 Mass. Code Regs. 111M.2.1(5)(c) (2008). Thus, no penalty is imposed for lapses in coverage consisting of three or fewer consecutive calendar months. Id.

Since Appellant’s 2018 income was more than 150 percent of the FPL, making 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 2018. In determining affordability, consideration is given first to the amount Appellant is deemed able to afford for health insurance premiums under the Affordability Schedule and second to the cost of health insurance that was available through employer-sponsored plans, government-subsidized programs or on the private insurance market. See 2018 Schedule HC Instructions and Worksheets, supra.

Appellant reported a federal AGI of $81,221.00 in 2018, 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 2018 Massachusetts Schedule HC, Appellant could afford to pay $544.85 monthly for health insurance. See 2018 Schedule HC Instructions and Worksheets, supra at
Table 3. Private insurance would have been available to her from the Premium Tables, at a cost of $411.00 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 was precluded from purchasing affordable health insurance during 2018. 956 Mass. Code Regs. 6.08(3) (2008). Accordingly, I conclude that she is exempt from a tax penalty for her non-compliance with the individual mandate.

Accordingly, Appellant’s appeal is **DENIED**, and the 2018 penalty assessed is **UPHELD**.

**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 2018 for the amount equal to one half of the lowest cost health insurance plan available to you for each month you have been assessed the penalty, as listed above, plus applicable interest back to the due date of the return without regard to extension.

OR
If the number of months assessed is zero (0) because your penalty has been overturned, the Connector has notified the Department of Revenue that you should NOT be assessed a penalty for Tax Year 2018.

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

Hearing Officer

Cc: Connector Appeals Unit
Massachusetts Health Connector Appeals Unit

FINAL APPEAL DECISION: PA18-841

Appeal Decision: Appeal Denied.

Hearing Issue: Appeal of the 2018 Tax Year Penalty
Hearing Date: November 15, 2019
Decision Date: November 21, 2019

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 November 15, 2019. 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 October 8, 2019.
Exhibit 2: Appeal Case Information from Schedule HC 2018.
Exhibit 4: A document prepared by the Appellant detailing their 2018 expenses submitted with the Appeal request.

FINDINGS OF FACT
The record shows, and I so find:

1. The Appellant turned 29 years old in May 2018. The Appellant filed their Federal Income Tax return as a single person with no dependents claimed (Exhibit 2).
2. The Appellant lived in Worcester County, MA in 2018 (Exhibit 2).
3. The Appellant’s Federal Adjusted Gross Income for 2018 was $40,184 (Exhibit 2).
4. The Appellant did not have health insurance for any months in tax year 2018 (Exhibit 2 and Appellant Testimony).
5. The Appellant has been assessed a twelve-month tax penalty for 2018. The Appellant filed an appeal of the assessment in May 2019 (Exhibits 2, 3, 4).
6. I take administrative notice of the financial information set forth in Tables 1 through 6 in the DOR 2018 Massachusetts Schedule HC Health Care Instructions and Worksheets. Tables 3 and 4 incorporate affordability and premium schedules adopted by the Board of Directors for the Commonwealth Health Insurance Connector Authority for 2018. Table 2 sets forth income at 300% of the Federal poverty level and Tables 5 and 6 set forth tax penalties in effect for 2018.

7. In accordance with Table 3 of Schedule HC for 2018, the Appellant filing the Federal tax return as a single person, with no dependents claimed, with an annual adjusted gross income of $40,184 could afford to pay $249 per month for health insurance. In accordance with Table 4, the Appellant, age 29, living in Worcester County, could have purchased private insurance for $249 per month for a single plan (Schedule HC for 2018). Private insurance was affordable for the Appellant.

8. The Appellant would not have been eligible for ConnectorCare coverage in 2018 because the Appellant’s income was greater than 300% of the federal poverty level, which was $36,180 in 2018. The Appellant testified that they did not have access to employer-sponsored insurance in tax year 2018 (See Table 2 of Schedule HC-2018 and 956 CMR 12.04) (Appellant Testimony).

9. The Appellant testified that they had looked into purchasing health insurance but could not afford the premiums which were between $200 and $300 per month. The Appellant said that she accessed health clinics when needed (Appellant Testimony).

10. The Appellant’s 2018 monthly living expenses of $1,556- $1,756 included: rent-$450; car loan-$427; car insurance-$150; telephone-$94; credit cards-$85; gasoline-$50; food-$200 and student loans of $100-$300. The Appellant said that they paid $200 for oil changes in 2018, $250 for brakes and over $100 for a car battery (Exhibit 4 and Appellant Testimony).

11. In tax year 2018 the Appellant did not face eviction, did not receive any utility shut off notices, did not incur a significant and unexpected increase in expenses due to a natural or human caused disaster and did not incur significant expenses as a result of a family emergency (Appellant Testimony).

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

The Appellant did not have health insurance for any months in tax year 2018. The Appellant has been assessed a twelve-month penalty. The Appellant submitted a statement of grounds for this appeal citing a financial hardship.

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

In accordance with Table 3 of Schedule HC for 2018, the Appellant filing the Federal tax return as a single person with no dependents claimed, with an adjusted gross income of $40,184 could afford to pay $249 per month for health insurance. In accordance with Table 4, the Appellant, age 29, living in Worcester County, could have purchased private insurance for $249 per month for a plan (Schedule HC for 2018). Private insurance was affordable for the Appellant in 2018.

The Appellant would not have been eligible for ConnectorCare coverage in 2018 because the Appellant’s income was greater than 300% of the federal poverty level, which was $36,180 in 2018. The Appellant did not have access to affordable employer sponsored insurance in tax year 2018 (See Table 2 of Schedule HC-2018 and 956 CMR 12.04).

Since affordable insurance was available to the Appellant in 2018, it must be determined whether the Appellant experienced a financial hardship pursuant to 956 CMR 6.08 (1).

The Appellant’s adjusted gross income was $40,184. The Appellant submitted a list of their monthly expenses noted to be between $1,556 and $1,756. The Appellant also had car maintenance bills totaling $550. The Appellant was not facing eviction, did not receive any utility shut off notices and did not incur significant and unexpected expenses due to a family emergency, natural or other human caused disaster. Given that in accordance with Table 4 of Schedule HC for 2018, the Appellant could have purchased private health insurance for as low as $249 per month, the Appellant has failed to demonstrate that the cost of purchasing health insurance for 2018 would have caused the Appellant to experience a serious financial hardship. See 956 CMR 6.08. The Appellant’s twelve-month penalty is upheld.

**PENALTY ASSESSED**

Number of Months Appealed: _____12____  Number of Months Assessed: __12____

The Connector has notified the Department of Revenue that, pursuant to its decision, you should be assessed a penalty for Tax Year 2018 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 law 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: PA18-842

Appeal Decision: Appeal Approved.

Hearing Issue: Appeal of the 2018 Tax Year Penalty
Hearing Date: November 15, 2019
Decision Date: November 18, 2019

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 November 15, 2019. 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 October 8, 2019.
Exhibit 2: Appeal Case Information from Schedule HC 2018.
Exhibit 4: The Appellant’s letter in support of this appeal, with attachments.

FINDINGS OF FACT
The record shows, and I so find:

1. The Appellant turned 30 years old in November 2018. The Appellant filed their Federal Income Tax return as a single person with no dependents claimed (Exhibit 2).

2. The Appellant reported that they were a full-year resident of Massachusetts living in Worcester county in tax year 2018 (Exhibit 2).

3. The Appellant’s Federal Adjusted Gross Income for 2018 was $37,641 (Exhibit 2, Appellant Testimony).

4. The Appellant had health insurance for the period of January through July but did not have health insurance for the period of August through December in tax year 2018 (Exhibit 2 and Appellant Testimony).
5. The Appellant has been assessed a two-month tax penalty for 2018. The Appellant filed an appeal of the assessment in May 2019 (Exhibits 2, 3, 4).

6. The Appellant testified that they did not reside in Massachusetts for the period of August through December in tax year 2018. The Schedule HC 2018 was completed in error. The Appellant explained that they left Massachusetts on July 20, 2018 to perform volunteer work in hurricane disaster relief with a nonprofit organization. The Appellant explained that they were in the US Virgin Islands, California, and North Carolina for various periods of time. The Appellant’s credible testimony is supported by address change documents filed with the United States Postal Service (Exhibit 4 and Appellant Testimony).

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

The Appellant filed their income tax return as a single person with no dependents claimed. The Appellant claimed full year Massachusetts residency in Worcester county during tax year 2018. The Appellant did not have health insurance that met Massachusetts minimum creditable coverage standards for the five-month period of August through December and has consequently been assessed a two-month tax penalty for tax year 2018.

The Appellant filed a timely appeal and testified credibly that they left Massachusetts in July 2018 to perform volunteer work for a nonprofit hurricane disaster relief agency. The Appellant spent time in various locations but was not in Massachusetts during the period of August through December in tax year 2018. The Appellant’s credible testimony was supported by documents from the United States Postal Service verifying the Appellant’s out of state address changes. Since the Appellant was not living in Massachusetts during the period of August through December in tax year 2018, the Appellant’s two-month penalty is waived.

The Appellant should note that the waiver of their penalty is based upon the facts that I have determined to be true in 2018. The Appellant should not assume that a similar determination will be made for subsequent tax years should they again be assessed a penalty for failure to have health insurance.

PENALTY ASSESSED
Number of Months Appealed: ____2___ Number of Months Assessed: __0_____

If the number of months assessed is zero (0) because your penalty has been overturned, the Connector has notified the Department of Revenue that you should NOT be assessed a penalty for Tax Year 2017.

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: PA18-844

Appeal Decision: Appeal Approved.

Hearing Issue: Appeal of the 2018 Tax Year Penalty
Hearing Date: November 15, 2019
Decision Date: November 21, 2019

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 November 15, 2019. 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 October 8, 2019.
Exhibit 2: Appeal Case Information from Schedule HC 2018.
Exhibit 3: Statement of Grounds for Appeal signed by the Appellant on May 7, 2019, with attachments.

FINDINGS OF FACT
The record shows, and I so find:

1. The Appellant turned 55 years old in May 2018. The Appellant filed their Federal Income Tax return as a married person filing separate, with no dependents (Exhibit 2).

2. The Appellant lived in Worcester County, MA in 2018 (Exhibit 2).

3. The Appellant’s Federal Adjusted Gross Income for 2018 was $18,729 (Exhibit 2 and Appellant Testimony).

4. The Appellant had MassHealth for the period of January through July but did not have health insurance for the period of August through December in tax year 2018 (Exhibit 2 and Appellant Testimony).

5. The Appellant has been assessed a two-month tax penalty for 2018. The Appellant filed an appeal of the assessment in May 2019 (Exhibits 2, 3, 4).
6. I take administrative notice of the financial information set forth in Tables 1 through 6 in the DOR 2018 Massachusetts Schedule HC Health Care Instructions and Worksheets. Tables 3 and 4 incorporate affordability and premium schedules adopted by the Board of Directors for the Commonwealth Health Insurance Connector Authority for 2018. Table 2 sets forth income at 300% of the Federal poverty level and Tables 5 and 6 set forth tax penalties in effect for 2018.

7. In accordance with Table 3 of Schedule HC for 2018, the Appellant filing the Federal tax return as a married person filing separate with no dependents claimed, with an annual adjusted gross income of $18,729 could afford to pay $45 per month for health insurance. In accordance with Table 4, the Appellant, age 55, living in Worcester County, could have purchased private insurance for $423 per month for a plan (Schedule HC for 2017). Private insurance was not affordable for the Appellant in tax year 2018.

8. The Appellant would have been eligible for ConnectorCare coverage in 2018 because the Appellant’s income was less than 300% of the federal poverty level, which was $36,180 in 2018. The Appellant did not have access to employer-sponsored insurance (See Table 2 of Schedule HC-2018) (Appellant Testimony).

9. The Appellant testified that they had MassHealth for the first seven months of tax year 2018 but due to high child support payments, a $1,000 debt owed to the Internal Revenue Service (IRS) and monthly living expenses, they could not afford to purchase health insurance when their MassHealth ended (Exhibit 3 and Appellant Testimony).

10. The Appellant testified that their monthly child support is $275 per week but they are in arrears. In addition to the monthly child support of $1,192 the Appellant had the following monthly living expenses: rent-$500; telephone-$30; car insurance-$100; gasoline-$347 and food-$217. I found the Appellant’s testimony credible (Appellant Testimony).

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

The Appellant had MassHealth for the period of January through July but did not have health insurance for the period of August through December in tax year 2018. The Appellant has been assessed a two-month penalty. The Appellant asserts that the penalty should not apply in this case because of financial hardship. To determine if the penalty should be waived in whole or in part, there must be an evaluation of whether affordable insurance which met minimum creditable coverage standards was available to the Appellant through employment, through private insurance, or through a government sponsored program. If affordable insurance was available, it must be determined if such insurance was not affordable to the Appellant because the Appellant experienced a financial hardship as defined in 956 CMR 6.08.
In accordance with Table 3 of Schedule HC for 2018, the Appellant filing the Federal tax return as a married person filing separately with no dependents claimed with an adjusted gross income of $18,729 could afford to pay $45 per month for health insurance. According to Table 4, the Appellant, age 55, living in Worcester County, could have purchased a private insurance plan for $423 per month. See Schedule HC for 2018. Private insurance was not affordable for the Appellant in tax year 2018.

The Appellant had no access to affordable employer-sponsored health insurance in tax year 2018. The Appellant would have been eligible for ConnectorCare coverage based upon the Appellant’s income which was less than $36,180. See Table 2 of Schedule HC 2018 and 956 CMR 12.04 for eligibility criteria. Since affordable insurance was available to the Appellant in 2018, it must be determined whether the Appellant experienced a financial hardship pursuant to 956 CMR 6.08 (1).

The Appellant testified credibly that their monthly child support obligation and living expenses exceeded their income in 2018. The Appellant is obligated to pay weekly child support of $275 ($1,191 monthly). In addition, the Appellant verified monthly living expenses of $1,194. The Appellant testified credibly that they fell behind in their child support payments and struggled to meet their monthly living expenses. The Appellant still owes an outstanding debt of $1,000 for back taxes. The Appellant has demonstrated that the cost of purchasing health insurance would have caused the Appellant to experience a serious financial hardship. See 956 CMR 6.08(1)(e). The Appellant’s two-month penalty is therefore waived.

The Appellant should note that the waiver of their penalty is based upon the facts that I have determined to be true in 2018. The Appellant should not assume that a similar determination will be made for subsequent tax years should they again be assessed a penalty for failure to have health insurance.

**PENALTY ASSESSED**
Number of Months Appealed: ____2___ Number of Months Assessed: __0_____

If the number of months assessed is zero (0) because your penalty has been overturned, the Connector has notified the Department of Revenue that you should NOT be assessed a penalty for Tax Year 2018.

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

Cc: Connector Appeals Unit
Massachusetts Health Connector Appeals Unit

FINAL APPEAL DECISION: PA18-847

Appeal Decision: Appeal Approved.

Hearing Issue: Appeal of the 2018 Tax Year Penalty
Hearing Date: November 15, 2019
Decision Date: November 25, 2019

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 November 15, 2019. Interpreter services were provided at the Appellant’s request. 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 testimony of the Appellant as well as the following documents which were admitted into evidence:

Exhibit 1: Health Connector Appeals Unit Notice of Hearing dated October 8, 2019.
Exhibit 2: Appeal Case Information from Schedule HC 2018.
Exhibit 4: The Appellant’s letter in support of this appeal with attachments.

FINDINGS OF FACT
The record shows, and I so find:

1. The Appellant turned 63 years old in April 2018. The Appellant filed their Federal Income Tax return as a married couple with two dependents claimed (Exhibit 2).

2. The Appellant lived in Suffolk County, MA in 2018 (Exhibit 2).

3. The Appellant’s Federal Adjusted Gross Income for 2018 was $41,314 (Exhibit 2 and Appellant Testimony).

4. The Appellant’s Spouse is not being assessed a tax penalty for tax year 2018 (Exhibit 2).
5. The Appellant did not have health insurance for any months in tax year 2018 (Exhibit 2 and Appellant Testimony).

6. The Appellant has been assessed a twelve-month tax penalty for 2018. The Appellant filed an appeal of the assessment in May 2019 (Exhibits 2, 3, 4 and Appellant Testimony).

7. I take administrative notice of the financial information set forth in Tables 1 through 6 in the DOR 2018 Massachusetts Schedule HC Health Care Instructions and Worksheets. Tables 3 and 4 incorporate affordability and premium schedules adopted by the Board of Directors for the Commonwealth Health Insurance Connector Authority for 2018. Table 2 sets forth income at 300% of the Federal poverty level and Tables 5 and 6 set forth tax penalties in effect for 2018.

8. In accordance with Table 3 of Schedule HC for 2018, the Appellant filing the Federal tax return as a married couple with two dependents claimed, with an annual adjusted gross income of $41,314 could afford to pay $170 per month for health insurance. In accordance with Table 4, the Appellant, age 63, living in Suffolk County, could have purchased private insurance for $1,003 per month for a family plan (Schedule HC for 2018). Private insurance was not affordable for the Appellant in 2018.

9. The Appellant testified that their employer offered health insurance that cost $60-$65 dollars per week. Since the monthly cost of $260-$282 exceeds the $170 deemed affordable under Table 3 of Schedule HC for 2018, the Appellant had no access to affordable insurance through employment in tax year 2018 (Exhibit 3 and Appellant Testimony).

10. The Appellant would have been eligible for ConnectorCare coverage in 2018 because the Appellant’s income was less than 300% of the federal poverty level, which was $73,800 for a household of four in 2018 (See Table 2 of Schedule HC-2018 and 956 CMR 12.04).

11. The Appellant testified that their mother in law, age 90 in 2018, lives in an elder care facility in Columbia. The Appellant explained that this is a private pay facility not covered by insurance. In addition to the facility cost, the Appellant pays for medical treatment and medications. The Appellant said that the total cost for care in tax year 2018 was $17,500. The Appellant’s credible testimony is supported by receipts for money transfers for the period of January through December in tax year 2018 (Exhibit 4 and Appellant Testimony).

12. The Appellant has been paying for their mother in law’s care since 2010 (Exhibit 5 and Appellant Testimony).

13. The Appellant’s 2018 monthly living expenses included: rent-$1,400-$1,500; oil heat- $134; electricity-$120; an MBTA pass -$82, telephone-$125 and food-$1,200. The Appellant testified that they struggled to meet their living expenses and pay for their mother in law’s care and could not afford a monthly healthcare premium (Appellant Testimony).

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

The Appellant’s Spouse is not being assessed a tax penalty for tax year 2018. The Appellant did not have health insurance in tax year 2018 and consequently has been assessed a twelve-month penalty. The Appellant asserts that the penalty should not apply in this case because of financial hardship. To determine if the penalty should be waived in whole or in part, there must be an evaluation of whether affordable insurance which met minimum creditable coverage standards was available to the Appellant through employment, through private insurance, or through a government sponsored program. If affordable insurance was available, it must be determined if such insurance was not affordable to the Appellant because the Appellant experienced a financial hardship as defined in 956 CMR 6.08.

In accordance with Table 3 of Schedule HC for 2018, the Appellant filing the Federal tax return as a married couple with two dependents claimed with an adjusted gross income of $41,314 could afford to pay $170 per month for health insurance. According to Table 4, the Appellant, age 63, living in Suffolk County, could have purchased a private insurance plan for $1,003 per month. See Schedule HC for 2018. Private insurance was not affordable for the Appellant in tax year 2018.

The health insurance offered by the Appellant’s employer would have cost the Appellant $260-$282 per month. This is more than the $170 deemed affordable for the Appellant under Table 3 of Schedule HC for 2018. The Appellant had no access to affordable employer-sponsored health insurance in 2018.

The Appellant would have been eligible for ConnectorCare coverage based upon the Appellant’s income which was less than 300% of the federal poverty level which was $73,800 for a family of four. See Table 2 of Schedule HC 2018 and 956 CMR 12.04 for eligibility criteria. Since affordable insurance was available to the Appellant in 2018, it must be determined whether the Appellant experienced a financial hardship pursuant to 956 CMR 6.08 (1).

The Appellant testified credibly that since 2010 their elderly mother in law, living in Columbia, has required inpatient care at an elderly facility. The cost of the facility as well as medical expenses, is not covered by insurance. The Appellant verified that in tax year 2018, they spent $17,500 for their mother in law’s care. The Appellant was therefore supporting their family of four with income of under $24,000. The Appellant verified substantial monthly expenses for rent, food and transportation for their household of four and testified credibly that they struggled to meet these expenses with their limited income.

Based on the evidence and testimony in this administrative record, the Appellant has demonstrated that the cost of purchasing health insurance would have caused the Appellant to experience a serious financial hardship. See 956 CMR 6.08(1)(e). The Appellant’s twelve-month penalty is therefore waived.

The Appellant should note that the waiver of their penalty is based upon the facts that I have determined to be true in 2018. The Appellant should not assume that a similar determination will be made for subsequent tax years should they again be assessed a penalty for failure to have health insurance.

PENALTY ASSESSED
Number of Months Appealed: ___12___  Number of Months Assessed: ___0_____

If the number of months assessed is zero (0) because your penalty has been overturned, the Connector has notified the Department of Revenue that you should NOT be assessed a penalty for Tax Year 2018.

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

Cc: Connector Appeals Unit

**ADDENDUM**
The Appellant is reminded that Open Enrollment for obtaining health insurance coverage for 2020 through the Health Connector is November 1, 2019 through January 23, 2020. The Appellant may contact Health Connector Customer Service at 1-877-623-6765 for assistance.
Massachusetts Health Connector Appeals Unit

FINAL APPEAL DECISION: PA18-890

Appeal Decision: Appeal Approved

Hearing Issue: Appeal of the 2018 Tax Year Penalty
Hearing Date: November 25, 2019
Decision Date: November 27, 2019

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 November 25, 2019.

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

Exhibit 1: Notice of Hearing dated October 24, 2019
Exhibit 2: Appeal Case Information from form Schedule HC
Exhibit 3: Statement of Grounds for Appeal dated May 29, 2019
Exhibit 4: Prior Appeals

FINDINGS OF FACT
The record shows, and I so find:

1. The appellant is sixty four years old and is single. He lives in Barnstable County, Massachusetts.

2. Appellant has a pension and receives Social Security. Appellant has been diagnosed with Attention Hyperactivity Deficit Disorder and Anxiety. The first condition causes executive function problems such as inattentiveness, distractibility, forgetfulness and disorganization, and when those symptoms are compounded by anxiety disorder, the Appellant finds it difficult to follow rules and complete complex forms. (Appellant testimony)

3. Appellant states he can’t afford health insurance.

4. Appellant does not have health insurance in 2019.

5. The Appellant’s monthly expenses totaled $2,101.00, consisting of mortgage $750.00, taxes $166.00, home insurance $145.00, internet and cable $175.00, car insurance $50.00, car gas $30.00, food $250.00, credit card $500.00, clothing $20.00, toiletries $15.00.

6. The Appellant did submit a Statement of Grounds for Appeal-2018 under the grounds for Appeal, “During 2018, the expense of purchasing health insurance would have caused a serious deprivation of food, shelter, clothing or other necessities.”

7. I take administrative notice of the information set forth in tables 1 through 6 in the Department of Revenue Schedule HC Health Care Instructions and Worksheets (Schedule HC Instructions). Tables 3 & 4 incorporate the affordability schedules adopted by the board of directors of the Commonwealth Health Insurance Connector Authority for 2018. Table 1 sets forth the income eligibility standards for various family sizes at 150% of the federal poverty level and Table 2 sets forth the income eligibility standards for various family sizes at 300 per cent of the federal poverty level, which is the income eligibility standard for the government-subsidized health insurance program. See Mass. G.L. c. 118H, s.3(a)(1). Tables 5 and 6 set forth the tax penalties for 2018.

8. Based on the appellant’s federal adjusted gross income and the above referenced tables, I find the appellant may have been eligible for subsidized health insurance, because Appellant’s income of $18,741.00 was less than $36,180.00. The monthly premium for health insurance available on the private market in Barnstable County for a 63 year old single person was $423.00. The tables reflect that Appellant could afford $45.29. This is more than what the appellant is deemed to afford. (Tables 2, 3 & 4 of the Schedule HC Instructions)

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

The Appellant did submit a Statement of Grounds for Appeal-2018 under the grounds for Appeal, “During 2018, the expense of purchasing health insurance would have caused a serious deprivation of food, shelter, clothing or other necessities.”

The Health Care Reform Act of 2006 requires every adult resident of Massachusetts to obtain and maintain creditable insurance coverage “so long as it is deemed affordable” under the schedule established by the board of the Connector. Mass. Gen. Laws ch. 111M, § 2(a). Massachusetts residents who fail to indicate on their state tax returns that they obtained the mandated creditable coverage are subject to a tax penalty for each month in which that the individual did not have creditable health insurance. Id. at § 2(b). However, individuals with incomes up to 150 percent of the Federal Poverty Level (“FPL”) are not subject to any penalty for non-compliance with the individual mandate. See Massachusetts Department of Revenue Technical Information Release (“TIR”) 13-1, available at http://www.mass.gov/dor/businesses/help-and-resources/legal-library/tirs/tirs-by-years/2013-releases/tir-13-1.html. For 2018, 150 percent of the FPL was $18,090.00 for a single person with zero dependents. Id. In addition, a lapse in coverage of 63 days or less is not subject to the section 2(b) penalty. See Administrative Bulletin 03-10 (Dec. 7, 2010), available at https://www.mahealthconnector.org/portal/binary/com.epicentric.contentmanagement.servlet.ContentDeliveryServlet/Health%2520Care%2520Reform/Regulations/documents/Administrative%20Information%20Bulletin%2003-10.pdf; see also 830 Mass. Code Regs. 111M.2.1(5)(c) (2008). Thus, no penalty is imposed for lapses in coverage consisting of three or fewer consecutive calendar months. Id.

Since Appellant’s 2018 income was more than 150 percent of the FPL, making 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 2018. In determining affordability, consideration is given first to the amount Appellant is deemed able to afford for health insurance premiums under the Affordability Schedule and second to the cost of health insurance that was available through employer-sponsored plans, government-subsidized programs or on the private insurance market. See 2018 Schedule HC Instructions and Worksheets, supra.

Appellant reported a federal AGI of $18,741.00 in 2018, 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 2018 Massachusetts Schedule HC, Appellant could afford to pay $45.29 monthly for health insurance. See 2018 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 $423.00 monthly for coverage with zero dependents Id. at Table 4.

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

Appellant has been diagnosed with Attention Hyperactivity Deficit Disorder and Anxiety. The first condition causes executive function problems such as inattentiveness, distractibility, forgetfulness and disorganization, and when those symptoms are compounded by anxiety disorder, the Appellant finds it difficult to follow rules and complete complex forms.

Appellant is deemed to afford $45.29 for health insurance coverage because of his income. Private insurance in the market place was $423.00 per month, which is more than he could afford. On these facts, I find that Appellant has shown that he was precluded from purchasing affordable health insurance during 2018. 956 Mass. Code Regs. 6.08(3) (2008). Accordingly, I conclude that he is exempt from a tax penalty for his non-compliance with the individual mandate.

Accordingly, Appellant’s appeal is **ALLOWED**, and the 2018 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 2018 for the amount equal to one half of the lowest cost health insurance plan available to you for each month you have been assessed the penalty, as listed above, plus applicable interest back to the due date of the return without regard to extension.

OR

If the number of months assessed is zero (0) because your penalty has been overturned, the Connector has notified the Department of Revenue that you should NOT be assessed a penalty for Tax Year 2018.

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

Hearing Officer

Cc:  Connector Appeals Unit
Massachusetts Health Connector Appeals Unit

FINAL APPEAL DECISION: PA18-891

**Appeal Decision** Appeal Approved

**Hearing Issue:** Appeal of the 2018 Tax Year Penalty

**Hearing Date:** November 25, 2019

**Decision Date:** November 27, 2019

**AUTHORITY**

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

**JURISDICTION**

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

**HEARING RECORD**

The Appellants appeared at the hearing, which was held by telephone, on November 25, 2019.

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

- Exhibit 1: Notice of Hearing dated October 24, 2019
- Exhibit 2: Appeal Case Information from form Schedule HC
- Exhibit 3: Statement of Grounds for Appeal dated May 25, 2019
- Exhibit 4: Written Statement of Appeal

**FINDINGS OF FACT**

The record shows, and I so find:
1. The appellant is sixty-one years old and her husband is seventy-one years old. They live in Worcester County, Massachusetts.

2. Appellants stated that Appellant did not have health insurance until the last three months of 2018 and has health insurance in 2019 through her job. The husband had Medicare in 2018 and in 2019.

3. Appellant lost her job in 2017 and did not get a new job until February 2018. She worked as a temporary worker for several months until she was hired full time and was eligible for health benefits with her company.

4. Due to the financial strain of losing her job the Appellants had to file for bankruptcy in 2017 and in addition fell behind on their mortgage payments. Appellants were able to enter into a modification agreement with their mortgage holder and retain their property. (Appellants testimony and Exhibit 4)

5. The Appellant’s monthly expenses totaled $3,893.00, consisting of mortgage $916.00, heat & light $125.00, internet & cable $80.00, landline $90.00, cell phone $120.00 car payments $450.00, car insurance $300.00, car gas $250.00, food $400.00, entertainment $100.00, Hisband’s medicare insurance $102.00.

6. The appellant did submit a Statement of Grounds for Appeal-2018 under the grounds for Appeal, “During 2018, you were homeless; more than thirty days in arrears in rent or mortgage payments; or received an eviction or foreclosure notice” but should also have appealed under “During 2018, the expense of purchasing health insurance would have caused a serious deprivation of food, shelter, clothing or other necessities.” I will hear their appeal under both grounds.

7. I take administrative notice of the information set forth in tables 1 through 6 in the Department of Revenue Schedule HC Health Care Instructions and Worksheets (Schedule HC Instructions). Tables 3 & 4 incorporate the affordability schedules adopted by the board of directors of the Commonwealth Health Insurance Connector Authority for 2018. Table 1 sets forth the income eligibility standards for various family sizes at 150% of the federal poverty level and Table 2 sets forth the income eligibility standards for various family sizes at 300 per cent of the federal poverty level, which is the income eligibility standard for the government-subsidized health insurance program. See Mass. G.L. c. 118H, s.3(a)(1). Tables 5 and 6 set forth the tax penalties for 2018.

8. Based on the appellant’s federal adjusted gross income and the above referenced tables, I find the appellant would not have been eligible for subsidized health insurance, since Appellant’s income of $65,740.00 was more than $48,720.00. The monthly premium for health insurance available on the private market in Worcester County for a 60 year old married person was $846.00. The tables reflect that Appellants could afford $441.00. This is
more than what the appellant is deemed to afford. (Tables 2, 3 & 4 of the Schedule HC Instructions)

ANALYSIS AND CONCLUSIONS OF LAW

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

The appellant did submit a Statement of Grounds for Appeal-2018 under the grounds for Appeal, “During 2018, you were homeless; more than thirty days in arrears in rent or mortgage payments; or received an eviction or foreclosure notice” but should also have appealed under “During 2018, the expense of purchasing health insurance would have caused a serious deprivation of food, shelter, clothing or other necessities.” I will hear their appeal under both grounds.

The Health Care Reform Act of 2006 requires every adult resident of Massachusetts to obtain and maintain creditable insurance coverage “so long as it is deemed affordable” under the schedule established by the board of the Connector. Mass. Gen. Laws ch. 111M, § 2(a). Massachusetts residents who fail to indicate on their state tax returns that they obtained the mandated creditable coverage are subject to a tax penalty for each month in which that the individual did not have creditable health insurance. Id. at § 2(b). However, individuals with incomes up to 150 percent of the Federal Poverty Level (“FPL”) are not subject to any penalty for non-compliance with the individual mandate. See Massachusetts Department of Revenue Technical Information Release (“TIR”) 13-1, available at http://www.mass.gov/dor/businesses/help-and-resources/legal-library/tirs/tirs-by-years/2013-releases/tir-13-1.html. For 2018, 150 percent of the FPL was $24,030.00 for a married person. Id. In addition, a lapse in coverage of 63 days or less is not subject to the section 2(b) penalty. See Administrative Bulletin 03-10 (Dec. 7, 2010), available at https://www.mahealthconnector.org/portal/binary/com.epicentric.contentmanagement.servlet.ContentDeliveryServlet/Health%2520Care%2520Reform/Regulations/documents/Administrative%20Information%20Bulletin%202003-10.pdf; see also 830 Mass. Code Regs. 111M.2.1(5)(c) (2008). Thus, no penalty is imposed for lapses in coverage consisting of three or fewer consecutive calendar months. Id.

Since Appellant’s 2018 income was more than 150 percent of the FPL, making them potentially subject to an individual mandate penalty, the threshold issue to be addressed is whether creditable health insurance coverage was affordable to them in 2018. In determining affordability, consideration is given first to the amount Appellant is deemed able to afford for health insurance premiums under the Affordability Schedule and second to the cost of health insurance that was available through employer-sponsored plans, government-subsidized programs or on the private insurance market. See 2018 Schedule HC Instructions and Worksheets, supra.

Appellant lost her job in 2017 and did not get a new job until February 2019. She worked as a temporary worker for several months until she was hired full time and was eligible for health benefits with her
company. Due to the financial strain of losing her job the Appellants had to file for bankruptcy in 2017 and in addition fell behind on their mortgage payments. Appellants were able to enter into a modification agreement with their mortgage holder and retain their property.

Appellant reported a federal AGI of $65,740.00 in 2018, and Appellant’s filing status was married. EX 2. According to the Affordability Schedule established by the Connector’s board and included in the Instructions and Worksheets of the 2018 Massachusetts Schedule HC, Appellant could afford to pay $441.00 monthly for health insurance. See 2018 Schedule HC Instructions and Worksheets, supra at Table 3. Private insurance would have been available to them from the Premium Tables, at a cost of $846.00 monthly for coverage. Id. at Table 4.

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

Appellant is deemed to afford $441.00 for health insurance coverage because of their income. Private insurance in the market place was $846.00 per month, which is more than they could afford. On these facts, I find that Appellants have shown that they were precluded from purchasing affordable health insurance during 2018. 956 Mass. Code Regs. 6.08(3) (2008). Accordingly, I conclude that they are exempt from a tax penalty for their non-compliance with the individual mandate.

Accordingly, Appellant’s appeal is ALLOWED, and the 2018 penalty assessed is OVERTURNED.

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 2018 for the amount equal to one half of the lowest cost health insurance plan available to you for each month you have been assessed the penalty, as listed above, plus applicable interest back to the due date of the return without regard to extension.

OR

If the number of months assessed is zero (0) because your penalty has been overturned, the Connector has notified the Department of Revenue that you should NOT be assessed a penalty for Tax Year 2018.

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

Cc: Connector Appeals Unit
Massachusetts Health Connector Appeals Unit

FINAL APPEAL DECISION: PA14-950

Appeal Decision: Appeal Denied.

Hearing Issue: Appeal of the 2014 Tax Year Penalty
Hearing Date: November 19, 2019
Decision Date: November 25, 2019

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 November 19, 2019. 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 2: Appeal Case Information from Schedule HC 2014.
Exhibit 3: Statement of Grounds for Appeal signed by the Appellant on April 11, 2019.
Exhibit 4: The Appellant’s letter in support of this appeal dated April 11, 2019.

FINDINGS OF FACT
The record shows, and I so find:

1. The Appellant turned 48 years old in May 2014. The Appellant filed their Federal Income Tax return as a single person with no dependents claimed (Exhibit 2).

2. The Appellant lived in Middlesex County, MA in 2014 (Exhibit 2).

3. The Appellant’s Federal Adjusted Gross Income for 2014 was $52,000 (Exhibit 2).

4. The Appellant did not have health insurance for any months in tax year 2014 (Exhibit 2 and Appellant Testimony).

5. The Appellant has been assessed a twelve-month tax penalty for 2014. The Appellant filed an appeal of the assessment in April 2019 (Exhibits 2, 3, 4).
6. I take administrative notice of the financial information set forth in Tables 1 through 6 in the DOR 2014 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 2014. Table 2 sets forth income at 300% of the Federal poverty level and Tables 5 and 6 set forth tax penalties in effect for 2014.

7. In accordance with Table 3 of Schedule HC for 2014, the Appellant filing the Federal tax return as a single person, with no dependents claimed, with an annual adjusted gross income of $52,000 could afford to pay $347 per month for health insurance. In accordance with Table 4, the Appellant, age 48, living in Middlesex County, could have purchased private insurance for $246 per month for a single plan (Schedule HC for 2014). Private insurance was affordable for the Appellant.

8. The Appellant would not have been eligible for ConnectorCare coverage in 2014 because the Appellant’s income was greater than 300% of the federal poverty level, which was $34,470 in 2014. The Appellant testified that they did not have access to employer-sponsored insurance in tax year 2014 (See Table 2 of Schedule HC-2014 and 956 CMR 12.04) (Appellant Testimony).

9. The Appellant testified that their net annual income was $37,032 and they could not meet their living expenses and purchase health insurance (Exhibit 4 and Appellant Testimony).

10. The Appellant’s 2014 monthly living expenses of $2,483 included: rent, with health and electricity-$1,200; car insurance-$100; gasoline-$433; telephone-$100 and food-$650. The Appellant said that they had some expenses to fix their truck but did the work themselves to keep costs down (Exhibit 4 and Appellant Testimony).

11. In tax year 2014 the Appellant did not face eviction, did not receive any utility shut off notices, did not incur a significant and unexpected increase in expenses due to a natural or human caused disaster and did not incur significant expenses as a result of a family emergency (Appellant Testimony).

ANALYSIS AND CONCLUSIONS OF LAW

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

The Appellant did not have health insurance for any months in tax year 2014. The Appellant has been assessed a twelve-month penalty. The Appellant submitted a statement of grounds for this appeal citing a financial hardship.

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

In accordance with Table 3 of Schedule HC for 2014, the Appellant filing the Federal tax return as a single person with no dependents claimed, with an adjusted gross income of $52,000 could afford to pay $347 per month for health insurance. In accordance with Table 4, the Appellant, age 48, living in Middlesex County, could have purchased private insurance for $246 per month for a plan (Schedule HC for 2018). Private insurance was affordable for the Appellant in 2014.

The Appellant would not have been eligible for ConnectorCare coverage in 2014 because the Appellant’s income was greater than 300% of the federal poverty level, which was $34,470 in 2014. The Appellant did not have access to affordable employer sponsored insurance in tax year 2014 (See Table 2 of Schedule HC-2014 and 956 CMR 12.04).

Since affordable insurance was available to the Appellant in 2014, it must be determined whether the Appellant experienced a financial hardship pursuant to 956 CMR 6.08 (1).

The Appellant’s adjusted gross income was $52,000. The Appellant argues that their after-tax income was only $37,032 and therefore insurance was not affordable. Using the net income cited by the Appellant, their after-tax income averaged $3,086 monthly. The Appellant’s monthly expenses were $2,483. The Appellant was not facing eviction, did not receive any utility shut off notices and did not incur significant and unexpected expenses due to a family emergency, natural or other human caused disaster. Given that in accordance with Table 4 of Schedule HC for 2014, the Appellant could have purchased private health insurance for as low as $246 per month, the Appellant has failed to demonstrate that the cost of purchasing health insurance for 2014 would have caused the Appellant to experience a serious financial hardship. See 956 CMR 6.08. The Appellant’s twelve-month penalty is upheld.

**PENALTY ASSESSED**
Number of Months Appealed: _____12____ Number of Months Assessed: __12____

The Connector has notified the Department of Revenue that, pursuant to its decision, you should be assessed a penalty for Tax Year 2014 for the amount equal to one half of the lowest cost health insurance plan available to you for each month you have been assessed the penalty, as listed above, plus applicable interest back to the due date of the return without regard to extension.

**NOTIFICATION OF YOUR RIGHT TO APPEAL TO COURT**
If you disagree with this decision, you have the right to appeal to Court in accordance with Chapter 30A of the you reside, or Suffolk County Superior Court within thirty (30) days of your receipt of this decision.

Cc: Connector Appeals Unit
Massachusetts Health Connector Appeals Unit

Tax Penalty Appeal Decision—Docket No. PA18-795

Appeal Decision:  Appeal Approved -- 2018 tax penalty overturned.

Hearing Issue:  Appeal of the 2018 Tax Year Penalty
Hearing Date:  November 6, 2019
Decision Date:  November 10, 2019

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

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

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

1.   DOR Appeal Case Information from Schedule HC (1 page);
2.   Appellant’s Statement of Grounds for Appeal – 2018 (2 pages, dated 5/14/19);
3.   Appellant’s Letter in Support of Appeal (1 page, undated); and

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

1. The Appellant appealed from the Department of Revenue’s assessment of a 12 month penalty for 2018. The basis for the penalty was that the Appellant was not insured at any time in 2018. Exhibits 1 and 2. Based on Exhibit 1 and the Appellant’s hearing testimony, I find that the penalty assessment is accurate.

2. The Appellant filed a Massachusetts personal income tax return for 2018 as a single person with no dependents. The Appellant’s federal adjusted gross income (AGI) for 2018 was $19,032. Exhibit 1.
3. The Appellant was 30 years old at the beginning of 2018 and resided in [name of city or town omitted] in Suffolk County, Massachusetts. Exhibit 1.

4. The Appellant’s AGI was more than 150% of the federal poverty level. On this basis I conclude that the Appellant was not automatically exempt from the assessment of a tax penalty in 2018. DOR Table 1.

5. The Appellant’s 2018 AGI ($19,032) was substantially less than 300% of the federal poverty level ($36,180 for a one person household). DOR Table 2. On this basis I infer that it is likely that the Appellant would satisfy the financial eligibility requirements for government-subsidized health insurance if he had submitted an application to the Health Connector.

6. Based on DOR Table 3 the Appellant could afford to pay 2.90% of his income -- or $46 per month -- for health insurance coverage in 2018. (The calculation is 2.90 % multiplied by $19,032 AGI = $551.92 per year divided by 12 months = $45.99 per month.)

7. Based on DOR Table 4 (Region 2) the Appellant could obtain individual health insurance coverage at his age and location for $249 per month in 2018.

8. In his letter supporting his appeal the Appellant asserted that he did not have health insurance “because I was not making enough money to afford the monthly payments.” Exhibit 3. The Appellant also stated that, “I am in the process of getting insurance so I hope that the penalty could be waived.” Exhibit 3. There is, however, no evidence that the Appellant had taken any concrete steps to obtain health insurance by the date of the appeal hearing on November 6, 2019, although he filed his tax penalty appeal on May 14, 2019. In the appeal hearing the Appellant represented that he intended to submit an application to the Health Connector in the upcoming week after the hearing. Exhibit 2, page 2, and Testimony. (I note that the Health Connector had just begun its open enrollment period for 2020 insurance coverage on November 1, 2019.)

9. The Appellant is an artist with fluctuating income. His financial situation became more unstable when (a) his engagement to be married ended, and (b) he had to devote substantial time (together with his brother) providing care for his mother in 2018 while she was undergoing cancer treatment (the cancer diagnosis was in late 2017). The time devoted to his mother’s care detracted from the Appellant’s ability to obtain paying work. Testimony.

10. The Appellant was insured through a Health Connector health plan in 2016. The Appellant represents that he did not continue that coverage after he moved to his current address. Testimony.

11. In 2018 the Appellant worked part-time at Staples. He was not eligible for the Staples employer-sponsored health plan because he was not a full-time employee. Testimony.
The Appellant has an outstanding $2,500 student loan balance for which he pays $59 per month. He also has a $1,200 credit card debt. He pays $600 per month for rent. Testimony.

Except as set forth in the foregoing findings of fact, I adopt the facts set forth in Exhibit 1 as my own findings of fact. Exhibit 1 is a computer printout prepared by the Massachusetts Department of Revenue (DOR) that extracts information submitted by the Appellant on Schedule HC as part of the Appellant’s 2018 Massachusetts income tax return.

I take administrative notice of the financial information set forth in Tables 1 through 6 of the DOR 2017 Massachusetts Schedule HC Health Care Instructions and Worksheet. Tables 3 and 4 incorporate the affordability schedules adopted by the board of directors for the Commonwealth Health Insurance Connector Authority (Health Connector or Connector) for 2018. See 956 Code Mass. Regs. 6.05. Table 1 sets forth income levels less than 150% of the federal poverty level that are exempt from the assessment of a state tax penalty. Table 2 sets forth income eligibility standards for various family sizes at 300% of the federal poverty level, which is the income eligibility standard for the ConnectorCare government subsidized health insurance program. Tables 5 and 6 set forth the tax penalties in effect for 2018. (The DOR instructions are published online at http://www.mass.gov/dor/2018ScheduleHCInstructions and are also available in the state income tax forms supplied to taxpayers. See also DOR Technical Information Release (TIR) 12-7: Individual Mandate Penalties for Tax Year 2018.)

ANALYSIS AND CONCLUSIONS OF LAW

The case is before me on the Appellant’s appeal from the state Department of Revenue’s (DOR) assessment of a tax penalty because the Appellant did not have health insurance coverage in 2018. See Exhibits 1 and 2. The issue to be decided is whether the penalty should be waived, either in whole or in part.

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

If these requirements are not met, a tax penalty is assessed for “each of the months” that the person did not have health insurance, as required by the individual mandate. Mass. Gen. Laws 111M, sec. 2(b). See Exhibit 1. There is, however, a three-month grace period for any lapse in coverage to allow the taxpayer to make a transition between health insurance policies. Health Connector’s Administrative Bulletin 03-10, applying Mass. Gen. Laws 111M, sec. 2(b). See also DOR Instructions, at page HC-3. A tax penalty will not be assessed during the 3-month administrative grace period.
The Health Connector’s regulations also provide for a “hardship” appeal from the assessment of a penalty. 956 Code Mass. Regs. 6.07 and 6.08. The grounds for a hardship appeal are summarized in the Statement of Grounds for Appeal – 2017 that the Appellant signed and filed in this case. See Exhibit 2.

Deciding on an appropriate resolution of this appeal is difficult because the Appellant’s quite low income ($19,032 AGI) simultaneously demonstrates that health insurance would cost more than he could afford to pay and also demonstrates that he would almost surely qualify for a government subsidy to help pay the monthly insurance premium. Since the Appellant did not submit an application to the Health Connector for health insurance coverage for 2018 the amount of the government subsidy is unknown to the Appellant and also to me. See, e.g., Findings of Fact, Nos. 6 and 7, above.

For 2018 I have decided to take the Appellant up on the representation that he made in his supporting letter (Exhibit 3) that his “living situation has changed” and that he will obtain health insurance coverage. I debated whether I should impose a reduced penalty before I decided to waive the entire 12 month penalty under the Health Connector’s financial hardship regulation. In addition to the Appellant’s low income in 2018, I took into account the fact that 2018 presented an unexpected and special challenge of caring for his mother during her cancer treatment that also had an adverse effect on the Appellant’s ability to earn money. Paying a penalty would also, as the Appellant asserts in Exhibit 3, make it more difficult for him to enroll in a health plan.

In sum, for 2018 I waive the entire 12 month penalty under the Health Connector’s financial hardship regulation. See 956 Code Mass. Regs. 6.08 (1) (e) (“[The Appellant] experienced financial circumstances such that the expense of purchasing health insurance that met minimum creditable coverage standards would have caused him to experience a serious deprivation of food, shelter, clothing or other necessities.”). Another provision in the hardship regulation suggests special consideration of the Appellant’s situation in 2018 even if he did not strictly satisfy all the requirements. See 965 Code Mass. Regs. 6.08 (1) (d) (par. 3) (“[T]he sudden responsibility for providing full care for an aging parent or other family member . . . .”).

I emphasize that the Appellant should not assume that penalties will also be waived (or reduced) for 2019 or 2020. The Appellant will, among other things, be expected to demonstrate that he has filed an application with the Health Connector, as he represented he would do in Exhibit 3 and in his appeal hearing testimony. See my RECOMMENDATION below.

**PENALTY ASSESSED**

Number of Months Appealed: __12_____ Number of Months Assessed: ___0-____

The Connector has notified the Department of Revenue that, pursuant to its decision, you should be assessed a penalty for Tax Year 2018 for the amount equal to one half of the lowest cost health insurance plan available to you for each month you have been assessed the penalty, as listed above, plus applicable interest back to the due date of the return without regard to extension.

OR
If the number of months assessed is zero (0) because your penalty has been overturned, the Connector has notified the Department of Revenue that you should NOT be assessed a penalty for Tax Year 2018.

**NOTIFICATION OF YOUR RIGHT TO APPEAL TO COURT**

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

Hearing Officer

Cc: Connector Appeals Unit

**RECOMMENDATION.** During the appeal hearing on November 6 I gave you the Health Connector’s website and telephone number to facilitate your application for health insurance coverage. I repeat them here: [www.mahealthconnector.org](http://www.mahealthconnector.org) and 1-877-632-6765. As you already appear to know, there are also places that can help you with the application process, including local hospitals and community health centers.

The Health Connector’s open enrollment period for next year’s coverage (2020) began on **November 1, 2019**. Filing an application is only the first step toward insuring yourself so do not delay in starting the process and make sure you take all the following steps within the specified deadlines.
Massachusetts Health Connector Appeals Unit

FINAL APPEAL DECISION: PA18-133

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

Hearing Issue: Appeal of the 2018 Tax Year Penalty
Hearing Date: October 31, 2019
Decision Date: November 12, 2019

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

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

HEARING RECORD
The Appellant appeared at the hearing, which was held by telephone, on October 31, 2019. The hearing record consists of Appellant’s testimony and the following documents which were admitted into evidence:

Exhibit 1: The Connector’s Hearing Notice (4 pages)
Exhibit 2: The Connector’s Hearing Notice for June 2, 2019 (4 pages)
Exhibit 2: An Appeal Case Information sheet containing information from Appellant’s Schedule HC (1 page)
Exhibit 3: Statement of Grounds (5 pages)

FINDINGS OF FACT
The record shows, and I so find, that:

1. As of the end of 2018, Appellant was 56 years old.
2. During 2018 and at the time of the hearing, Appellant resided in Essex County in the Commonwealth of Massachusetts.
3. During 2018, and at the time of the hearing, Appellant was unmarried with no dependents. He filed his 2018 state taxes with a tax filing status of single.
4. Appellant reported on his Schedule HC and confirmed in his testimony at the hearing that he had no insurance meeting minimum creditable coverage (MCC) standards for the entire year of 2018.
5. During 2018, Appellant worked as an installer. He was offered insurance through his employment but it would have cost $600 a month, so he did not take it.
6. Appellant’s adjusted gross income in 2018 was $69,710. This is the amount he reported on his 2018 state tax return and he confirmed that amount in his testimony at the hearing.

7. Appellant stated that he had a mortgage payment of $1200 a month, as well as car loan payment and home insurance.

8. At some point in 2018, Appellant shopped for health insurance online through the Health Connector, but determined that the premiums would be about $500 a month with deductibles.

9. Appellant stated that in a previous year he had to pay a penalty for not having insurance.

ANALYSIS AND CONCLUSIONS OF LAW

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

Appellant submitted a statement of grounds for this appeal, claiming that the penalty should be waived in his case because obtaining health insurance would have caused him a “serious deprivation” of the necessities of life, which would constitute grounds for a waiver pursuant to 956 CMR 6.08(1)(e). He also claimed there were other circumstances that justified a waiver, although those circumstances were not specified.

During 2018, Appellant earned an income of $69,710. Using Table 3, affordability, which is incorporated in the instructions of the Schedule HC and of which I take administrative notice, he was deemed able to afford 8.05% of his income for health insurance. This amounts to $468 a month. The insurance offered to him by his employer cost $600 a month and so was not affordable.

Further, during 2018, Appellant was not eligible for government-subsidized insurance. I base this conclusion on the fact that Appellant’s 2018 adjusted gross income was $69,710, which is above $36,180, the amount equal to three times or 300%, of the federal poverty level (FPL) for an individual in 2018. (The figure of $36,180 is obtained from Table 2 of the instructions to the Schedule HC, governing the individual mandate penalty calculation, of which I take administrative notice.) Persons with an income above 300% of FPL are not eligible for government-subsidized insurance. See 956 CMR 12.04 (ConnectorCare eligibility requirements).

However, during 2018, Appellant was able to afford unsubsidized health insurance that was available to him. In making this calculation, I rely on Table 3, Affordability, and Table 4, Premiums, in the instructions to Schedule HC, of which I take administrative notice. As stated above, based on the affordability table, Appellant was deemed able to afford 8.05% percent of his adjusted gross income for health insurance, which amounted to $468 per month. At the time the lowest-cost health insurance plan available to an individual of Appellant’s age in Essex County cost $423 per month, which is less than the amount he was deemed able to afford. Thus, by application of the tables, he was able to afford unsubsidized health insurance.
Next, I consider whether Appellant has established grounds for a waiver. He stated that he had regular expenses, including a $1200 monthly mortgage payment on his home, as well as home insurance, a car payment, and other bills. However, these expenses, although considerable, were within a normal range. The affordability table referenced above takes into account the average cost of living in determining what portion of income an individual can afford to spend on health insurance. Under that table, Appellant was able to afford an amount that was somewhat greater than the lowest cost of health insurance available to him. Further, I note that Appellant has paid a penalty in previous years for not getting health insurance.

Nonetheless, in the exercise of my discretion, I determine to reduce the Appellant’s tax penalty from a full 12 months to only four (4) months. I do so in consideration of the fact that the amount he could afford for premiums was only approximately $40 a month more than he would have had to pay for health insurance.

**PENALTY ASSESSED**

Number of Months Appealed: __12____ Number of Months Assessed: __4____

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

**NOTIFICATION OF YOUR RIGHT TO APPEAL TO COURT**

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

Hearing Officer

Cc: Connector Appeals Unit
Massachusetts Health Connector Appeals Unit

FINAL APPEAL DECISION: PA18-464

Appeal Decision: Appeal Approved.

Hearing Issue: Appeal of the 2018 Tax Year Penalty
Hearing Date: September 4, 2019
Decision Date: November 1, 2019

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 4, 2019. The procedures to be followed during the hearing were reviewed with the Appellant who was then sworn in. Exhibits were marked and admitted into evidence with no objection from the Appellant. The record was left open until October 29, 2019 to allow the Health Connector and the Appellant to submit additional evidence. The hearing record consists of the Appellant’s testimony and the following documents which were admitted into evidence:

Exhibit 2: Appeal Case Information from Schedule HC 2018.
Exhibit 3: The Statement of Grounds for Appeal signed by the Appellant on April 11, 2019.
Exhibit 4: The Appellant’s letter in support of this appeal.
Exhibit 6: Additional information submitted by the Health Connector during the record open period.

FINDINGS OF FACT
The record shows, and I so find:

1. The Appellant turned 26 years old in June 2018. The Appellant filed their Federal Income Tax return as a single person with no dependents claimed (Exhibit 2).

2. The Appellant lived in Essex County, MA in 2018 (Exhibit 2).

3. The Appellant’s Federal Adjusted Gross Income for 2018 was $40,997 (Exhibit 2 and Appellant Testimony).

4. The Appellant had health insurance for the months of January through May but did not have health insurance for the period of June through December in tax year 2018 (Exhibit 2 and Appellant Testimony).
5. The Appellant has been assessed a four-month tax penalty for 2018. The Appellant filed an appeal of the assessment in April 2019 (Exhibits 2, 3, 4 and Appellant Testimony).

6. I take administrative notice of the financial information set forth in Tables 1 through 6 in the DOR 2018 Massachusetts Schedule HC Health Care Instructions and Worksheets. Tables 3 and 4 incorporate affordability and premium schedules adopted by the Board of Directors for the Commonwealth Health Insurance Connector Authority for 2018. Table 2 sets forth income at 300% of the Federal poverty level and Tables 5 and 6 set forth tax penalties in effect for 2018.

7. In accordance with Table 3 of Schedule HC for 2018, the Appellant filing the Federal tax return as a single person, with no dependents claimed, with an annual adjusted gross income of $51,403 could afford to pay $345 per month for health insurance. In accordance with Table 4, the Appellant, age 26, living in Essex County, could have purchased private insurance for $249 per month for a plan (Schedule HC for 2018). Private insurance was affordable for the Appellant in 2018.

8. The Appellant would not have been eligible for ConnectorCare coverage in 2018 because the Appellant’s income was greater than 300% of the federal poverty level, which was $36,180 in 2018. The Appellant had no access to affordable insurance through employment in tax year 2018 (See Table 2 of Schedule HC-2018 and 956 CMR 12.04) (Appellant Testimony).

9. The Appellant testified that they had health insurance through MassHealth for the first half of tax year 2018 but this coverage was terminated. The Appellant said that they did not receive a termination notice and found out they were not covered when they tried to fill a prescription for insulin. The Appellant said that they went to the Heath Connector office on Portland Street in Boston and was told that their income was too high to get insurance subsidies through the Health Connector and that they would have to wait until open enrollment to obtain insurance. The Appellant said that they had changed jobs in June but were not eligible for employer sponsored health insurance until open enrollment for 2019. The Appellant said that they are diabetic and need insurance. The Appellant was unable to access medical care and had to buy their insulin due to lack of coverage. I found the Appellant to be a credible witness.

10. The record was left open to allow the Health Connector to submit any eligibility determinations made by the Health Connector for the Appellant (Exhibit 5).

11. Health Connector submitted a copy of an application dated April 24, 2018. The Appellant is listed as Household 2, not the Head of Household. The Head of Household was notified that they were determined eligible for MassHealth and the person listed as Household 2 (the Appellant) had been determined eligible for ConnectorCare effective June 1, 2018 but was not eligible for a special enrollment period. The Appellant would not have been issued a separate notice (Exhibit 6).

12. The additional information was forwarded to the Appellant and the record remained open until October 29, 2019 to allow the Appellant to file a written response. No additional information was submitted.

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

The Appellant was insured for the first five months but did not have health insurance for the period of June through December in tax year 2018. The Appellant has been assessed a four-month penalty. The Appellant asserts that the penalty should not apply in this case because of circumstances other than financial hardship. To determine if the penalty should be waived in whole or in part, there must be an evaluation of whether affordable insurance which met minimum creditable coverage standards was available to the Appellant through employment, through private insurance, or through a government sponsored program. If affordable insurance was available, it must be determined if such insurance was not affordable to the Appellant because the Appellant experienced a financial hardship as defined in 956 CMR 6.08.

In accordance with Table 3 of Schedule HC for 2018, the Appellant filing the Federal tax return as a single person with no dependents claimed with an adjusted gross income of $51,403 could afford to pay $355 per month for health insurance. According to Table 4, the Appellant, age 26, living in Essex County, could have purchased a private insurance plan for $249 per month. See Schedule HC for 2018. Private insurance was affordable for the Appellant in tax year 2018.

The Appellant had no access to affordable employer-sponsored health insurance during the period of June through December in tax year 2018. The Appellant would not have been eligible for ConnectorCare coverage based upon the Appellant’s income which was greater than $36,180. See Table 2 of Schedule HC 2018 and 956 CMR 12.04 for eligibility criteria.

The Appellant testified that they had MassHealth until June of 2018. The Appellant said that this coverage was terminated but the Appellant testified credibly that they were not aware of this until they tried to fill a prescription and coverage was denied. The Appellant said that they went to the Health Connector office in Boston to try and get insurance but were told that they would have to wait for open enrollment in November 2018. The Appellant explained that they had started a new job in June 2018, but the employer would not allow them to enroll in health insurance through the company until open enrollment.

Health Connector provided some documentation during the record open period following the hearing. Health Connector does not have access to MassHealth eligibility notices but was able to verify that the Appellant was listed as Household 2 on a Health Connector application dated April 24, 2018. The Appellant had been determined eligible for ConnectorCare effective June 1, 2018. The notice was issued to the person listed as the Head of Household on the application. 956 CMR 12.06, 12.13.

The Appellant did not submit additional information during the record open period. The Appellant’s letter in support of this appeal and their testimony indicate that the Appellant was not aware of the eligibility determination made by the Health Connector on April 24, 2018 because the notice was not issued in the Appellant’s name. The eligibility determination was incorrect. As noted above, the Appellant’s income was greater than 300% of the federal poverty level rendering the Appellant financially ineligible for ConnectorCare.
As of June 2018, the Appellant was unable to obtain insurance through their employer or a government sponsored program. The Appellant went to a Health Connector enrollment center in Boston and was informed by the Health Connector that they had to wait for open enrollment in November 2018 to obtain health insurance. Under these circumstances, the Appellant’s four-month tax penalty is waived in full.

The Appellant should note that the waiver of their penalty is based upon the facts that I have determined to be true in 2018. The Appellant should not assume that a similar determination will be made for subsequent tax years should they again be assessed a penalty for failure to have health insurance.

**PENALTY ASSESSED**
Number of Months Appealed: ____4____ Number of Months Assessed: __0_____

If the number of months assessed is zero (0) because your penalty has been overturned, the Connector has notified the Department of Revenue that you should NOT be assessed a penalty for Tax Year 2018.

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

Cc: Connector Appeals Unit
Massachusetts Health Connector Appeals Unit

FINAL APPEAL DECISION: PA18-478

Appeal Decision: Appeal Approved.

Hearing Issue: Appeal of the 2018 Tax Year Penalty
Hearing Date: September 6, 2019
Decision Date: October 2, 2019

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

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

HEARING RECORD
The Appellant and their Spouse appeared at the hearing, which was held telephonically on September 6, 2019. The procedures to be followed during the hearing were reviewed with the Appellants who were then sworn in. Exhibits were marked and admitted into evidence with no objection from the Appellants. The hearing record consists of the Appellants’ testimony and the following documents which were admitted into evidence:

Exhibit 2: Appeal Case Information from Schedule HC 2018.
Exhibit 3: Statement of Grounds for Appeal signed by the Appellant on April 10, 2019, with attachments.

FINDINGS OF FACT
The record shows, and I so find:

1. The Appellant age 30 and their Spouse, age 29, filed their 2018 Federal Income Tax return as a married couple with no dependents claimed (Exhibit 2).

2. The Appellants were part-year residents of Massachusetts with a start date of March 1, 2018 and end date of December 31, 2018 (Exhibit 2).

3. The Appellant is listed as the primary taxpayer on the Schedule HC. The Appellant Spouse had student health insurance in tax year 2018 and is not being assessed a tax penalty (Exhibit 2 and Appellant Testimony).

4. The Appellant had health insurance through the state of Washington that did not meet Massachusetts Minimum Creditable Coverage (MCC) standards in tax year 2018. The Appellant has been assessed a seven-month tax penalty (Exhibits 2, 3 and Appellant Testimony).
5. The Appellants Federal Adjusted Gross Income for 2018 was $77,282 (Exhibit 2 and Appellant Testimony).

6. I take administrative notice of the financial information set forth in Tables 1 through 6 in the DOR 2018 Massachusetts Schedule HC Health Care Instructions and Worksheets. Tables 3 and 4 incorporate affordability and premium schedules adopted by the Board of Directors for the Commonwealth Health Insurance Connector Authority for 2018. Table 2 sets forth income at 300% of the Federal poverty level and Tables 5 and 6 set forth tax penalties in effect for 2018.

7. In accordance with Table 3 of Schedule HC for 2018, the Appellants filing the Federal tax return as a married couple, with no dependents claimed, with an annual adjusted gross income of $77,282 could afford to pay $518 per month for health insurance. In accordance with Table 4, the Appellants with one Spouse age 30, living in Suffolk County, could have purchased private insurance for $498 per month for a plan (Schedule HC for 2018). Private insurance was affordable for the Appellants in 2018.

8. The Appellant testified that they married in August of tax year 2018. The Appellant Spouse was a student and was paying $600 monthly for health insurance through the university. The Appellant explained that they were employed on a per diem basis and did not have access to health insurance through their employer. The Appellant said that they had health insurance in Washington state where they used to live. It covered services in that state but only catastrophic coverage in Massachusetts. The Appellant explained that they visited family in Washington on a regular basis and accessed medical services in that state. The Appellant was paying $258.00 per month for health insurance (Exhibit 3 and Appellant Testimony).

9. The Appellants would not have been eligible for ConnectorCare coverage in 2018 because the Appellants’ income was greater than 300% of the federal poverty level, which was $48,720 for a family of two in 2018. (See Table 2 of Schedule HC-2018 and 956 CMR 12.04).

10. In addition to the health insurance premiums totaling $858, the Appellants 2018 monthly living expenses included: rent-$2,500 from March through August and $2,100 from September through December; car loan-$323; car insurance-$146; gasoline-$217; telephone-$45; cable/internet-$100 and food $650 (Testimony of the Appellants).

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

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

The Appellant and their Spouse were Massachusetts residents during the period of March 1, 2018 through December 31, 2018. The Appellant Spouse had student health insurance in tax year 2018 and has not been assessed a tax penalty. The Appellant had an out of state health insurance for all months of tax year 2018, but the insurance did not meet Massachusetts MCC standards. 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 2018, the Appellants filing the Federal tax return as a married couple with no dependents claimed with an adjusted gross income of $77,282 could afford to pay $578 per month for health insurance. According to Table 4, the Appellants with one person age 30, living in Suffolk County, could have purchased a private insurance plan for $564 per month. See Schedule HC for 2018. Private insurance was affordable for the Appellants in tax year 2018.

The Appellant was employed on a per diem basis and did not have access to employer sponsored health insurance. The Appellants would not have been eligible for ConnectorCare coverage based upon the Appellants’ income which was greater than $48,720. See Table 2 of Schedule HC 2017 and 956 CMR 12.04 for eligibility criteria.

The Appellants were paying a total of $858 per month for health insurance. This is more than the $578 deemed affordable as stated above. In addition, the Appellant’s verified substantial monthly living expenses of $3,981 for the period of March through August and $3,581 for the period of September through December. Based on the evidence and testimony in this administrative record, the Appellant has demonstrated that the cost of purchasing additional health insurance that met Massachusetts MCC standards would have caused the Appellant to experience a substantial hardship. 956 CMR 6.08. The Appellant’s seven-month penalty is waived.

The Appellant should note that the waiver of their penalty is based upon the facts that I have determined to be true in 2018. 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: __0_____  

If the number of months assessed is zero (0) because your penalty has been overturned, the Connector has notified the Department of Revenue that you should NOT be assessed a penalty for Tax Year 2018.

**NOTIFICATION OF YOUR RIGHT TO APPEAL TO COURT**

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

Cc: Connector Appeals Unit
Massachusetts Health Connector Appeals Unit

FINAL APPEAL DECISION: PA18-491

**Appeal Decision** Appeal Approved

**Hearing Issue:** Appeal of the 2018 Tax Year Penalty  
**Hearing Date:** September 4, 2019  
**Decision Date:** November 12, 2019

**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 4, 2019.  
The hearing record consists of the Appellant’s testimony, through an interpreter, and the following documents which were admitted into evidence without objection by Appellant’s representatives:

- **Exhibit 1:** Notice of Hearing (7-25-19) (3 pages);  
- **Exhibit 2:** Information from Schedule HC TY 2018 (1 page); and  
- **Exhibit 3:** Statement of Grounds for Appeal (4-10-19) (with letter and documents) (35 pages).

**FINDINGS OF FACT**

The record shows, and I so find:

1. Appellant, age 29 during 2018, from Suffolk County, filed head of household on the tax return with a family size of 3 (Exhibit 2).
2. Appellant did not have health insurance for 2018. (Appellant’s testimony, Exhibit 2).
3. Appellant’s Federal Adjusted Gross Income for 2018 was $31,903 (Exhibit 2).
4. Appellant had shut off notices, and also was helping pay his nephew’s medical expenses. (Appellant’s testimony, Exhibit 3).
5. I take administrative notice of the financial information set forth in Tables 1 through 6 in the DOR 2018 Massachusetts Schedule HC Health Care Instructions and Worksheets. Tables 3 and 4 incorporate affordability and premium schedules adopted by the Board of Directors for the
Commonwealth Health Insurance Connector Authority for 2018. Table 2 sets forth income at 300% of the Federal poverty level and Tables 5 and 6 set forth tax penalties in effect for 2018.  

6. Appellant could not afford health insurance based on the tables in Schedule HC. According to Table 4, the health insurance would cost $697 for family. According to Table 3, Appellant was deemed to afford $133.  

7. Private insurance was not affordable for the Appellant in 2018 (Schedule HC for 2018).  

8. Appellant claimed that he should be granted a waiver because of having received shut off notices and because paying for health insurance would have caused a serious deprivation of food, shelter, clothing and other necessities. (Testimony of Appellant, Exhibit 3).  

9. Appellant’s expenses for food, shelter, clothing and other necessities used all of the income. (Appellant’s testimony).  

10. Appellant did not incur significant and unexpected increases in essential expenses as a result of domestic violence; the death of a spouse, family member, or partner who shared household expenses; the sudden responsibility for providing full care for an aging parent or other family member; or fire, flood, or other natural or man-made disaster in 2018 (Exhibit 3). However, Appellant did have the responsibility of helping to provide for medical expenses for a nephew.  

11. Appellant did not fall more than thirty days behind in rent payments in 2018. However, he did receive a shut-off notice for basic utilities (Exhibit 3).  

ANALYSIS AND CONCLUSIONS OF LAW  

The issue on appeal is whether the tax penalty assessed by the Massachusetts Department of Revenue for 2018 should be waived in whole, in part, or not at all.  

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

Appellant did not have health insurance for 2018. He has been assessed a tax penalty for twelve months. He 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 he experienced a financial hardship as defined in 956 CMR 6.08.  

Private insurance was not affordable for the appellant during 2018. According to Tables 3 and 4 of the HC Schedule for 2018, Appellant, with an adjusted gross income of $31,903 was deemed not to have
been able to afford health insurance on the private market. According to Table 3, appellant could have afforded to pay $133 per month; according to Table 4, Appellant, who was 29 years old in 2018, lived in Suffolk County and filed the 2018 Massachusetts taxes as Head of Household with a family size of 3, would have had to pay $697 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, the circumstances of this case fall into the “serious deprivation of food, shelter, clothing and other necessities” and the “received shut-off notices” provisions of the hardship waiver criteria. Appellant’s expenses for food, shelter, clothing and other necessities used all of the income. For these reasons, the penalty should be waived.

Appellant should note that the waiver of the penalty is based upon the facts that I have determined to be true for the 2018 appeal. He should not assume that a similar determination will be made in the future should he again be assessed a penalty for failure to have health insurance which meets the Commonwealth’s minimum creditable coverage standards.

**PENALTY ASSESSED**

Number of Months Appealed: 12  Number of Months Assessed: 0
If the number of months assessed is zero (0) because your penalty has been overturned, the Connector has notified the Department of Revenue that you should NOT be assessed a penalty for Tax Year 2018.

**NOTIFICATION OF YOUR RIGHT TO APPEAL TO COURT**

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

Hearing Officer

Cc: Connector Appeals Unit
Massachusetts Health Connector Appeals Unit

FINAL APPEAL DECISION: PA18-495

**Appeal Decision** Appeal Approved

**Hearing Issue:** Appeal of the 2018 Tax Year Penalty  
**Hearing Date:** September 4, 2019  
**Decision Date:** November 14, 2019

**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 4, 2019. 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 (7-25-19) (3 pages);  
- Exhibit 2: Information from Schedule HC TY 2018 (1 page); and  

**FINDINGS OF FACT**

The record shows, and I so find:

1. Appellant, age 27 during 2018, from Worcester County, filed single on the tax return with a family size of 1 (Exhibit 2).
2. Appellant did not have health insurance for 2018. (Appellant’s testimony, Exhibit 2).
3. Appellant’s Federal Adjusted Gross Income for 2018 was $19,298 (Exhibit 2).
4. Appellant was in school and working part-time, and was not aware that she could apply for health insurance outside of open enrollment. (Appellant’s testimony, Exhibit 3).
5. I take administrative notice of the financial information set forth in Tables 1 through 6 in the DOR 2018 Massachusetts Schedule HC Health Care Instructions and Worksheets. Tables 3 and 4 incorporate affordability and premium schedules adopted by the Board of Directors for the
Commonwealth Health Insurance Connector Authority for 2018. Table 2 sets forth income at 300% of the Federal poverty level and Tables 5 and 6 set forth tax penalties in effect for 2018.

6. Appellant could not afford health insurance based on the tables in Schedule HC. According to Table 4, the health insurance would cost $249 for an individual. According to Table 3, Appellant was deemed to afford $145.

7. Private insurance was not affordable for the Appellant in 2018 (Schedule HC for 2018).

8. Appellant claimed that she should be granted a waiver because paying for health insurance would have caused a serious deprivation of food, shelter, clothing and other necessities. (Testimony of Appellant, Exhibit 3).

9. Appellant’s expenses for food, shelter, clothing and other necessities used all of the income. (Appellant’s testimony).

10. Appellant now has health insurance (Appellant Testimony).

11. Appellant did not incur significant and unexpected increases in essential expenses as a result of domestic violence; the death of a spouse, family member, or partner who shared household expenses; the sudden responsibility for providing full care for an aging parent or other family member; or fire, flood, or other natural or man-made disaster in 2018 (Exhibit 3).

12. Appellant did not fall more than thirty days behind in rent payments in 2018. Appellant did not receive a shut-off notice for basic utilities (Exhibit 3).

ANALYSIS AND CONCLUSIONS OF LAW

The issue on appeal is whether the tax penalty assessed by the Massachusetts Department of Revenue for 2018 should be waived in whole, in part, or not at all.

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

Appellant did not have health insurance for 2018. She has been assessed a tax penalty for twelve months. She 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 she experienced a financial hardship as defined in 956 CMR 6.08.

Private insurance was not affordable for the appellant during 2018. According to Tables 3 and 4 of the HC Schedule for 2018, Appellant, with an adjusted gross income of $19,298 was deemed not to have
been able to afford health insurance on the private market. According to Table 3, appellant could have afforded to pay $145 per month; according to Table 4, Appellant, who was 27 years old in 2018, lived in Worcester County and filed the 2018 Massachusetts taxes as Single with a family size of 1, would have had to pay $249 per month for insurance on the private market. See CMR 6.05 (1)(2), Schedule HC Tables 3 and 4, and Exhibit 2. Appellant may have qualified for ConnectorCare, but was not aware that she could apply outside of open enrollment.

With regard to the hardship waiver of the penalty, the circumstances of this case fall into the “serious deprivation of food, shelter, clothing and other necessities” provisions of the hardship waiver criteria. Appellant’s expenses for food, shelter, clothing and other necessities used all of the income. Appellant now has health insurance. For these reasons, the penalty should be waived.

Appellant should note that the waiver of the penalty is based upon the facts that I have determined to be true for the 2018 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 2018.

**NOTIFICATION OF YOUR RIGHT TO APPEAL TO COURT**

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

Hearing Officer

Cc: Connector Appeals Unit
Massachusetts Health Connector Appeals Unit

FINAL APPEAL DECISION: PA18-497

Appeal Decision Appeal Approved

Hearing Issue: Appeal of the 2018 Tax Year Penalty
Hearing Date: September 4, 2019
Decision Date: November 14, 2019

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 4, 2019. 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 (7-25-19) (3 pages);
Exhibit 2: Information from Schedule HC TY 2018 (1 page); and

FINDINGS OF FACT

The record shows, and I so find:

1. Appellant, age 27 during 2018, from Middlesex County, filed single on the tax return with a family size of 1 (Exhibit 2).
2. Appellant did have health insurance for January to May and also November of 2018. (Appellant’s testimony, Exhibit 2).
3. Appellant’s Federal Adjusted Gross Income for 2018 was $23,531 (Exhibit 2).
4. Appellant had insurance through an employer for January to May 2018. She changed jobs and signed up for insurance with the new employer, but did not learn for several months that it had not been processed because her primary care provider was a New Jersey doctor. She found
Massachusetts doctor, and then the health insurance was processed. She continues to have health insurance through the employer. (Appellant’s testimony, Exhibit 3).

5. I take administrative notice of the financial information set forth in Tables 1 through 6 in the DOR 2018 Massachusetts Schedule HC Health Care Instructions and Worksheets. Tables 3 and 4 incorporate affordability and premium schedules adopted by the Board of Directors for the Commonwealth Health Insurance Connector Authority for 2018. Table 2 sets forth income at 300% of the Federal poverty level and Tables 5 and 6 set forth tax penalties in effect for 2018.

6. Appellant could not afford health insurance based on the tables in Schedule HC. According to Table 4, the health insurance would cost $249 for an individual. According to Table 3, Appellant was deemed to afford $56.

7. Private insurance was not affordable for the Appellant in 2018 (Schedule HC for 2018).

8. Appellant claimed that she should be granted a waiver because she thought she had insurance through the employer and it had not been processed. (Testimony of Appellant, Exhibit 3).

9. Appellant now has health insurance (Appellant Testimony).

10. Appellant did not incur significant and unexpected increases in essential expenses as a result of domestic violence; the death of a spouse, family member, or partner who shared household expenses; the sudden responsibility for providing full care for an aging parent or other family member; or fire, flood, or other natural or man-made disaster in 2018 (Exhibit 3).

11. Appellant did not fall more than thirty days behind in rent payments in 2018. Appellant did not receive a shut-off notice for basic utilities (Exhibit 3).

ANALYSIS AND CONCLUSIONS OF LAW

The issue on appeal is whether the tax penalty assessed by the Massachusetts Department of Revenue for 2018 should be waived in whole, in part, or not at all.

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

Appellant did have health insurance for January through May and for November of 2018. She has been assessed a tax penalty for seven months, because the insurance for January through May was not properly credited. It should be a penalty for two months. She 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 she experienced a financial hardship as defined in 956 CMR 6.08. Private insurance was not affordable for the appellant during 2018. According to Tables 3 and 4 of the HC Schedule for 2018, Appellant, with an adjusted gross income of $23,531 was deemed not to have been able to afford health insurance on the private market. According to Table 3, appellant could have afforded to pay $56 per month; according to Table 4, Appellant, who was 27 years old in 2018, lived in Middlesex County and filed the 2018 Massachusetts taxes as Single with a family size of 1, would have had to pay $249 per month for insurance on the private market. See CMR 6.05 (1)(2), Schedule HC Tables 3 and 4, and Exhibit 2. Appellant may have qualified for ConnectorCare, but thought she had signed up for employer insurance and there was a delay in processing the insurance.

With regard to the hardship waiver of the penalty, the circumstances of this case fall into the “other circumstances” provisions of the hardship waiver criteria. Appellant believed she had signed up for health insurance through her employer when she changed jobs in June 2018. However, there was a delay in processing it as she listed a New Jersey doctor as her primary care provider and was not notified initially of the problem. Appellant then selected a Massachusetts doctor and the insurance was processed. Appellant now has health insurance. For these reasons, the penalty should be waived.

Appellant should note that the waiver of the penalty is based upon the facts that I have determined to be true for the 2018 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: 7  Number of Months Assessed: 0

If the number of months assessed is zero (0) because your penalty has been overturned, the Connector has notified the Department of Revenue that you should NOT be assessed a penalty for Tax Year 2018.

**NOTIFICATION OF YOUR RIGHT TO APPEAL TO COURT**

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

Hearing Officer

Cc: Connector Appeals Unit
Massachusetts Health Connector Appeals Unit

FINAL APPEAL DECISION: PA18-526

Appeal Decision: Appeal Approved

Hearing Issue: Appeal of the 2018 Tax Year Penalty
Hearing Date: September 11, 2019
Decision Date: November 14, 2019

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

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

HEARING RECORD
One of Appellants appeared at the hearing, which was held by telephone, on September 11, 2019. 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 (7-26-19) (3 pages);
Exhibit 2: Information from Schedule HC TY 2018 (1 page); and

FINDINGS OF FACT

The record shows, and I so find:

1. Appellants, ages 34 and 30 during 2018, from Hampden County, filed married filing jointly on the tax return with a family size of 2 (Exhibit 2).
2. One of Appellants had health insurance for June through December of 2018 and the other Appellant had health insurance for October through December of 2018. (Appellant’s testimony, Exhibit 2).
3. Appellants' Federal Adjusted Gross Income for 2018 was $38,235 (Exhibit 2).
4. One of Appellants is a seasonal worker, and had health insurance through the employer for June through December of 2018. The other Appellant was in the United States on a fiancé visa in December 2017, and then was married to the other Appellant during December 2017. Appellant
was initially turned down for health insurance on the basis of not being lawfully present, and although that was not accurate, Appellants decided to wait until she got her green card to reapply. Once she got the green card and social security number, Appellants reapplied and obtained health insurance through the Health Connector, and continue to both have it through the Health Connector (Appellant’s testimony, Exhibit 3).

5. I take administrative notice of the financial information set forth in Tables 1 through 6 in the DOR 2018 Massachusetts Schedule HC Health Care Instructions and Worksheets. Tables 3 and 4 incorporate affordability and premium schedules adopted by the Board of Directors for the Commonwealth Health Insurance Connector Authority for 2018. Table 2 sets forth income at 300% of the Federal poverty level and Tables 5 and 6 set forth tax penalties in effect for 2018.

6. Appellants could not afford health insurance based on the tables in Schedule HC. According to Table 4, the health insurance would cost $564 for married couple with no dependents. According to Table 3, Appellants were deemed to afford $199.

7. Private insurance was not affordable for the Appellants in 2018 (Schedule HC for 2018).

8. Appellants claimed that they should be granted a waiver of other circumstances, in that they had applied and been rejected for health insurance. (Testimony of Appellant, Exhibit 3).

9. Appellants now have health insurance (Appellant Testimony).

10. Appellants did not incur significant and unexpected increases in essential expenses as a result of domestic violence; the death of a spouse, family member, or partner who shared household expenses; the sudden responsibility for providing full care for an aging parent or other family member; or fire, flood, or other natural or man-made disaster in 2018 (Exhibit 3).

11. Appellants did not fall more than thirty days behind in rent payments in 2018. Appellants did not receive a shut-off notice for basic utilities (Exhibit 3).

ANALYSIS AND CONCLUSIONS OF LAW

The issue on appeal is whether the tax penalty assessed by the Massachusetts Department of Revenue for 2018 should be waived in whole, in part, or not at all.

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

Appellants had health insurance for some of the months of 2018. One of Appellants had health insurance for June through December and the other Appellant had health insurance for October through December. They have been assessed a tax penalty for two and six months, respectively. They 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 appellant because she experienced a financial hardship as defined in 956 CMR 6.08.

Private insurance was not affordable for the appellants during 2018. According to Tables 3 and 4 of the HC Schedule for 2018, Appellants, with an adjusted gross income of $38,235 was deemed not to have been able to afford health insurance on the private market. According to Table 3, appellants could have afforded to pay $199 per month; according to Table 4, Appellants, who were 34 and 30 years old in 2018, lived in Hampden County and filed the 2018 Massachusetts taxes as Married filing Jointly with a family size of 2, would have had to pay $564 per month for insurance on the private market. See CMR 6.05 (1)(2), Schedule HC Tables 3 and 4, and Exhibit 2. Appellants may have qualified for ConnectorCare, and applied for health insurance through the Health Connector but were rejected initially.

With regard to the hardship waiver of the penalty, the circumstances of this case fall into the “other circumstances” provisions of the hardship waiver criteria. Appellants had attempted to get health insurance through the Health Connector and one of them was rejected for unlawful presence. Although that was not accurate, they decided to wait until the Appellant got her green card and social security number to reapply. The other Appellant did have health insurance through the employer for June through December as a seasonal employee. Appellants now both have health insurance. For these reasons, the penalty should be waived.

Appellants should note that the waiver of the penalty is based upon the facts that I have determined to be true for the 2018 appeal. They should not assume that a similar determination will be made in the future should they again be assessed a penalty for failure to have health insurance which meets the Commonwealth’s minimum creditable coverage standards.

**PENALTY ASSESSED**

Number of Months Appealed: 2/6   Number of Months Assessed: 0/0

If the number of months assessed is zero (0) because your penalty has been overturned, the Connector has notified the Department of Revenue that you should NOT be assessed a penalty for Tax Year 2018.

**NOTIFICATION OF YOUR RIGHT TO APPEAL TO COURT**

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

Hearing Officer

Cc: Connector Appeals Unit
Massachusetts Health Connector Appeals Unit

FINAL APPEAL DECISION: PA18-531

Appellant Decision Appeal Approved

Hearing Issue: Appeal of the 2018 Tax Year Penalty
Hearing Date: September 11, 2019
Decision Date: November 14, 2019

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

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

HEARING RECORD
One of Appellants appeared at the hearing, which was held by telephone, on September 11, 2019. 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 (7-26-19) (3 pages);
Exhibit 2: Information from Schedule HC TY 2018 (1 page); and
Exhibit 3: Statement of Grounds for Appeal (4-29-19) (1 page).

FINDINGS OF FACT
The record shows, and I so find:

1. Appellants, ages 44 and 41 during 2018, from Middlesex County, filed married filing jointly on the tax return with a family size of 2 (Exhibit 2).
2. One of Appellants had health insurance for all of 2018 and the other Appellant did not have health insurance for 2018. (Appellant’s testimony, Exhibit 2).
3. Appellants’ Federal Adjusted Gross Income for 2018 was $34,058 (Exhibit 2).
4. The Appellant who did not have health insurance was not in the United States for 2018, except for September. She was in Russia for most of the year due to illness of her mother and grandmother. (Appellant’s testimony).
5. I take administrative notice of the financial information set forth in Tables 1 through 6 in the DOR 2018 Massachusetts Schedule HC Health Care Instructions and Worksheets. Tables 3 and 4 incorporate affordability and premium schedules adopted by the Board of Directors for the Commonwealth Health Insurance Connector Authority for 2018. Table 2 sets forth income at 300% of the Federal poverty level and Tables 5 and 6 set forth tax penalties in effect for 2018.

6. Appellants could not afford health insurance based on the tables in Schedule HC. According to Table 4, the health insurance would cost $619 for married couple with no dependents. According to Table 3, Appellants were deemed to afford $177.

7. Private insurance was not affordable for the Appellants in 2018 (Schedule HC for 2018).

8. Appellants claimed that they should be granted a waiver of other circumstances, in that the Appellant who did not have health insurance was not in Massachusetts except for September 2018. (Testimony of Appellant).

9. Appellants now have health insurance (Appellant Testimony).

10. Appellants did not incur significant and unexpected increases in essential expenses as a result of domestic violence; the death of a spouse, family member, or partner who shared household expenses; the sudden responsibility for providing full care for an aging parent or other family member; or fire, flood, or other natural or man-made disaster in 2018 (Exhibit 3).

11. Appellants did not fall more than thirty days behind in rent payments in 2018. Appellants did not receive a shut-off notice for basic utilities (Exhibit 3).

ANALYSIS AND CONCLUSIONS OF LAW

The issue on appeal is whether the tax penalty assessed by the Massachusetts Department of Revenue for 2018 should be waived in whole, in part, or not at all.

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

One of Appellants had health insurance for all of 2018, and the other Appellant did not have health insurance at all during 2018. They have been assessed a tax penalty for zero and twelve months, respectively. They 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 appellant because she experienced a financial hardship as defined in 956 CMR 6.08.
Private insurance was not affordable for the appellants during 2018. According to Tables 3 and 4 of the HC Schedule for 2018, Appellants, with an adjusted gross income of $34,058 was deemed not to have been able to afford health insurance on the private market. According to Table 3, appellants could have afforded to pay $177 per month; according to Table 4, Appellants, who were 44 and 41 years old in 2018, lived in Middlesex County and filed the 2018 Massachusetts taxes as Married filing Jointly with a family size of 2, would have had to pay $619 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, the circumstances of this case fall into the “other circumstances” provisions of the hardship waiver criteria. The Appellant that did not have health insurance during 2018 was not in Massachusetts, or the United States for most of the year, and was only in Massachusetts for September 2018. The rest of the year she was in Russia due to illness of her mother and grandmother in Russia. The other Appellant did have health insurance through for all of 2018. Appellants now both have health insurance. For these reasons, the penalty should be waived.

Appellants should note that the waiver of the penalty is based upon the facts that I have determined to be true for the 2018 appeal. They should not assume that a similar determination will be made in the future should they again be assessed a penalty for failure to have health insurance which meets the Commonwealth’s minimum creditable coverage standards.

PENALTY ASSESSED
Number of Months Appealed: 0/12  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 2018.

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

Hearing Officer

Cc:  Connector Appeals Unit
Massachusetts Health Connector Appeals Unit

FINAL APPEAL DECISION: PA18583

Appeal Decision: The penalty is overturned in full.

Hearing Issue: Appeal of the 2018 Tax Year Penalty

Hearing Date: September 24, 2019

Decision Date: November 3, 2019

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

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

HEARING RECORD
The appellant appeared at the hearing which was held by telephone on September 24, 2019. 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: Appeal Case Information from Schedule HC 2018
Exhibit 2: Statement of Grounds for Appeal 2018 signed and dated May 10, 2019 with note in support attached
Exhibit 3: Notice of Hearing sent to Appellant dated August 7, 2019 for September 24, 2019 hearing

FINDINGS OF FACT
The record shows, and I so find:

1. Appellant, who filed a 2018 Massachusetts tax return as a single person with no dependents claimed, was 58 years old in 2018 (Exhibit 1, Testimony of Appellant).

2. Appellant lived in Norfolk County in 2018. Her son and his family lived with her (Exhibit 1, Testimony of Appellant).

3. Appellant had a Federal adjusted gross income for 2018 of $34,950 (Exhibits 1, and Testimony of Appellant).

4. Appellant was divorced in 2017. The divorce was finalized in 2018 (Testimony of Appellant).

5. Appellant had no health insurance in 2018. The company she worked for did not offer health insurance as a benefit. Before Appellant moved to Massachusetts in 2017, Appellant had insurance. As of the date of this hearing, Appellant still had no coverage (Testimony of Appellant, Exhibits 1, 2).
6. The appellant has been assessed a tax penalty for all of 2018. Appellant has appealed the assessment (Exhibits 1 and 2).

7. I take administrative notice of the financial information set forth in Tables 1 through 6 in the DOR 2018 Massachusetts Schedule HC Health Care Instructions and Worksheets. Tables 3 and 4 incorporate affordability and premium schedules adopted by the Board of Directors for the Commonwealth Health Insurance Connector Authority for 2018. Table 2 sets forth income at 300% of the Federal poverty level and Tables 5 and 6 set forth tax penalties in effect for 2018.

8. According to Table 3 of Schedule HC for 2018, the appellant who filed her Massachusetts taxes as an individual with no dependents claimed with a Federal adjusted gross income of $34,9450 could afford to pay $145 per month for health insurance. According to Table 4, Appellant, 58 years old and living in Norfolk County, could have purchased insurance for $423 per month for a plan for an individual. Insurance on the individual market was not affordable to the appellant (Schedule HC for 2018, Tables 3 and 4, Exhibit 1).

9. According to Table 2 of Schedule HC for 2018, Appellant earning less than $36,180 per year, would have been eligible for the ConnectorCare program based upon income. She would also be eligible because she had no access to employer-sponsored coverage (Table 2 of Schedule HC-2018, Exhibit 1, 956CMR12.00et seq.).

10. Appellant tried to get insurance through the Connector. She was told that she did not qualify for any tax credit assistance and that she would have to pay $600 for coverage because her son’s income was considered when determining what Appellant was eligible for (Testimony of Appellant).

11. Appellant did not incur significant and unexpected increases in essential expenses as a result of domestic violence; the death of a spouse, family member, or partner who shared household expenses; 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 2018 (Testimony of Appellant).

12. Appellant did not fall more than thirty days behind in mortgage payments in 2018. Appellant owned her home, but had no mortgage payment (Testimony of Appellant).


14. Appellant had the following monthly expenses for basic necessities in 2018: mortgage-$0.00; property taxes-$100; homeowner’s insurance-$133; water and sewer-$90; heat-$150 on average; electricity-$0.00; phone-$75; food and personal items-$800; car insurance-$0.00; gas-$40.00; car payment-$425; clothes-about $60. Appellant spent $2,000 to pay off old credit card debt and $300 to replace her hot water heater. She gave $400 to her daughter who was a single parent (Testimony of Appellant).

ANALYSIS AND CONCLUSIONS OF LAW

The issue on appeal is whether the tax penalty assessed by the Massachusetts Department of Revenue for 2018 should be waived, either in whole or in part.

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

The appellant was assessed for a penalty for all of 2018. The appellant has appealed the assessment. Exhibits 1, 2. To determine if the rest of the penalty should be waived in whole or in part, we must consider whether affordable insurance which met minimum creditable coverage standards was available to the appellant through employment, through the individual market, or through a government-sponsored program during the months the appellant was uninsured. If affordable insurance was available, we must determine if such insurance was, in fact, not affordable to the appellant because Appellant experienced a financial hardship as defined in 956 CMR 6.08.

According to Table 3 of Schedule HC for 2018, the appellant who filed her Massachusetts taxes as an individual with no dependents claimed with a Federal adjusted gross income of $34,950 could afford to pay $145 per month for health insurance. According to Table 4, Appellant, 58 years old and living in Norfolk County, could have purchased insurance for $423 per month for a plan for an individual. Insurance on the individual market would not have been affordable to the appellant. See Schedule HC for 2018, Tables 3 and 4, Exhibit 1.

Appellant was employed all year. She was not offered health insurance by her employer. See the testimony of the appellant which I find to be credible.

Appellant was income-eligible for ConnectorCare coverage. She earned less than $36,180, the income limit for an individual. She was also eligible because she was not offered insurance through her job. See the testimony of the appellant which I find to be credible, Table 2 of Schedule HC for 2018 and 956 CMR 12.00 et.seq. However, when Appellant tried to get coverage through the Connector, she was told that she did not qualify for any tax credit assistance and that she would have to pay $600 for coverage because her son’s income was considered when determining what Appellant was eligible for.

Appellant and her son and his family were considered to be one tax household rather than two when eligibility was determined. Pursuant to the Patient Protection and Affordable Care Act, an individual’s eligibility for an advanced premium tax credit and the amount of that credit depends upon the annual projected income of the individual’s tax household, not upon the projected income of the individuals who live at the same address. See 26 CFR 1.36B-1(d) and (e) and 45 CFR 155.305(f)(1)(i). When Appellant tried to obtain coverage, she was given faulty information and based upon that, she believed that there was no affordable coverage available to her through the Connector. See Exhibit 2 and the testimony of the appellant which I find to be credible.

I determine that Appellant had no affordable coverage available to her. She had no coverage through her employment, coverage on the individual market was not affordable, and ConnectorCare coverage, which she likely was eligible for, was not offered to her by the Connector because of an error in determining her projected income. She was offered insurance at $600 a month, far more than the $145 a month she was deemed able to afford. See Schedule HC 2018, Tables 3 and 4.

Since no affordable health insurance was available to the appellant, her penalty is waived in its entirety. We do not need to consider whether Appellant experienced a financial hardship.

Appellant should note that any waiver granted here is for 2018 only and is based upon the specific facts I have found to be true and should not assume that the same determination will be made should Appellant be assessed a penalty in the future.

**PENALTY ASSESSED**
Number of Months Appealed: ___12___  Number of Months Assessed: ___0___

If the number of months assessed is zero (0) because your penalty has been overturned, the Connector has notified the Department of Revenue that you should NOT be assessed a penalty for Tax Year 2018.

NOTIFICATION OF YOUR RIGHT TO APPEAL TO COURT

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

CC. Connector Appeals Unit                     Hearing Officer

Addendum: If Appellant has not obtained health insurance yet, she may wish to contact the Connector again and apply as an individual with a tax household of one. She may contact the Connector at 1-877-623-6765 or on line at MAhealthconnector.org.
 Appeal Decision: The penalty is overturned in full.

Hearing Issue: Appeal of the 2018 Tax Year Penalty

Hearing Date: September 24, 2019

Decision Date: November 4, 2019

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

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

HEARING RECORD
The appellant appeared at the hearing which was held by telephone on September 24, 2019. 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: Appeal Case Information from Schedule HC 2018
Exhibit 2: Statement of Grounds for Appeal 2018 signed and dated April 17, 2019 with letter in support attached
Exhibit 3: Notice of Hearing sent to Appellant dated August 7, 2019 for September 24, 2019 hearing
Exhibit 4: Letter dated April 25, 2018 to Appellant from employer regarding termination of employment

FINDINGS OF FACT
The record shows, and I so find:
1. Appellant, who filed a 2018 Massachusetts tax return as Head of Household with one dependent claimed, was 56 years old in 2018. Her dependent was her son who was a college student in 2018 and who lived at home with the appellant (Exhibit 1, Testimony of Appellant).

2. Appellant lived in Middlesex County in 2018 (Exhibit 1, Testimony of Appellant).

3. Appellant had a Federal adjusted gross income for 2018 of $45,532. In 2017, she earned about $73,000. She lost her job in April, 2018 and collected unemployment compensation until mid-December, 2018 when her benefits ran out. She found a new job in April, 2019 (Exhibits 1, 2, 4, and Testimony of Appellant).
4. Appellant had health insurance which met the Commonwealth’s standards from January through June, 2018 through her job. After she was laid off in April, she opted for COBRA coverage which cost her $467 in May and $1,557 in June. She then dropped the COBRA coverage because, being unemployed, she felt she could not afford the coverage (Exhibits 1, 2, 4, and Testimony of Appellant).

5. Appellant had no health insurance from July through December, 2018. She has been assessed a tax penalty for October through December. Appellant has appealed the assessment. Appellant obtained health insurance through employment in May, 2019 when she obtained a new job (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 2018 Massachusetts Schedule HC Health Care Instructions and Worksheets. Tables 3 and 4 incorporate affordability and premium schedules adopted by the Board of Directors for the Commonwealth Health Insurance Connector Authority for 2018. Table 2 sets forth income at 300% of the Federal poverty level and Tables 5 and 6 set forth tax penalties in effect for 2018.

7. According to Table 3 of Schedule HC for 2018, the appellant who filed her Massachusetts taxes as Head of Household with one dependent claimed with a Federal adjusted gross income of $45,532 could afford to pay $282 per month for health insurance. According to Table 4, Appellant, 56 years old and living in Middlesex County, could have purchased insurance for $1,003 per month for a plan for a family and $423 for a plan for an individual. Insurance on the individual market was not affordable to the appellant (Schedule HC for 2018, Tables 3 and 4, Exhibit 1).

8. According to Table 2 of Schedule HC for 2018, Appellant earning less than $48,720 (the income limit for a tax household of two), would have been eligible for the ConnectorCare program based upon income. She would also have been eligible because she had no access to employer-sponsored coverage once she lost her job (Table 2 of Schedule HC-2018, Exhibit 1, 956 CMR12.00 et seq., Testimony of Appellant).

9. Appellant did not incur significant and unexpected increases in essential expenses as a result of domestic violence; the death of a spouse, family member, or partner who shared household expenses; the sudden responsibility for providing full care for an aging parent or other family member; or fire, flood, or other natural or man-made disaster in 2018 (Testimony of Appellant).

10. Appellant did not fall more than 30 days behind in her mortgage payments during 2018 (Testimony of Appellant).

11. Appellant did not receive any shut-off notices in 2018 (Testimony of Appellant).

12. Appellant had the following monthly expenses for basic necessities in 2018: mortgage and property tax-$1,400; home owner’s insurance-$50; water and sewer-$85; heat-$185; electricity-$80; phone and internet-$300; food and personal items-$400; car insurance-$117; gas-$40; car payments-$330; clothes-$45. Appellant paid $1,800 for her son’s college tuition and books. She also had to pay $9,600 for repairs to the roof, hot water heater, and garage. She had expenses of $800 for dental and eye care (Testimony of Appellant).

ANALYSIS AND CONCLUSIONS OF LAW
The issue on appeal is whether the tax penalty assessed by the Massachusetts Department of Revenue for 2018 should be waived, either in whole or in part.
G.L. c. 111M, § 2, also called the “individual mandate,” requires every adult resident of Massachusetts to obtain insurance coverage “[s]o long as it is deemed affordable” under the schedule set by the board of directors for the Commonwealth Health Insurance Connector Authority. Residents who do not obtain insurance are subject to a tax penalty for “each of the months” that the individual did not have health insurance as required by the individual mandate. There is a three-month grace period to allow the taxpayer to obtain health insurance coverage or to make the transition between health insurance policies. See G. L. c. 111M, sec. 2(b) and for Tax Year 2010, Administrative Bulletin 03-10: Guidance Regarding M.G.L. c. 111M and M.G.L. c. 176Q, as implemented by 956 CMR 6.00, which interprets the 63-day gap in coverage to be three months. The Connector’s regulations provide for a waiver of the tax penalty in the case of a financial hardship. See 956 CMR 6.08. Pursuant to 45 CFR 155.305(f), an individual is not eligible for an advance premium tax credit if the individual has access to affordable health insurance which meets minimum essential coverage as defined in the Patient Protection and Affordable Care Act.

The appellant had health insurance which met the Commonwealth’s minimum creditable coverage standards through her job. When she lost her job, she opted for COBRA coverage for May and June. Still unemployed, she found the cost too great, so she dropped the coverage. She was uninsured the rest of the year. See Exhibits 1, 2, 4, and the testimony of the appellant which I find to be credible. Appellant has been assessed a penalty for October through December only since she is entitled to a three-month grace period after losing coverage. The appellant has appealed the assessment. See Exhibits 1, 2, and Massachusetts General Laws Chapter 111M, Section 2.

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

According to Table 3 of Schedule HC for 2018, the appellant who filed her Massachusetts taxes as Head of Household with one dependent claimed with a Federal adjusted gross income of $45,532 could afford to pay $282 per month for health insurance. According to Table 4, Appellant, 56 years old and living in Middlesex County, could have purchased insurance for $1,003 for a family plan and $423 per month for a plan for an individual. Insurance on the individual market was not affordable to the appellant. See Schedule HC for 2018, Tables 3 and 4, Exhibit 1.

Appellant was unemployed from May through December. She, therefore, had no access to health insurance through employment. She was offered COBRA coverage, but as of June, such coverage cost $1,557, far more than Appellant was deemed able to afford. See the testimony of the appellant which I find to be credible, Exhibits 2, 4, and Table 3 of Schedule HC for 2018.

Appellant was income-eligible for ConnectorCare coverage. She earned less than $48,720, the income limit for a tax household of two. She was also eligible because she was not offered insurance through employment. See the testimony of the appellant which I find to be credible, Exhibit 1, Table 2 of Schedule HC for 2018 and 956 CMR 12.00 et.seq.

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

Appellant had the following monthly expenses for basic necessities in 2018: mortgage and property tax-$1,400; home owner’s insurance-$50; water and sewer-$85; heat-$185; electricity-$80; phone and internet-$300; food and personal items-$400; car insurance-$117; gas-$40; car payments-$330; clothes- $45. Appellant paid $1,800 for her
son’s college tuition and books. She also had to pay $9,600 for repairs to the roof, hot water heater, and garage. She had expenses of $800 for dental and eye care. See Testimony of Appellant, which I find to be credible.

Appellant was unemployed during the three months for which she has been assessed a penalty. She received unemployment compensation during October, November, and half of December. When she was working, she had an annual salary of $73,000, or about $6,100 a month before taxes. There is no evidence in the record regarding how much Appellant received each month when she was unemployed. If we subtract what she earned while working in 2018, about $24,000, from her adjusted gross income for the year, $45,523, we find that Appellant had about $21,000 in unemployment benefits spread over eight months, or less than $2,000 a month to pay her bills for essential expenses. These expenses came to about $3,000, not including what she gave her son to help him pay for college expenses, repairs to the house, and the cost of dental and eye care which she incurred during 2018. See Exhibits 1, 2, and the testimony of the appellant which I find credible.

Based upon the facts summarized above, I determined that the appellant suffered a financial hardship such that the cost of purchasing health insurance would have caused her to experience a serious deprivation of basic necessities. Each month she was unemployed, including October through December, Appellant ran a deficit, taking in about $2,000 and spending about $3,000. Health insurance was not affordable for the appellant. See 956 CMR 6.08(1)(e).

Appellant’s penalty is fully waived because of financial hardship. I also note that as of May 1, 2019, the appellant had obtained coverage through employment. See the testimony of the appellant which I find to be credible.

Appellant should note that any waiver granted here is for 2018 only and is based upon the specific facts I have found to be true and should not assume that the same determination will be made should Appellant be assessed a penalty in the future.

PENALTY ASSESSED

Number of Months Appealed: ___3___ Number of Months Assessed: ____0___

If the number of months assessed is zero (0) because your penalty has been overturned, the Connector has notified the Department of Revenue that you should NOT be assessed a penalty for Tax Year 2018.

NOTIFICATION OF YOUR RIGHT TO APPEAL TO COURT

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

CC. Connector Appeals Unit Hearing Officer
Massachusetts Health Connector Appeals Unit

FINAL APPEAL DECISION: PA18585

Appeal Decision: The penalty is overturned in full.
Hearing Issue: Appeal of the 2018 Tax Year Penalty
Hearing Date: September 24, 2019
Decision Date: November 7, 2019

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

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

HEARING RECORD
The appellant appeared at the hearing which was held by telephone on September 24, 2019. 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: Appeal Case Information from Schedule HC 2018
- Exhibit 2: Statement of Grounds for Appeal 2018 signed and dated May 4, 2019 with letter in support attached
- Exhibit 3: Notice of Hearing sent to Appellant dated August 7, 2019 for September 24, 2019 hearing
- Exhibit 4: Appellant’s divorce decree dated March 30, 2018

FINDINGS OF FACT
The record shows, and I so find:
1. Appellant, who filed a 2018 Massachusetts tax return as Head of Household with one dependent claimed, was 55 years old in 2018. Her dependent was one of her daughters who was a college student in 2018. Appellant’s other child was claimed as a tax dependent by her father in 2018 (Exhibit 1, Testimony of Appellant).
2. Appellant lived in Worcester County in 2018. Her children lived with her (Exhibit 1, Testimony of Appellant).
3. Appellant was divorced in 2017. The divorce decree became final on March 30, 2018 (Testimony of Appellant, Exhibits 2 and 4).
4. Appellant had a Federal adjusted gross income for 2018 of $78,292. About $46,000 of this was money she received as part of her divorce settlement some time during the year (Exhibits 1,4, and Testimony of Appellant).
5. Appellant worked at a non-profit in 2018. She earned about $32,000 gross (Testimony of Appellant).
6. In 2017, Appellant had health insurance under her ex-husband’s plan. In 2018, Appellant thought she still had coverage. It was not until the end of January, 2018 that she discovered that her ex-spouse had dropped her from his plan (Testimony of Appellant).
7. In February, Appellant applied to the Connector for health insurance. She was found eligible for a plan and she set up an automatic payment plan. Her effective start date was March 1, 2018 (Testimony of Appellant).

8. Appellant received mail from the Connector. Her name was spelled incorrectly. She called and gave the Connector the correct spelling. She next received mail in which her date of birth was incorrect, and later received a notice that her coverage was terminated for failure to pay the monthly premium. Appellant called the Connector numerous times to try to get all the errors corrected. Appellant then tried to get coverage through her job, but she was not allowed to enroll because the open enrollment period was over. She was told that she could not enroll until some time in 2019 (Exhibit 2, Testimony of Appellant).

9. Appellant tried to get insurance through the Connector again. She ended up going into an office in person to fix her application. She finally obtained Connector coverage as of September 1, 2018. As of the date of this hearing, Appellant still had coverage (Exhibit 1, Testimony of Appellant).

10. Appellant had health insurance from September through December, 2018. She has been assessed a tax penalty for five months, January through May. Appellant has appealed the assessment (Exhibits 1 and 2).

11. I take administrative notice of the financial information set forth in Tables 1 through 6 in the DOR 2018 Massachusetts Schedule HC Health Care Instructions and Worksheets. Tables 3 and 4 incorporate affordability and premium schedules adopted by the Board of Directors for the Commonwealth Health Insurance Connector Authority for 2018. Table 2 sets forth income at 300% of the Federal poverty level and Tables 5 and 6 set forth tax penalties in effect for 2018.

12. According to Table 3 of Schedule HC for 2018, the appellant who filed her Massachusetts taxes as Head of Household with two dependents claimed with a Federal adjusted gross income of $78,292 could afford to pay $525 per month for health insurance. According to Table 4, Appellant, 55 years old and living in Worcester County, could have purchased insurance for $1,003 per month for a plan for a family. Insurance on the individual market was not affordable to the appellant. (Schedule HC for 2018, Tables 3 and 4, Exhibits 1).

13. According to Table 2 of Schedule HC for 2018, Appellant, with an income of more than $48,720 (the income limit for a tax household of two) per year, would have been ineligible for the ConnectorCare program based upon income. (Table 2 of Schedule HC-2018, Exhibit 1, 956 CMR12.00 et seq.).

14. Appellant had the following monthly expenses for basic necessities in January-May, 2018: rent including heat-$1,400; electricity-$70; phone-$180; food and personal items-$1,600; car insurance-$67; gas-$200; car payments-$100; clothes- $85. Both of Appellant’s daughters lived with her. She paid $1,500 during the year for dental care for her daughters (Testimony of Appellant).

ANALYSIS AND CONCLUSIONS OF LAW
The issue on appeal is whether the tax penalty assessed by the Massachusetts Department of Revenue for 2018 should be waived, either in whole or in part.

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

The appellant was assessed for a penalty for January through May, 2018. She was insured from September through December. Since she was entitled to a three-month grace period prior to obtaining coverage, she has not been assessed a penalty for June through August. The appellant has appealed the assessment. Exhibits 1, 2.

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

According to Table 3 of Schedule HC for 2018, the appellant who filed her Massachusetts taxes as Head of Household with two dependents claimed with a Federal adjusted gross income of $78,292 could afford to pay $525 per month for health insurance. According to Table 4, Appellant, 55 years old and living in Worcester County, could have purchased insurance for $1,003 per month for a plan for a family. Insurance on the individual market was not affordable to the appellant. See Schedule HC for 2018, Tables 3 and 4, Exhibit 1.

Appellant worked for a non-profit all of 2018. Appellant thought that she had health insurance through her ex-spouse’s plan. She did not find out until the end of January that he had dropped Appellant from his plan. Appellant tried to obtain coverage through her job, but she was told that she had missed the open enrollment period and could not obtain coverage until some time in 2019. In 2018, Appellant had no access to coverage through her employment. See the testimony of the appellant which I find to be credible.

Appellant was not income-eligible for ConnectorCare coverage. She had an income of more than $48,720, the income limit for a tax household of two. See Exhibit 1, Table 2 of Schedule HC for 2018 and 956 CMR 12.00 et.seq.

Appellant had no access to affordable health insurance in 2018. Insurance through the individual market was not affordable, and insurance through employment and through the ConnectorCare program was not accessible. Appellant’s penalty is, therefore, waived in its entirety. See Massachusetts General Laws, Chapter 111M, Section 2.

Appellant should note that any waiver granted here is for 2018 only and is based upon the specific facts I have found to be true and should not assume that the same determination will be made should Appellant be assessed a penalty in the future.

**PENALTY ASSESSED**

Number of Months Appealed: ____5____ Number of Months Assessed: ____0___

If the number of months assessed is zero (0) because your penalty has been overturned, the Connector has notified the Department of Revenue that you should NOT be assessed a penalty for Tax Year 2018.

**NOTIFICATION OF YOUR RIGHT TO APPEAL TO COURT**

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

Hearing Officer
Massachusetts Health Connector Appeals Unit

FINAL APPEAL DECISION: PA18594

**Appeal Decision:** The penalty is overturned in full.

**Hearing Issue:** Appeal of the 2018 Tax Year Penalty

**Hearing Date:** September 27, 2019

**Decision Date:** November 19, 2019

**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 27, 2019. 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 into evidence:

- Exhibit 1: Appeal Case Information from Schedule HC 2018
- Exhibit 2: Statement of Grounds for Appeal 2018 signed and dated by Appellant on May 1, 2019
- Exhibit 3: Notice of Hearing sent to Appellant dated August 8, 2019 for September 27, 2019 hearing
- Exhibit 4: Print-out regarding Appellant’s eligibility for MassHealthLimited, dated May 1, 2019

**FINDINGS OF FACT**
The record shows, and I so find:

1. Appellant, who filed a 2018 Massachusetts tax return as a single individual with no dependents claimed, was 36 years old in 2018 (Exhibit 1, Testimony of Appellant).

2. The appellant lived in Middlesex County in 2018 (Exhibits 1, Testimony of Appellant).

3. Appellant’s Federal Adjusted Gross Income for 2018 was $51,723 (Exhibit 1, Testimony of Appellant).


5. Appellant had no Social Security number. He did pay taxes and file tax returns (Testimony of Appellant, Exhibit 1).

6. Appellant worked all of 2018 in two restaurant.s He was not offered health insurance through his employment (Testimony of Appellant).
7. Appellant tried to obtain health insurance through the Connector. He was denied coverage, though he was
determined to be eligible for Health Safety Net coverage. He was denied coverage because he was not lawfully
present (Testimony of Appellant, Exhibit 4).

8. The appellant has been assessed a penalty for all of 2018. The appellant has appealed this assessment (Exhibits
1, 2).

ANALYSIS AND CONCLUSIONS OF LAW
The issue on appeal is whether the tax penalty assessed by the Massachusetts Department of Revenue for 2018
should be waived, either in whole or in part. The appellant has been assessed a tax penalty for all of 2018.
Appellant has appealed the penalty. See Exhibits 1 and 2.

G.L c. 111M, § 2, also called the “individual mandate,” requires every adult resident of Massachusetts to obtain
insurance coverage “[s]o long as it is deemed affordable” under the schedule set by the board of directors for the
Commonwealth Health Insurance Connector Authority. Residents who do not obtain insurance are subject to
a tax penalty for “each of the months” that the individual did not have health insurance as required by the individual
mandate. There is a three-month grace period to allow the taxpayer to obtain health insurance coverage or to make
the transition between health insurance policies. See G. L. c. 111M, sec. 2(b) and for Tax Year 2010,
Administrative Bulletin 03-10: Guidance Regarding M.G.L. c. 111M and M.G.L. c. 176Q, as implemented by 956
CMR 6.00, which interprets the 63-day gap in coverage to be three months. The Connector’s regulations provide
for a waiver of the tax penalty in the case of a financial hardship. See 956 CMR 6.08. Pursuant to 45 CFR
155.305 (a)(1), to be eligible for health insurance coverage through the Patient Protection and Affordable Care Act,
an individual must be a citizen of the United States or lawfully present.

To determine if Appellant’s penalty should be waived in whole or in part, we must consider whether affordable
insurance which met minimum creditable coverage standards was available to the appellant through employment,
through the individual market, or through a government-sponsored program. 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.

In this matter, the appellant testified that he came to the United States on a visa in 2007, and that his visa had
expired. He also testified that he was not offered health insurance through his job; and that he was denied coverage
through the Connector because he was not lawfully present in the United States. I find this testimony to be
credible.

The appellant had no access to health insurance in 2018. He was not offered health insurance through his jobs, and
he was denied coverage through the Connector. Pursuant to 45 CFR 155.305 (a)(1), an individual must be a United
States citizen or be a person who is lawfully present in the United States in order to obtain a qualified health plan
through a state exchange (in Massachusetts, the Connector). The appellant was not lawfully present in 2018, and,
therefore, was not eligible to obtain coverage.

According to Massachusetts Generals Laws, Chapter 111M, Section 2, the appellant’s penalty must be waived. A
penalty is imposed only when an individual has access to affordable coverage and does not obtain the coverage.
Here, the appellant attempted to obtain coverage, but was unable to purchase any. Given that, his penalty is waived
in full, and there is no need to determine if the appellant experienced a financial hardship.

Appellant should note that any waiver granted here is for 2018 only and is based upon the specific facts I have
found to be true; he should not assume that the same determination will be made should Appellant be assessed a
penalty in the future.
PENALTY ASSESSED

Number of Months Appealed: ___12____ Number of Months Assessed: ____0___

If the number of months assessed is zero (0) because your penalty has been overturned, the Connector has notified the Department of Revenue that you should NOT be assessed a penalty for Tax Year 2018.

NOTIFICATION OF YOUR RIGHT TO APPEAL TO COURT

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

Cc:  Connector Appeals Unit  Hearing Officer
Massachusetts Health Connector Appeals Unit

FINAL APPEAL DECISION: PA18599

Appeal Decision: The penalty is overturned in full.
Hearing Issue: Appeal of the 2018 Tax Year Penalty
Hearing Date: September 27, 2019
Decision Date: November 20, 2019

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

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

HEARING RECORD
The appellant and his representative appeared at the hearing which was held by telephone on September 27, 2019. The procedures to be followed during the hearing were reviewed with them. They were then sworn in. Exhibits were marked and admitted in evidence with no objection from the appellant or his representative. Appellant and his representative testified.

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

Exhibit 1: Appeal Case Information from Schedule HC 2018
Exhibit 2: Statement of Grounds for Appeal 2018 signed and dated April 28, 2019 with letter in support attached
Exhibit 3: Notices of Hearing sent to Appellant at two addresses dated August 8, 2019 for September 27, 2019 hearing
Exhibit 4: Connector Appeals Unit letter to Appellant dated September 12, 2019 with representative form attached
Exhibit 5: Appellant’s representative form sign by Appellant on September 18, 2019 and received by the Connector on September 19, 2019
Exhibit 6: Appellant’s mother’s obituary and death certificate, date of death April 20, 2019
Exhibit 7: Appellant’s mother’s Medicare summary notice dated March 5, 2019 for services received November, 2018

FINDINGS OF FACT
The record shows, and I so find:
1. Appellant, who filed a 2018 Massachusetts tax return as a single person with no dependents claimed, was 58 years old in 2018 (Exhibit 1, Testimony).

2. Appellant lived in Plymouth County in 2018 with his mother (Exhibit 1, Testimony).

3. Appellant had a Federal adjusted gross income for 2018 of $31,927 (Exhibits 1, and Testimony).

4. Appellant had the same job all of 2018. At times, he worked up to 40 hours a week, but most of the year, he was not able to work full time. Appellant’s mother was very ill during 2018; Appellant had to take his mother to many doctor’s appointments, and had to stay home with her to provide care. Appellant was only able to work mornings.
Before his mother became so ill, Appellant had worked full-time. Appellant’s mother passed away in April, 2019 (Testimony, Exhibits 2, 6, and 7).

5. Appellant had no health insurance in 2018. He was not offered health insurance through his job because he did not work enough hours. The appellant is now working additional hours and as of the date of this hearing has applied for health insurance through his job (Testimony).

6. The appellant has been assessed a tax penalty for all of 2018. Appellant has appealed the assessment (Exhibits 1 and 2).

7. I take administrative notice of the financial information set forth in Tables 1 through 6 in the DOR 2018 Massachusetts Schedule HC Health Care Instructions and Worksheets. Tables 3 and 4 incorporate affordability and premium schedules adopted by the Board of Directors for the Commonwealth Health Insurance Connector Authority for 2018. Table 2 sets forth income at 300% of the Federal poverty level and Tables 5 and 6 set forth tax penalties in effect for 2018.

8. According to Table 3 of Schedule HC for 2018, the appellant who filed his Massachusetts taxes as an individual with no dependents claimed with a Federal adjusted gross income of $31,927 could afford to pay $133 per month for health insurance. According to Table 4, Appellant, 58 years old and living in Plymouth County, could have purchased insurance for $423 per month for a plan for an individual. Insurance on the individual market was not affordable to the appellant (Schedule HC for 2018, Tables 3 and 4, Exhibit 1).

9. According to Table 2 of Schedule HC for 2018, Appellant earning less than $36,180 per year, would have been eligible for the ConnectorCare program based upon income. He would also be eligible because he had no access to employer-sponsored coverage (Table 2 of Schedule HC-2018, Exhibit 1, 956 CMR 12.00 et seq., Exhibit 2).

10. Appellant did not incur significant and unexpected increases in essential expenses as a result of domestic violence; the death of a spouse, family member, or partner who shared household expenses; or fire, flood, or other natural or man-made disaster in 2018 (Testimony).

11. Appellant did not fall more than thirty days behind in rent payments in 2018 (Testimony).


13. Appellant did incur a significant and unexpected increase in essential expenses as a result of the sudden responsibility for providing full care for an aging parent or other family member. Appellant, who lived with his mother who was diagnosed with cancer, and heart disease in 2018, had the responsibility for taking his mother to her medical appointments. Because of this, he had a sudden, significant increase in transportation expenses at the same time that he had to significantly cut back his hours at work. His mother had to have radiation treatment five days a week and chemotherapy three days a week for some period in 2018. She also had cardiac surgery during the year (Testimony of Appellant, Exhibits 2, 6, and 7).

ANALYSIS AND CONCLUSIONS OF LAW
The issue on appeal is whether the tax penalty assessed by the Massachusetts Department of Revenue for 2018 should be waived, either in whole or in part.

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

The appellant was assessed for a penalty for all of 2018. The appellant has appealed the assessment. 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 he was uninsured. If affordable insurance was available, we must determine if such insurance was, in fact, not affordable to the appellant because Appellant experienced a financial hardship as defined in 956 CMR 6.08.

According to Table 3 of Schedule HC for 2018, the appellant who filed his Massachusetts taxes as an individual with no dependents claimed with a Federal adjusted gross income of $31,927 could afford to pay $133 per month for health insurance. According to Table 4, Appellant, 58 years old and living in Plymouth County, could have purchased insurance for $423 per month for a plan for an individual. Insurance on the individual market would not have been affordable to the appellant. See Schedule HC for 2018, Tables 3 and 4, Exhibit 1.

Appellant was employed all year at the same job. He was not offered health insurance by his employer because he did not work enough hours. See the testimony of the appellant which I find to be credible and Exhibit 2.

Appellant was income-eligible for ConnectorCare coverage. He earned less than $36,180, the income limit for an individual. He was also eligible because he was not offered insurance through his job. See the testimony of the appellant which I find to be credible, Table 2 of Schedule HC for 2018 and 956 CMR 12.00 et.seq.

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

Appellant did incur a significant and unexpected increase in essential expenses as a result of the sudden responsibility for providing full care for an aging parent or other family member. Appellant, who lived with his mother, who was diagnosed with cancer, and heart disease in 2018, had the responsibility for taking his mother to her medical appointments. Because of this, he had a sudden, significant increase in transportation expenses at the same time that he had to significantly cut back his hours at work. His mother had to have radiation treatment five days a week and chemotherapy three days a week after her diagnosis in 2018. She also had cardiac surgery during the year and required hospitalization and trips to medical appointments. The appellant oversaw her care and transported her to her appointments. See the testimony of Appellant, Exhibits 2, 6, and 7. I find the appellant’s testimony and written statement in Exhibit 2 to be credible.

Based upon these facts summarized above, I determine that the appellant incurred a significant and sudden increase in essential expenses as a result of the need to care for his ill mother. Pursuant to 956 CMR 6.08 (1)(d), and 6.08(3), I find that the appellant had a serious financial hardship such that the cost of purchasing health insurance was not affordable for the appellant. Appellant’s penalty is fully waived because of financial hardship. I also note that the appellant is now working additional hours and as of the date of this hearing has applied for health insurance through his job.
Appellant should note that any waiver granted here is for 2018 only and is based upon the specific facts I have found to be true and should not assume that the same determination will be made should Appellant be assessed a penalty in the future.

**PENALTY ASSESSED**
Number of Months Appealed: ___12____  Number of Months Assessed: ____0___

If the number of months assessed is zero (0) because your penalty has been overturned, the Connector has notified the Department of Revenue that you should NOT be assessed a penalty for Tax Year 2018.

**NOTIFICATION OF YOUR RIGHT TO APPEAL TO COURT**

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

CC. Connector Appeals Unit          Hearing Officer
Massachusetts Health Connector Appeals Unit

FINAL APPEAL DECISION: PA18-612

Appeal Decision: Appeal Granted

Hearing Issue: Appeal of the 2018 Tax Year Penalty
Hearing Date: October 1, 2019
Decision Date: November 21, 2019

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

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

HEARING RECORD
The Appellant appeared at the hearing, which was held by telephone, on October 1, 2019. The Appellant offered testimony under oath or affirmation. At the end of the hearing, the record was left open for the Appellant and the Connector to submit additional evidence. On October 2, 2019, the Connector submitted additional evidence; and, on October 11, 2019, the Appellant submitted additional evidence, and the record was closed.

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

Exhibit 1: Appeal Case Information from 2018 Schedule HC (1 page)
Exhibit 2: 5/6/19 Appeal (6 pages)
Exhibit 3: 9/3/19 Hearing Notice (3 pages)
Exhibit 4: Health Connector Log of Contact w/Appellant in 2018 (6 pages)
Exhibit 5: List of Appellant’s monthly expenses for necessities in 2018; and, 3/16/18 $38,000 withdrawal from Appellant’s retirement account (1 page)

FINDINGS OF FACT
The record shows, and I so find:

1. The Appellant appeals from the assessment of an eight-month penalty on her 2018 income tax return, checking off, “During 2018, the expense of purchasing health insurance would have caused a serious deprivation of food, shelter, clothing or other necessities.” (Exhibit 2)
2. The Appellant’s filing status for 2018 was Single with no dependents. The Appellant’s federal AGI in 2018 was $49,273. The Appellant resided in Essex County in 2018. The Appellant turned forty-four years old in 2018. (Exhibit 1)
3. The Appellant had health insurance coverage in 2017 for a monthly premium of $53. In early 2017, the Connector requested the Appellant to provide proof of income by 4/23/17. The Appellant did not provide
proof of income at anytime in 2017. On December 16, 2017, the Connector cancelled the Appellant’s coverage because she had not provided proof on income. (Exhibit 5)

4. On January 16, 2018, the Appellant called the Connector and asked why her monthly premium had gone up to $312.76 for 2018. The Appellant was told that her premium had gone up because she had not provided proof of income in response to the Connector’s request. (Exhibit 5)

5. On February 21, 2018, the Appellant spoke with a Connector supervisor. The Appellant requested a retro termination of her January 2018 coverage and was told that she did not qualify for a retro termination. The supervisor offered to re-run the Appellant’s application so that she could shop for a new carrier for March or April 2018. The Appellant declined this offer. (Exhibit 5)

6. On May 14, 2018, the Appellant called the Connector and asked if she could change her health insurance coverage. The Connector representative informed her that her insurance coverage had terminated at the end of January 2018. The Appellant then spoke to a Connector supervisor and explained that she thought that she still had coverage because she had continued to make monthly payments since January 2018. The supervisor checked and explained that her coverage had ended in January 2018 and that her monthly payments of $53 since then had gone toward paying off the balance she owed for January coverage at $312.76. (Exhibit 5)

7. On March 16, 2018, the Appellant withdrew $38,000 from her retirement account in order to pay for basic necessities. (Appellant’s testimony; Exhibit 5)

8. The Appellant’s basic monthly expenses in 2018 included: $1,900 mortgage; $300, car payment; $75, car insurance; $100, gas; $600, food; $93, $75, dental insurance; $200, heat/electric: $250, internet/phone/cell phone; $75, water; $50, home repairs; $200, therapy; $200, and, chiropractor, for a total of $4,118/monthly and $49,416 for the year. (Exhibit 5)

9. According to Table 2 of the 2018 Schedule HC, the Appellant was not eligible for government-subsidized insurance in 2018, since her AGI for 2018 exceeded $36,180 for a family of one.

10. According to Table 3, Affordability, of the Schedule HC 2018, based on her 2018 AGI and Single tax filer status, the Appellant could have afforded to pay up to 8.05% of her income for health insurance in 2018, which calculates to a monthly premium of up to $330 for coverage.

11. According to Table 4, Premiums, the Appellant could have purchased health insurance coverage in the private market in 2018 for $282/monthly, based on her age and county of residence in 2018.

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

In this case, while it would appear, in retrospect, from the Appellant’s 2018 AGI of $49,273, that the Appellant could have afforded to pay for health insurance in 2018, more than 75% of her “income” came from the withdrawal that she made from her retirement account in March 2018. But for this retirement withdrawal, the Appellant’s 2018 AGI was less than $12,000. The Appellant’s expenses for basic necessities in 2018 of $49,416 far exceeded this amount. Under these circumstances, I conclude that the Appellant could not have afforded health insurance coverage in 2018, under 956 CMR Section 6.08(1)(e).

Accordingly, the Appellant’s eight-month penalty for 2018 shall be waived in full.

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 2018 for the amount equal to one half of the lowest cost health insurance plan available to you for each month you have been assessed the penalty, as listed above, plus applicable interest back to the due date of the return without regard to extension.

OR

If the number of months assessed is zero (0) because your penalty has been overturned, the Connector has notified the Department of Revenue that you should NOT be assessed a penalty for Tax Year 2018.

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

Hearing Officer

Cc: Connector Appeals Unit
Massachusetts Health Connector Appeals Unit

FINAL APPEAL DECISION: PA18-617

Appeal Decision: Appeal Granted

Hearing Issue: Appeal of the 2018 Tax Year Penalty
Hearing Date: October 1, 2019
Decision Date: November 21, 2019

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

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

HEARING RECORD
The Appellant and her brother appeared at the hearing, which was held by telephone, on October 1, 2019. The Appellant offered testimony under oath or affirmation. At the end of the hearing, the record was left open for the Appellant to submit additional evidence. On October 15, 2019, the Appellant submitted additional evidence, and the record was closed.

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

Exhibit 1: Appeal Case Information from 2018 Schedule HC (1 page)
Exhibit 2: 5/6/19 Appeal (8 pages)
Exhibit 3: 9/3/19 Hearing Notice (3 pages)
Exhibit 4: 10/14/19 Fax Cover; 2018 Form 1095A (2); and, 2018 Summary of Benefits (13 pages)

FINDINGS OF FACT
The record shows, and I so find:

1. The Appellant appeals from the assessment of a twelve-month penalty on her 2018 income tax return, checking off that “other circumstances” caused her not to have health insurance coverage in Massachusetts in 2018. (Exhibit 2)
2. The Appellant’s filing status for 2018 was Single with no dependents. The Appellant’s federal AGI in 2018 was $97,415. The Appellant resided in Berkshire County in 2018. The Appellant turned thirty-six years old in 2018. (Exhibit 1)
3. The Appellant resided in New York State in 2017. On June 21, 2017, the Appellant was admitted to a psychiatric hospital and residential treatment center in Massachusetts. The Appellant remained there until she was discharged on January 23, 2019. (Appellant’s testimony; Exhibit 4)
4. Upon discharge in January 2019, the Appellant moved to Massachusetts and began residing there. (Appellant’s testimony)

5. The Appellant had health insurance coverage in New York State in 2017 and throughout 2018. Her coverage met Massachusetts’ Minimum Creditable Coverage standards. (Appellant’s testimony; Exhibit 4)

ANALYSIS AND CONCLUSIONS OF LAW

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

While her 2018 tax return indicates that the Appellant was a resident of Massachusetts in 2018, the Appellant was living in Massachusetts in 2018 only because her doctor had referred her for treatment at a facility located in Massachusetts. Up until her admission to the facility, the Appellant had been residing in New York with insurance coverage through a New York carrier. That coverage continued throughout 2018, and the coverage met MCC standards.

Under these circumstances, as the Appellant substantially met the purposes and requirements of M.G.L c. 111M, § 2, in 2018, the Appellant should not be assessed any tax penalty for 2018.

Accordingly, the Appellant’s twelve-month penalty for 2018 shall be waived in full.

PENALTY ASSESSED

Number of Months Appealed: ___12____   Number of Months Assessed: ___0____

The Connector has notified the Department of Revenue that, pursuant to its decision, you should be assessed a penalty for Tax Year 2018 for the amount equal to one half of the lowest cost health insurance plan available to you for each month you have been assessed the penalty, as listed above, plus applicable interest back to the due date of the return without regard to extension.

OR

If the number of months assessed is zero (0) because your penalty has been overturned, the Connector has notified the Department of Revenue that you should NOT be assessed a penalty for Tax Year 2018.

NOTIFICATION OF YOUR RIGHT TO APPEAL TO COURT

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

Hearing Officer

Cc: Connector Appeals Unit
Massachusetts Health Connector Appeals Unit

FINAL APPEAL DECISION: PA18-627

Appeal Decision: Appeal Approved
Hearing Issue: Appeal of the 2018 Tax Year Penalty
Hearing Date: October 4, 2019
Decision Date: November 14, 2019

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

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

HEARING RECORD
The Appellant appeared at the hearing, which was held by telephone, on October 4, 2019. 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 Appellant’s testimony and the following documents which were admitted in evidence:

Exhibit 1: Notice of Hearing sent to Appellant dated September 3, 2019
Exhibit 2: Appeal Case Information Sheet from Schedule HC 2018
Exhibit 3: Notice of Appeal, dated May 6, 2019
Exhibit 4: Statement in Support of Appeal

FINDINGS OF FACT
The record shows, and I so find:

1. Appellant was 36 years old in 2018 and filed a 2018 Massachusetts tax return as single, with no dependents claimed (Exhibit 2).
2. Appellant lived in Middlesex County, MA in 2018 (Exhibit 2).
3. Appellant’s Adjusted Gross Income for 2018 was $34,779 (Exhibit 2).
4. During 2018, Appellant was self-employed and employer sponsored health insurance was not available (Testimony of Appellant).
5. Appellant applied for health insurance through the Health Connector but did not sign up due to the cost (Testimony of Appellant).
6. Appellant struggled to pay for basic expenses in 2018 (Testimony of Appellant).
7. Appellant had the following monthly expenses during 2018: Rent $1,762; Utilities $100; Telephone $55; Food $300; Supplies $25; Clothing $50; Transportation $85.50. These expenses total $2,108.
8. Appellant had credit card and loan payments which Appellant attempted pay down during 2018. Appellant’s payments were $880 per month (Testimony of Appellant).
9. Appellant did not have health insurance for all of 2018 (Testimony of Appellant and Exhibit 2).
10. Appellant was assessed a penalty for twelve months for 2018 (Exhibit 2).
11. Appellant filed a hardship appeal on May 6, 2019, claiming that the expense of purchasing health insurance would have caused a serious deprivation of food, shelter, clothing or other necessities (Exhibit 3).
12. I take administrative notice of the financial information set forth in Tables 1 through 6 in the DOR 2018 Massachusetts Schedule HC Health Care Instructions and Worksheets. Tables 3 and 4 incorporate affordability and premium schedules adopted by the Board of Directors for the Commonwealth Health Insurance Connector Authority for 2018. Table 2 sets forth income at 300% of the Federal poverty level and Tables 5 and 6 set forth tax penalties in effect for 2018.
13. According to Table 3 of Schedule HC for 2018 a person filing as single, with no dependents claimed and with a Federal Adjusted Gross Income of $34,779 could afford to pay $145 per month for health insurance. According to Table 4, Appellant, age 36 and living in Middlesex County, could have purchased private insurance for $290 per month. Private insurance was not considered affordable for Appellant in 2018.
14. According to Table 2 of Schedule HC for 2018, Appellant, earning less than $36,180 would have met the income eligibility guidelines for government subsidized insurance.
15. Appellant was enrolled in employer sponsored health insurance at the time of the hearing (Testimony of Appellant).

ANALYSIS AND CONCLUSIONS OF LAW

The issue on appeal is whether the tax penalty assessed by the Massachusetts Department of Revenue for 2018 should be waived, either in whole or in part.

G.L c. 111M, § 2, also called the “individual mandate,” requires every adult resident of Massachusetts to obtain insurance coverage “[s]o long as it is deemed affordable” under the schedule set by the board of directors for the Commonwealth Health Insurance Connector Authority. Residents who do not obtain insurance are subject to a tax penalty for “each of the months” that the individual did not have health insurance as required by the individual mandate. There is a three-month grace period to allow the taxpayer to obtain health insurance coverage or to make the transition between health insurance policies. See G. L. c. 111M, sec. 2(b) and for Tax Year 2018, Administrative Bulletin 03-10: Guidance Regarding M.G.L. c. 111M and M.G.L. c. 176Q, as implemented by 956 CMR 6.00, which interprets the 63-day gap in coverage to be three months. The Connector’s regulations provide for a waiver of the tax penalty in the case of a financial hardship. See 956 CMR 6.08.

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

During 2018, Appellant was considered to be income eligible for government subsidized health insurance. See Schedule HC for Healthcare, Table 2 and Testimony of Appellant, which I find to be credible. Since Appellant potentially had access to affordable insurance, we need to consider whether Appellant experienced a financial hardship as defined by 956 CMR 6.08.

Appellant was self-employed and struggled financially in 2018. Appellant’s expenses for basic living expenses were $2,108. Additionally, Appellant was struggling to pay off credit card and loan payments which totaled $880 per month. I find that for 2018, the purchase of health insurance would have caused Appellant a serious deprivation of food, shelter, clothing or other necessities. See 956 CMR 6.08(1) (e).
I find that the penalty assessed against Appellant for 2018 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 2018 for the amount equal to one half of the lowest cost health insurance plan available to you for each month you have been assessed the penalty, as listed above, plus applicable interest back to the due date of the return without regard to extension.

OR

If the number of months assessed is zero (0) because your penalty has been overturned, the Connector has notified the Department of Revenue that you should NOT be assessed a penalty for Tax Year 2018.

**NOTIFICATION OF YOUR RIGHT TO APPEAL TO COURT**

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

FINAL APPEAL DECISION: PA18-629

Appeal Decision: Penalty Overturned in Full

Hearing Issue: Appeal of the 2018 Tax Year Penalty

Hearing Date: October 4, 2019

Decision Date: November 7, 2019

AUTHORITY

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

JURISDICTION

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

HEARING RECORD

Appellant appeared at the hearing, which was held by telephone, on October 4, 2019. The procedures to be followed during the hearing were reviewed with Appellant. Appellant was sworn in. Exhibits were marked and admitted in evidence with no objection from Appellant. Appellant testified.

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

Exhibit 1: Correspondence from the Health Connector, dated September 3, 2019
Exhibit 2: Appeal Case Information from Schedule HC 2018
Exhibit 3: Notice of Appeal, dated May 8, 2019
Exhibit 4: Statement in Support of Appeal

FINDINGS OF FACT

The record shows, and I so find:

1. Appellant was 28 years old in 2018. Appellant filed a Massachusetts 2018 tax return as single with no dependents claimed (Exhibit 2).
2. Appellant resided in Suffolk County, MA in 2018 (Exhibit 2).
3. Appellant had an Adjusted Gross Income for 2018 of $50,642 (Exhibit 2).
4. During 2018, Appellant was covered by employer sponsored health insurance in January and February and from July through December (Testimony of Appellant and Exhibit 2).
5. Appellant was laid off in February 2018 and employer sponsored health insurance was no longer available (Testimony of Appellant).
6. Appellant was unemployed from March through June 2018 (Testimony of Appellant).
7. Appellant’s only income from March through June 2018 was unemployment compensation (Testimony of Appellant).
8. During March through June, Appellant was focused on obtaining new employment (Testimony of Appellant).
9. During March through June, when Appellant was unemployed, Appellant struggled to pay the necessary bills (Testimony of Appellant).
10. Appellant’s monthly bills included rent and utilities at $850 per month, as well as student loans, food, clothes and car expenses (Testimony of Appellant).

11. I take administrative notice of the financial information set forth in Tables 1 through 6 in the DOR 2018 Massachusetts Schedule HC Health Care Instructions and Worksheets. Tables 3 and 4 incorporate affordability and premium schedules adopted by the Board of Directors for the Commonwealth Health Insurance Connector Authority for 2018. Table 2 sets forth income at 300% of the Federal poverty level and Tables 5 and 6 set forth tax penalties in effect for 2018.

12. According to Table 3 of Schedule HC for 2018 a person filing as single with no dependents with an adjusted gross income of $50,642 could afford to pay $340 per month for private insurance. According to Table 4, Appellant, aged 28 and living in Suffolk County could have purchased private insurance for $249 per month.

13. Private insurance was considered to be affordable for Appellant in 2018 (Schedule HC for 2018).

14. Appellant did not have health insurance from March through June 2018 (Testimony of Appellant and Exhibit 2).

15. Appellant has been assessed a penalty for one month for 2018 (Exhibit 2).

16. Appellant filed an Appeal on May 8, 2019 stating that applying the affordability table was inequitable because Appellant was not employed full time during the months of the penalty and the unemployment compensation barely covered the necessary expenses (Exhibits 3 and 4).

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 the 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 2018, Administrative Bulletin 03-10: Guidance Regarding M.G.L. c. 111M and M.G.L. c. 176Q, as implemented by 956 CMR 6.00, 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 one month. To determine if the penalty should be waived in whole or in part, we must consider whether affordable insurance was available to Appellant, before we consider whether Appellant suffered a financial hardship such that the purchase of insurance which met minimum creditable coverage standards would have caused Appellant to experience a serious deprivation of basic necessities. See 956 CMR 6.

Appellant was covered by employer sponsored health insurance during January and February 2018. Appellant was uninsured after losing a job and the employer sponsored health insurance. Appellant began a new job and was again insured during July through December 2018. According to Tables 2, 3 and 4 of Massachusetts Schedule HC 2018, private health insurance was considered to be affordable for Appellant. However, Appellant did not sign up for private health insurance. Since Appellant potentially had access to affordable insurance, we need to consider whether Appellant experienced a financial hardship as defined by 956 CMR 6.08.

Appellant struggled to pay the monthly bills during the time that Appellant was unemployed. Purchasing health insurance during the time when Appellant was not working would have caused a serious deprivation of food,
shelter clothing or other necessities. See Testimony of Appellant, which I find to be credible and 956 CMR 6.08 (1) (e).

I find the penalty assessed against Appellant for 2018 should be waived in its entirety.

**PENALTY ASSESSED**
Number of Months Appealed: 1  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 2018 for the amount equal to one half of the lowest cost health insurance plan available to you for each month you have been assessed the penalty, as listed above, plus applicable interest back to the due date of the return without regard to extension.

**OR**
If the number of months assessed is zero (0) because your penalty has been overturned, the Connector has notified the Department of Revenue that you should NOT be assessed a penalty for Tax Year 2018.

**NOTIFICATION OF YOUR RIGHT TO APPEAL TO COURT**
If you disagree with this decision, you have the right to appeal to Court in accordance with Chapter 30A of the Massachusetts General Laws. To appeal, you must file a complaint with the Superior Court for the county where you reside, or Suffolk County Superior Court within thirty (30) days of your receipt of this decision.
Massachusetts Health Connector Appeals Unit

FINAL APPEAL DECISION: PA18-630

Appeal Decision: Appeal Approved
Hearing Issue: Appeal of the 2018 Tax Year Penalty
Hearing Date: October 4, 2019
Decision Date: November 14, 2019

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

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

hearing record
The Appellant appeared at the hearing, which was held by telephone, on October 4, 2019. 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 Appellant’s testimony and the following documents which were admitted in evidence:

Exhibit 1: Notice of Hearing sent to Appellant dated September 3, 2019
Exhibit 2: Appeal Case Information Sheet from Schedule HC 2018
Exhibit 3: Notice of Appeal, dated May 3, 2019
Exhibit 4: Statement in Support of Appeal

Findings of Fact
The record shows, and I so find:

1. Appellant was 36 years old in 2018 and filed a 2018 Massachusetts tax return as single, with no dependents claimed (Exhibit 2).
2. In late 2017 and early 2018 Appellant was out of the country due to family issues. Appellant returned to Massachusetts in late February 2018 and then lived in Suffolk County Massachusetts (Testimony of Appellant).
3. Beginning in late February, Appellant looked for jobs in Massachusetts and Appellant began working in April 2018 (Testimony of Appellant).
4. Appellant’s job offered employer sponsored health insurance, but there was a waiting period before Appellant could enroll (Testimony of Appellant).
5. Appellant was eligible to enroll in the employer sponsored insurance in approximately June or July (Testimony of Appellant).
6. Appellant had multiple family issues including illnesses and death of a family member in 2018 (Testimony of Appellant and Exhibit 4).
7. Due to Appellant’s family issues and a misunderstanding of the enrollment time for the employer sponsored health insurance, Appellant missed the enrollment period for the employer sponsored health insurance in 2018 (Testimony of Appellant).

8. Appellant also tried to apply for government subsidized health insurance but was told that it was not available until the open enrollment period (Testimony of Appellant).

9. Appellant was insured by employer sponsored health insurance in 2019 (Testimony of Appellant).

10. Appellant struggled to pay for necessary expenses during 2018 due to being unemployed and multiple family issues (Testimony of Appellant).

11. Appellant’s Adjusted Gross Income for 2018 was $24,959 (Exhibit 2).

12. Appellant was assessed a penalty for twelve months for 2018 (Exhibit 2).

13. Appellant filed a hardship appeal on May 3, 2019 (Exhibit 3).

14. I take administrative notice of the financial information set forth in Tables 1 through 6 in the DOR 2018 Massachusetts Schedule HC Health Care Instructions and Worksheets. Tables 3 and 4 incorporate affordability and premium schedules adopted by the Board of Directors for the Commonwealth Health Insurance Connector Authority for 2018. Table 2 sets forth income at 300% of the Federal poverty level and Tables 5 and 6 set forth tax penalties in effect for 2018.

15. According to Table 2 of Schedule HC for 2018, Appellant, earning less than $36,180 would have met the income eligibility guidelines for government subsidized insurance.

ANALYSIS AND CONCLUSIONS OF LAW

The issue on appeal is whether the tax penalty assessed by the Massachusetts Department of Revenue for 2018 should be waived, either in whole or in part.

G.L c. 111M, § 2, also called the “individual mandate,” requires every adult resident of Massachusetts to obtain insurance coverage “[s]o long as it is deemed affordable” under the schedule set by the board of directors for the Commonwealth Health Insurance Connector Authority. Residents who do not obtain insurance are subject to a tax penalty for “each of the months” that the individual did not have health insurance as required by the individual mandate. There is a three-month grace period to allow the taxpayer to obtain health insurance coverage or to make the transition between health insurance policies. See G. L. c. 111M, sec. 2(b) and for Tax Year 2018, Administrative Bulletin 03-10: Guidance Regarding M.G.L. c. 111M and M.G.L. c. 176Q, as implemented by 956 CMR 6.00, which interprets the 63-day gap in coverage to be three months. The Connector’s regulations provide for a waiver of the tax penalty in the case of a financial hardship. See 956 CMR 6.08.

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

Appellant was eligible for employer sponsored health insurance beginning in mid-2018. Appellant was also considered to be income eligible for government subsidized health insurance. See Schedule HC for Healthcare, Tables 2 and 3 and Testimony of Appellant, which I find to be credible. Since Appellant potentially had access to affordable insurance, we need to consider whether Appellant experienced a financial hardship as defined by 956 CMR 6.08.

During 2018, Appellant was unemployed from January through April 2018. Due to the period of unemployment and multiple family issues, Appellant struggled to meet basic living expenses. I find that for 2018, the purchase of
health insurance would have caused Appellant a serious deprivation of food, shelter, clothing or other necessities. See 956 CMR 6.08(1) (e).

I find that the penalty assessed against Appellant for 2018 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 2018 for the amount equal to one half of the lowest cost health insurance plan available to you for each month you have been assessed the penalty, as listed above, plus applicable interest back to the due date of the return without regard to extension.

**OR**

If the number of months assessed is zero (0) because your penalty has been overturned, the Connector has notified the Department of Revenue that you should NOT be assessed a penalty for Tax Year 2018.

**NOTIFICATION OF YOUR RIGHT TO APPEAL TO COURT**

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

FINAL APPEAL DECISION: PA18-634

**Appeal Decision** Appeal Approved

**Hearing Issue:** Appeal of the 2018 Tax Year Penalty
**Hearing Date:** October 15, 2019
**Decision Date:** November 18, 2019

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

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

**HEARING RECORD**
Appellant appeared at the hearing, which was held by telephone, on October 15, 2019. 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 (9-4-19) (3 pages);
- **Exhibit 2:** Information from Schedule HC TY 2018 (1 page); and
- **Exhibit 3:** Statement of Grounds for Appeal (4-24-19) (with letter and documents) (9 pages).

**FINDINGS OF FACT**
The record shows, and I so find:

1. Appellant, age 35 during 2018, from Worcester County, filed single on the tax return with a family size of 1 (Exhibit 2).
2. Appellant did not have health insurance for 2018. (Appellant’s testimony, Exhibit 2).
3. Appellant’s Federal Adjusted Gross Income for 2018 was $46,633.00 (Exhibit 2).
4. Appellant was evicted from the home they were renting due to the home owner having a foreclosure. Appellant incurred storage costs and other expenses as a result. (Appellant’s testimony).
5. I take administrative notice of the financial information set forth in Tables 1 through 6 in the DOR 2018 Massachusetts Schedule HC Health Care Instructions and Worksheets. Tables 3 and 4.
incorporate affordability and premium schedules adopted by the Board of Directors for the Commonwealth Health Insurance Connector Authority for 2018. Table 2 sets forth income at 300% of the Federal poverty level and Tables 5 and 6 set forth tax penalties in effect for 2018.

6. Appellant could afford health insurance based on the tables in Schedule HC. According to Table 4, the health insurance would cost $260 for an individual. According to Table 3, Appellant was deemed to afford $295.

7. Private insurance was affordable for the Appellant in 2018 (Schedule HC for 2018).

8. Appellant claimed that they should be granted a waiver based on the grounds that Appellant was evicted due to foreclosure on the house he was renting. (Testimony of Appellant). In addition, Appellant claimed that paying for health insurance would have caused a deprivation of food, shelter, and other necessities.

9. Appellant now has health insurance through the Appellant’s employer (Appellant Testimony).

10. Appellant did not incur significant and unexpected increases in essential expenses as a result of domestic violence; the death of a spouse, family member, or partner who shared household expenses; the sudden responsibility for providing full care for an aging parent or other family member; or fire, flood, or other natural or man-made disaster in 2018 (Exhibit 3).

11. Appellant did not fall more than thirty days behind in rent payments in 2018. Appellant did not receive a shut-off notice for basic utilities (Exhibit 3).

ANALYSIS AND CONCLUSIONS OF LAW

The issue on appeal is whether the tax penalty assessed by the Massachusetts Department of Revenue for 2018 should be waived in whole, in part, or not at all.

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

Appellant did not have health insurance for 2018. 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 2018. According to Tables 3 and 4 of the HC Schedule for 2018, Appellant, with an adjusted gross income of $46,633.00 was deemed to have been
able to afford health insurance on the private market. According to Table 3, Appellant could have afforded to pay $295 per month; according to Table 4, Appellant, who was 35 years old in 2018, lived in Worcester County and filed the 2018 Massachusetts taxes as Single with a family size of 1, would have had to pay $260 per month for insurance on the private market. See CMR 6.05 (1)(2), Schedule HC Tables 3 and 4, and Exhibit 2.

With regard to the hardship waiver of the penalty, Appellant claimed that they were evicted from the home they rented because the home was being foreclosed. Appellant claimed extra expenses for storage and other expenses related to the eviction. In addition, Appellant claimed that paying for health insurance would have caused a serious deprivation of food, shelter, clothing and other necessities. The facts of this case also fall within the provisions of the hardship waiver criteria for eviction, in that Appellant was evicted and incurred expenses related to the eviction. Appellant’s expenses did use most of the income for necessities and the storage costs. The fact that Appellant now has health insurance is also a factor in allowing the waiver. For these reasons, the waiver of the penalty is allowed.

Appellant should note that the waiver of the penalty is based upon the facts that I have determined to be true for the 2018 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 2018.

**NOTIFICATION OF YOUR RIGHT TO APPEAL TO COURT**

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

Hearing Officer

Cc: Connector Appeals Unit

**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: PA18-635

Appeal Decision Appeal Approved

Hearing Issue: Appeal of the 2018 Tax Year Penalty
Hearing Date: October 15, 2019
Decision Date: November 18, 2019

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

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

HEARING RECORD
Appellant appeared at the hearing, which was held by telephone, on October 15, 2019. 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 (9-4-19) (3 pages);
Exhibit 2: Information from Schedule HC TY 2018 (1 page); and

FINDINGS OF FACT

The record shows, and I so find:

1. Appellant, age 60 during 2018, from Worcester County, filed married filing separately on the tax return with a family size of 2 (Exhibit 2).
2. Appellant did have health insurance for the months of January through April and October through December of 2018. Appellant did not have health insurance for the months of May through September of 2018 (Appellant’s testimony, Exhibit 2).
3. Appellant’s Federal Adjusted Gross Income for 2018 was $80,207.00 (Exhibit 2).
4. Appellant had health insurance through the employer for January through April, and then was unemployed for May through September. Appellant then obtained new employment and had...
health insurance through the employer again for the months of October through December. (Appellant’s testimony, Exhibits 2 and 3).

5. During the months Appellant was unemployed, Appellant was receiving unemployment benefits that were significantly lower than Appellant’s income for the rest of the year.

6. I take administrative notice of the financial information set forth in Tables 1 through 6 in the DOR 2018 Massachusetts Schedule HC Health Care Instructions and Worksheets. Tables 3 and 4 incorporate affordability and premium schedules adopted by the Board of Directors for the Commonwealth Health Insurance Connector Authority for 2018. Table 2 sets forth income at 300% of the Federal poverty level and Tables 5 and 6 set forth tax penalties in effect for 2018.

7. Appellant could afford health insurance based on the tables in Schedule HC, if the entire year’s income is used. According to Table 4, the health insurance would cost $423 for an individual filing married filing separately. According to Table 3, Appellant was deemed to afford $568. However, if the lower income for the months when Appellant did not have the health insurance is used, then Appellant could not afford health insurance, as for those months Appellant was deemed to afford $44.

8. Private insurance was affordable for the Appellant in 2018 overall, but was not affordable for the months Appellant did not have health insurance, based on the income earned during those months alone (Schedule HC for 2018).

9. Appellant claimed that they should be granted a waiver based on the grounds that paying for health insurance would have caused a deprivation of food, shelter, and other necessities (Appellant’s testimony, Exhibit 3).

10. Appellant now has health insurance through the Appellant’s employer (Appellant Testimony).

11. Appellant did not incur significant and unexpected increases in essential expenses as a result of domestic violence; the death of a spouse, family member, or partner who shared household expenses; the sudden responsibility for providing full care for an aging parent or other family member; or fire, flood, or other natural or man-made disaster in 2018 (Exhibit 3).

12. Appellant did not fall more than thirty days behind in rent payments in 2018. Appellant did not receive a shut-off notice for basic utilities (Exhibit 3).

**ANALYSIS AND CONCLUSIONS OF LAW**

The issue on appeal is whether the tax penalty assessed by the Massachusetts Department of Revenue for 2018 should be waived in whole, in part, or not at all.

G.L c. 111M, § 2, also called the “individual mandate”, requires every adult resident of Massachusetts to obtain insurance coverage “[s]o long as it is deemed affordable” under the schedule set by the board of directors for the Commonwealth Health Insurance Connector Authority. Residents who do not obtain insurance are subject to a tax penalty for “each of the months” that the individual did not have health insurance as required by the individual mandate. There is a three-month grace period to allow the taxpayer to obtain health insurance coverage or to make the transition between health insurance policies. See G.L. c. 111M, sec. 2(b) and for Tax Year 2010, Administrative Bulletin 03-10: Guidance Regarding M.G.L. c. 111M and M.G.L. c. 176Q, as implemented by 956 CMR 6.00, which interprets the 63-day gap in coverage to be three months. The connector’s regulations provide for a waiver of the tax penalty in the case of a financial hardship. See 956 CMR 6.08.
Appellant did have health insurance for the months of January through April and October through December of 2018, but did not have health insurance for the months of May through September of 2018. They have been assessed a tax penalty for two months. Appellant appealed the assessment. See Exhibits 2 and 3. To determine if the penalty should be waived in whole or in part, we must consider whether affordable insurance which met minimum creditable coverage standards was available to the Appellant through employment, through the private market, or through a government-sponsored program. If affordable insurance was available, we must determine if such insurance was, in fact, not affordable to the Appellant because they experienced a financial hardship as defined in 956 CMR 6.08. Private insurance was affordable for the Appellant during 2018, if the income for the entire year is used. However, if the income during the months Appellant did not have health insurance is used, private insurance was not affordable for those months. According to Tables 3 and 4 of the HC Schedule for 2018, Appellant, with an adjusted gross income of $80,207.00 was deemed to have been able to afford health insurance on the private market. According to Table 3, Appellant could have afforded to pay $568 per month; according to Table 4, Appellant, who was 60 years old in 2018, lived in Worcester County and filed the 2018 Massachusetts taxes as married filing separately with a family size of 2, would have had to pay $423 per month for insurance on the private market. If only the income for the months the Appellant was uninsured is used, then Appellant would have been deemed to afford $44. See CMR 6.05 (1)(2), Schedule HC Tables 3 and 4, and Exhibit 2.

With regard to the hardship waiver of the penalty, Appellant claimed that paying for health insurance during the months Appellant was unemployed and without insurance, would have caused a serious deprivation of food, shelter, clothing and other necessities. Appellant’s expenses did use all of the income for necessities during the months Appellant was uninsured. The fact that Appellant was without health insurance for only five months and now has health insurance are also factors in allowing the waiver. For these reasons, the waiver of the penalty is allowed.

Appellant should note that the waiver of the penalty is based upon the facts that I have determined to be true for the 2018 appeal. They should not assume that a similar determination will be made in the future should they again be assessed a penalty for failure to have health insurance which meets the Commonwealth’s minimum creditable coverage standards.

**PENALTY ASSESSED**
Number of Months Appealed: 2 Number of Months Assessed: 0
If the number of months assessed is zero (0) because your penalty has been overturned, the Connector has notified the Department of Revenue that you should NOT be assessed a penalty for Tax Year 2018.

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

Cc: Connector Appeals Unit

**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: PA18-636

APPEAL DECISION: Appeal Approved

HEARING ISSUE: Appeal of the 2018 Tax Year Penalty
HEARING DATE: October 15, 2019
DECISION DATE: November 18, 2019

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

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

HEARING RECORD
Appellant appeared at the hearing, which was held by telephone, on October 15, 2019. 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 (9-4-19) (3 pages);
Exhibit 2: Information from Schedule HC TY 2018 (1 page); and

FINDINGS OF FACT

The record shows, and I so find:

1. Appellant, age 22 during 2018, from Suffolk County, filed single on the tax return with a family size of 1 (Exhibit 2).
2. Appellant did have health insurance for the month of January 2018. Appellant did not have health insurance for the remaining months of 2018 (Appellant’s testimony, Exhibit 2).
3. Appellant’s Federal Adjusted Gross Income for 2018 was $18,427.00 (Exhibit 2).
4. Appellant had health insurance for January but was in school and stated they could not afford it. (Appellant’s testimony, Exhibits 2 and 3).
5. I take administrative notice of the financial information set forth in Tables 1 through 6 in the DOR 2018 Massachusetts Schedule HC Health Care Instructions and Worksheets. Tables 3 and 4
incorporate affordability and premium schedules adopted by the Board of Directors for the Commonwealth Health Insurance Connector Authority for 2018. Table 2 sets forth income at 300% of the Federal poverty level and Tables 5 and 6 set forth tax penalties in effect for 2018.

6. Appellant could not afford health insurance based on the tables in Schedule HC. According to Table 4, the health insurance would cost $249 for an individual filing single. According to Table 3, Appellant was deemed to afford $45. 

7. Private insurance was not affordable for the Appellant in 2018 (Schedule HC for 2018).

8. Appellant claimed that they should be granted a waiver based on the grounds that paying for health insurance would have caused a deprivation of food, shelter, and other necessities. Appellant’s expenses for food, shelter, clothing, and other necessities, and for school, used most of the income. (Appellant’s testimony, Exhibit 3).

9. Appellant now has health insurance through the Health Connector (Appellant Testimony).

10. Appellant did not incur significant and unexpected increases in essential expenses as a result of domestic violence; the death of a spouse, family member, or partner who shared household expenses; the sudden responsibility for providing full care for an aging parent or other family member; or fire, flood, or other natural or man-made disaster in 2018 (Exhibit 3).

11. Appellant did not fall more than thirty days behind in rent payments in 2018. Appellant did not receive a shut-off notice for basic utilities (Exhibit 3).

ANALYSIS AND CONCLUSIONS OF LAW

The issue on appeal is whether the tax penalty assessed by the Massachusetts Department of Revenue for 2018 should be waived in whole, in part, or not at all.

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

Appellant did have health insurance for the month of January 2018, but did not have health insurance for the remaining months of 2018. They have been assessed a tax penalty for eight 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 2018. According to Tables 3 and 4 of the HC Schedule for 2018, Appellant, with an adjusted gross income of $18,427.00 was deemed not to have been able to afford health insurance on the private market. According to Table 3, Appellant could have afforded to pay $45 per month; according to Table 4, Appellant, who was 22 years old in 2018, lived in Suffolk County and filed the 2018 Massachusetts taxes as single with a family size of 1, would have had to pay $249 per month for insurance on the private market. See CMR 6.05 (1)(2), Schedule HC Tables 3 and 4, and Exhibit 2.

With regard to the hardship waiver of the penalty, Appellant claimed that paying for health insurance would have caused a serious deprivation of food, shelter, clothing and other necessities. Appellant’s expenses did use most of the income for necessities and for school expenses. The fact that Appellant now has health insurance is also a factor in allowing the waiver. For these reasons, the waiver of the penalty is allowed.

Appellant should note that the waiver of the penalty is based upon the facts that I have determined to be true for the 2018 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: 8  Number of Months Assessed: 0
If the number of months assessed is zero (0) because your penalty has been overturned, the Connector has notified the Department of Revenue that you should NOT be assessed a penalty for Tax Year 2018.

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

Hearing Officer

Cc:  Connector Appeals Unit

**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: PA18-638

Appeal Decision Appeal Approved

Hearing Issue: Appeal of the 2018 Tax Year Penalty
Hearing Date: October 15, 2019
Decision Date: November 19, 2019

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

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

HEARING RECORD
Appellant appeared at the hearing, which was held by telephone, on October 15, 2019. 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 (9-4-19) (3 pages);
Exhibit 2: Information from Schedule HC TY 2018 (1 page); and
Exhibit 3: Statement of Grounds for Appeal (5-6-19) (3 pages).

FINDINGS OF FACT

The record shows, and I so find:

1. Appellant, age 26 during 2018, from Norfolk County, filed single on the tax return with a family size of 1 (Exhibit 2).
2. Appellant did have health insurance for the months of January through May, August and September, and November and December of 2018. Appellant did not have health insurance for June, July and October of 2018 (Appellant’s testimony). The Schedule HC information indicated that Appellant did not have health insurance for all of 2018 (Exhibit 2).
3. Appellant’s Federal Adjusted Gross Income for 2018 was $37,527.00 (Exhibit 2).
4. Appellant had health insurance through school for January through April, and then started a job in May and had to wait 90 days for insurance. Appellant then had health insurance through the...
employer for August and September, and left employment in October. Appellant stated that they applied for health insurance through the Health Connector and had it for November and December, but did not receive a 1099-HC (Appellant’s testimony).

5. I take administrative notice of the financial information set forth in Tables 1 through 6 in the DOR 2018 Massachusetts Schedule HC Health Care Instructions and Worksheets. Tables 3 and 4 incorporate affordability and premium schedules adopted by the Board of Directors for the Commonwealth Health Insurance Connector Authority for 2018. Table 2 sets forth income at 300% of the Federal poverty level and Tables 5 and 6 set forth tax penalties in effect for 2018.

6. Appellant could not afford health insurance based on the tables in Schedule HC. According to Table 4, the health insurance would cost $249 for an individual filing single. According to Table 3, Appellant was deemed to afford $232.

7. Private insurance was not affordable for the Appellant in 2018 (Schedule HC for 2018).

8. Appellant claimed that they should be granted a waiver based on the grounds that other circumstances applied in that Appellant had health insurance for all but three months of 2018. (Appellant’s testimony, Exhibit 3).

9. Appellant now has health insurance through the Health Connector (Appellant Testimony).

10. Appellant did not incur significant and unexpected increases in essential expenses as a result of domestic violence; the death of a spouse, family member, or partner who shared household expenses; the sudden responsibility for providing full care for an aging parent or other family member; or fire, flood, or other natural or man-made disaster in 2018 (Exhibit 3).

11. Appellant did not fall more than thirty days behind in rent payments in 2018. Appellant did not receive a shut-off notice for basic utilities (Exhibit 3).

ANALYSIS AND CONCLUSIONS OF LAW

The issue on appeal is whether the tax penalty assessed by the Massachusetts Department of Revenue for 2018 should be waived in whole, in part, or not at all.

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

Appellant did have health insurance for the months of January through April, August and September, and November and December of 2018, but did not have health insurance for the remaining three months of 2018. However, the Schedule HC information lists that Appellant did not have health insurance for all of 2018. 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 2018. According to Tables 3 and 4 of the HC Schedule for 2018, Appellant, with an adjusted gross income of $37,527.00 was deemed not to have been able to afford health insurance on the private market. According to Table 3, Appellant could have afforded to pay $232 per month; according to Table 4, Appellant, who was 26 years old in 2018, lived in Norfolk County and filed the 2018 Massachusetts taxes as single with a family size of 1, would have had to pay $249 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 other circumstances applied, in that Appellant had health insurance for all but three months, and should not have been assessed a penalty. For these reasons, the waiver of the penalty is allowed.

Appellant should note that the waiver of the penalty is based upon the facts that I have determined to be true for the 2018 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 2018.

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

Hearing Officer

Cc: Connector Appeals Unit

**NOTE**: The pronoun “they” is used in order to be gender neutral, regardless of the singular or plural.
Final Appeal Decision: PA18-641

Massachusetts Health Connector Appeals Unit

Appellate Decision: Appeal Approved

Hearing Issue: Appeal of the 2018 Tax Year Penalty
Hearing Date: October 15, 2019
Decision Date: November 25, 2019

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

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

Hearing Record
Appellant appeared at the hearing, which was held by telephone, on October 15, 2019. 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 (9-4-19) (3 pages);
Exhibit 2: Information from Schedule HC TY 2018 (1 page); and

Findings of Fact
The record shows, and I so find:

1. Appellant, age 41 during 2018, from Essex County, filed married filing separately on the tax return with a family size of 1 (Exhibit 2).
2. Appellant did not have health insurance for 2018. (Appellant’s testimony, Exhibit 2).
3. Appellant’s Federal Adjusted Gross Income for 2018 was $23,801.00 (Exhibit 2).
4. Appellant did not have health insurance available through an employer. Appellant was working two part-time jobs. Appellant now has a full time job and has health insurance through the employer (Appellant’s testimony).
5. I take administrative notice of the financial information set forth in Tables 1 through 6 in the DOR 2018 Massachusetts Schedule HC Health Care Instructions and Worksheets. Tables 3 and 4
incorporate affordability and premium schedules adopted by the Board of Directors for the Commonwealth Health Insurance Connector Authority for 2018. Table 2 sets forth income at 300% of the Federal poverty level and Tables 5 and 6 set forth tax penalties in effect for 2018.

6. Appellant could not afford health insurance based on the tables in Schedule HC. According to Table 4, the health insurance would cost $310 for an individual filing single. According to Table 3, Appellant was deemed to afford $57.

7. Private insurance was not affordable for the Appellant in 2018 (Schedule HC for 2018).

8. 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 2018. (Appellant’s testimony). Appellant’s expenses for food, shelter, clothing and other necessities used much of the income.

9. Appellant now has health insurance through the employer (Appellant Testimony).

10. Appellant did not incur significant and unexpected increases in essential expenses as a result of domestic violence; the death of a spouse, family member, or partner who shared household expenses; the sudden responsibility for providing full care for an aging parent or other family member; or fire, flood, or other natural or man-made disaster in 2018 (Exhibit 3).

11. Appellant did not fall more than thirty days behind in rent payments in 2018. Appellant did not receive a shut-off notice for basic utilities (Exhibit 3).

ANALYSIS AND CONCLUSIONS OF LAW

The issue on appeal is whether the tax penalty assessed by the Massachusetts Department of Revenue for 2018 should be waived in whole, in part, or not at all.

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

Appellant did not have health insurance for 2018. 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 2018. According to Tables 3 and 4 of the HC Schedule for 2018, Appellant, with an adjusted gross income of 23,801.00 was deemed not to have
been able to afford health insurance on the private market. According to Table 3, Appellant could have afforded to pay $57 per month; according to Table 4, Appellant, who was 41 years old in 2018, lived in Essex County and filed the 2018 Massachusetts taxes as married filing separately with a family size of 1, would have had to pay $310 per month for insurance on the private market. See CMR 6.05 (1)(2), Schedule HC Tables 3 and 4, and Exhibit 2.

With regard to the hardship waiver of the penalty, Appellant claimed that paying for health insurance would have caused a serious deprivation of food, shelter, clothing and other necessities. Appellant’s expenses for these necessities used much of the income. In addition, the fact that Appellant now has health insurance through the employer is a factor. For these reasons, the waiver of the penalty is allowed.

Appellant should note that the waiver of the penalty is based upon the facts that I have determined to be true for the 2018 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 2018.

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

Hearing Officer

Cc: Connector Appeals Unit

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: PA18-652

Appeal Decision Appeal Approved

Hearing Issue: Appeal of the 2018 Tax Year Penalty
Hearing Date: October 15, 2019
Decision Date: November 19, 2019

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

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

HEARING RECORD
Appellant appeared at the hearing, which was held by telephone, on October 15, 2019. 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 (9-4-19) (3 pages);
Exhibit 2: Information from Schedule HC TY 2018 (1 page); and
Exhibit 3: Statement of Grounds for Appeal (5-7-19) (3 pages).

FINDINGS OF FACT
The record shows, and I so find:

1. Appellant, age 58 during 2018, from Barnstable County, filed single on the tax return with a family size of 1 (Exhibit 2).
2. Appellant did not have health insurance for 2018. (Appellant’s testimony, Exhibit 2).
3. Appellant’s Federal Adjusted Gross Income for 2018 was $27,406.00 (Exhibit 2).
4. Appellant had purchased a home that required significant expenses to make it habitable. Appellant had not been working, and believed they could not afford health insurance. (Appellant’s testimony).
5. I take administrative notice of the financial information set forth in Tables 1 through 6 in the DOR 2018 Massachusetts Schedule HC Health Care Instructions and Worksheets. Tables 3 and 4
incorporate affordability and premium schedules adopted by the Board of Directors for the Commonwealth Health Insurance Connector Authority for 2018. Table 2 sets forth income at 300% of the Federal poverty level and Tables 5 and 6 set forth tax penalties in effect for 2018.

6. Appellant could not afford health insurance based on the tables in Schedule HC. According to Table 4, the health insurance would cost $423 for an individual filing single. According to Table 3, Appellant was deemed to afford $95.

7. Private insurance was not affordable for the Appellant in 2018 (Schedule HC for 2018).

8. 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 testimony, Exhibit 3).

9. Appellant is now working again. (Appellant Testimony).

10. Appellant did not incur significant and unexpected increases in essential expenses as a result of domestic violence; the death of a spouse, family member, or partner who shared household expenses; the sudden responsibility for providing full care for an aging parent or other family member; or fire, flood, or other natural or man-made disaster in 2018 (Exhibit 3).

11. Appellant did not fall more than thirty days behind in rent payments in 2018. Appellant did not receive a shut-off notice for basic utilities (Exhibit 3).

ANALYSIS AND CONCLUSIONS OF LAW

The issue on appeal is whether the tax penalty assessed by the Massachusetts Department of Revenue for 2018 should be waived in whole, in part, or not at all.

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

Appellant did not have health insurance for 2018. 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 2018. According to Tables 3 and 4 of the HC Schedule for 2018, Appellant, with an adjusted gross income of $27,406.00 was deemed not to have been able to afford health insurance on the private market. According to Table 3, Appellant could have
afforded to pay $95 per month; according to Table 4, Appellant, who was 58 years old in 2018, lived in Barnstable County and filed the 2018 Massachusetts taxes as single with a family size of 1, would have had to pay $423 per month for insurance on the private market. See CMR 6.05 (1)(2), Schedule HC Tables 3 and 4, and Exhibit 2.

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

Appellant should note that the waiver of the penalty is based upon the facts that I have determined to be true for the 2018 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 2018.

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

Hearing Officer

Cc: Connector Appeals Unit

**NOTE:** The pronoun “they” is used in order to be gender neutral, regardless of the singular or plural.
Massachusetts Health Connector Appeals Unit

Tax Penalty Appeal Decision—Docket No. PA18-659

Appeal Decision: Appeal Approved -- 2018 tax penalty overturned.

Hearing Issue: Appeal of the 2018 Tax Year Penalty
Hearing Date: October 15, 2019
Decision Date: November 5, 2019

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 (Husband) appeared for the hearing, which I conducted by telephone. His Wife, the Co-Appellant, was not present. A document was submitted on behalf of the Massachusetts Department of Revenue (DOR) prior to the hearing (Exhibit 1). The hearing record consists of the Husband’s testimony under oath for both Husband and Wife and the following documents that were admitted into evidence as exhibits. (The reproductive quality of the documents submitted by the Appellants is poor.)

1. DOR Appeal Case Information from Schedule HC (1 page);
2. Appellant’s Statement of Grounds for Appeal – 2018;
3. Wife’s Immigration Approval as Spouse (1 page, dated 2017);
4. Wife’s Individual Taxpayer Identification Number (1 page);
5. Husband’s Passport (8 pages);
6. Husband’s Airline Reservations (6 pages); and

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

1. The Appellants (Husband and Wife) appealed from the Department of Revenue’s assessment of a 24 month penalty for 2018 (12 months for Husband and 12 months for Wife). The basis for the penalty was that neither of the Appellants was insured at any time in 2018. Exhibits 1 and 2.
Based on Exhibit 1 and the Husband's hearing testimony, I find that the penalty assessment is accurate.

2. The Husband is a software engineer. He has been employed by a Massachusetts corporation since 2016, but he has not always worked in Massachusetts. The employer offers health insurance coverage to the Husband as a job benefit while he works in Massachusetts. Testimony.

3. Both Husband and Wife are both “green card” holders. The Husband received his green card in late 2015. The Wife received her green card shortly before the hearing in this appeal. Testimony. The Wife also has a federal Individual Taxpayer Identification Number. Exhibit 4. See also Exhibit 3.

4. The Husband was insured in Massachusetts through his employer in 2016. Testimony.

5. Husband and Wife were married and lived in Jordan in 2017. They were not insured in Massachusetts in 2017. The Appellants prevailed in an appeal from the tax penalty that the DOR assessed against them for 2017. Testimony. See also Exhibit 1 (noting existence of 2017 appeal). (I rely on the Husband’s testimony concerning the 2017 appeal since the text of the 2017 appeal decision is not included in the hearing record.)


7. The Appellants did not have health insurance in Massachusetts in 2018 while they were out of the country. Testimony. See also Exhibit 1 (no insurance). In 2018 the Husband made occasional short trips to Massachusetts to consult with his employer, but neither Husband nor Wife resided in Massachusetts in 2018. Testimony.

8. Except as set forth in the foregoing findings of fact, I adopt the facts set forth in Exhibit 1 as my own findings of fact. Exhibit 1 is a computer printout prepared by the Massachusetts Department of Revenue (DOR) that extracts information submitted by the Appellant on Schedule HC as part of the Appellant’s 2018 Massachusetts income tax return.

9. I take administrative notice of the financial information set forth in Tables 1 through 6 of the DOR 2017 Massachusetts Schedule HC Health Care Instructions and Worksheet. Tables 3 and 4 incorporate the affordability schedules adopted by the board of directors for the Commonwealth Health Insurance Connector Authority (Health Connector or Connector) for 2018. See 956 Code Mass. Regs. 6.05. Table 1 sets forth income levels less than 150% of the federal poverty level that are exempt from the assessment of a state tax penalty. Table 2 sets forth income eligibility standards for various family sizes at 300% of the federal poverty level, which is the income eligibility standard for the ConnectorCare government subsidized health insurance program. Tables 5 and 6 set forth the tax penalties in effect for 2018. (The DOR instructions are published online at http://www.mass.gov/dor/2018ScheduleHCInstructions and are also available in the
ANALYSIS AND CONCLUSIONS OF LAW

The case is before me on the Appellants’ (Husband and Wife’s) appeal from the state Department of Revenue’s (DOR) assessment of a tax penalty because neither of the Appellants had health insurance coverage in Massachusetts in 2018. See Exhibits 1 and 2. The issue to be decided is whether the penalty should be waived, either in whole or in part.

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

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

The Health Connector’s regulations also provide for a “hardship” appeal from the assessment of a penalty. 956 Code Mass. Regs. 6.07 and 6.08. The grounds for a hardship appeal are summarized in the Statement of Grounds for Appeal – 2017 that the Appellant signed and filed in this case. See Exhibit 2.

The evidence presented in this appeal supports the Appellants’ position that they should not be penalized for 2018 while they were living outside the United States. Under state law only residents of Massachusetts are required to obtain and maintain health insurance or be subject to a tax penalty if they do not comply with this legal obligation. See Mass. Gen. Laws c. 111M, sec. 2 (a), above. In this case the evidence shows that the Appellants were married and lived in Jordan in 2017 (the year before this appeal), that they lived and worked in Sweden in 2018 (the year at issue in this appeal), and that they did not return to Massachusetts until 2019 (the year after this appeal).

For the foregoing reason, I waive the entire 24 month penalty assessed against the Appellants (Husband and Wife) for 2018.
PENALTY ASSESSED
Number of Months Appealed: 12 (Husband)_____ Number of Months Assessed: __-0-_____
Number of Months Appealed: 12 (Wife)_______ 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 2018 for the amount equal to one half of the lowest cost health insurance plan available to you for each month you have been assessed the penalty, as listed above, plus applicable interest back to the due date of the return without regard to extension.

OR
If the number of months assessed is zero (0) because your penalty has been overturned, the Connector has notified the Department of Revenue that you should NOT be assessed a penalty for Tax Year 2018.

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

Hearing Officer

Cc: Connector Appeals Unit
Massachusetts Health Connector Appeals Unit

FINAL APPEAL DECISION: PA18663

Appeal Decision: The penalty is overturned in full.
Hearing Issue: Appeal of the 2018 Tax Year Penalty
Hearing Date: October 17, 2019
Decision Date: November 25, 2019

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

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

HEARING RECORD
The appellant appeared at the hearing which was held by telephone on October 17, 2019. 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: Appeal Case Information from Schedule HC 2018
Exhibit 2: Statement of Grounds for Appeal 2018 signed and dated May 9, 2019
Exhibit 3: Notice of Hearing sent to Appellant dated September 10, 2019 for October 17, 2019 hearing

FINDINGS OF FACT
The record shows, and I so find:
1. Appellant, who filed a 2018 Massachusetts tax return as a single person with no dependents claimed, was 33 years old in 2018 (Exhibit 1, Testimony of Appellant).

2. Appellant lived in Norfolk County in 2018 (Exhibit 1, Testimony of Appellant).

3. Appellant had a Federal adjusted gross income for 2018 of $18,838 (Exhibits 1, and Testimony of Appellant).

4. Appellant had a job as a waiter in 2018. He lost this job during the summer. He then got work as a driver. In September, he got another job as a waiter and continued to drive for. A lot of his earnings came from tips. He was not offered health insurance as an employment benefit at any of these jobs (Testimony of Appellant).

4. Appellant had health insurance in January, 2018. He got the coverage through an insurance agent and paid $145 a month for the coverage. Appellant moved and did not notify the agency or insurance company of his new address. His coverage was dropped, but Appellant did not realize that he had lost coverage. He kept paying the premium until he realized he had lost the coverage (Testimony of Appellant).

5. Appellant has been assessed a penalty for eight months, May through December, 2018. Appellant has appealed the assessment (Testimony of Appellant, Exhibits 1, 2).
6. Appellant obtained ConnectorCare coverage as of May 1, 2019 (Testimony of Appellant).

7. I take administrative notice of the financial information set forth in Tables 1 through 6 in the DOR 2018 Massachusetts Schedule HC Health Care Instructions and Worksheets. Tables 3 and 4 incorporate affordability and premium schedules adopted by the Board of Directors for the Commonwealth Health Insurance Connector Authority for 2018. Table 2 sets forth income at 300% of the Federal poverty level and Tables 5 and 6 set forth tax penalties in effect for 2018.

8. According to Table 3 of Schedule HC for 2018, the appellant who filed his Massachusetts taxes as an individual with no dependents claimed with a Federal adjusted gross income of $18,838 could afford to pay $45 per month for health insurance. According to Table 4, Appellant, 33 years old and living in Norfolk County, could have purchased insurance for $282 per month for a plan for an individual. Insurance on the individual market was not affordable to the appellant (Schedule HC for 2018, Tables 3 and 4, Exhibit 1).

9. According to Table 2 of Schedule HC for 2018, Appellant earning less than $36,180 per year, would have been eligible for the ConnectorCare program based upon income. He would also be eligible because he had no access to employer-sponsored coverage (Table 2 of Schedule HC-2018, Exhibit 1, 956 CMR 12.00et seq.).

10. Appellant did not incur significant and unexpected increases in essential expenses as a result of domestic violence; the death of a spouse, family member, or partner who shared household expenses; the sudden responsibility for providing full care for an aging parent or other family member; or fire, flood, or other natural or man-made disaster in 2018 (Testimony of Appellant).

11. Appellant did not fall more than thirty days behind in rent payments in 2018 (Testimony of Appellant).


13. Appellant had the following monthly expenses for basic necessities in 2018: rent including heat and electricity-$300; phone-$70; food and personal items-$300; car insurance-$300; gas-$80; car payment-$100; clothes-about $10. Appellant also had to pay $160 for old credit card debt (Testimony of Appellant).

ANALYSIS AND CONCLUSIONS OF LAW

The issue on appeal is whether the tax penalty assessed by the Massachusetts Department of Revenue for 2018 should be waived, either in whole or in part.

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

The appellant was assessed for a penalty for May through December, 2018. The appellant has appealed the assessment. Exhibits 1, 2. Appellant had health insurance in January, 2018. Since he is entitled to a three-month grace period after he lost coverage, no penalty has been assessed for February through April. See cite 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 employment, through the individual market, or through a government-sponsored program during the months he was uninsured. If affordable insurance was available, we must determine if such insurance was, in fact, not affordable to the appellant because Appellant experienced a financial hardship as defined in 956 CMR 6.08.

According to Table 3 of Schedule HC for 2018, the appellant who filed his Massachusetts taxes as an individual with no dependents claimed with a Federal adjusted gross income of $18,838 could afford to pay $45 per month for health insurance. According to Table 4, Appellant, 33 years old and living in Norfolk County, could have purchased insurance for $282 per month for a plan for an individual. Insurance on the individual market would not have been affordable to the appellant. See Schedule HC for 2018, Tables 3 and 4, Exhibit 1.

Appellant had several jobs in 2018 as a waiter and a driver. He was not offered health insurance by any of his employers. See the testimony of the appellant which I find to be credible.

Appellant was income-eligible for ConnectorCare coverage. He earned less than $36,180, the income limit for an individual. He was also eligible because he was not offered insurance through his job. See the testimony of the appellant which I find to be credible, Table 2 of Schedule HC for 2018 and 956 CMR 12.00 et.seq.

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

Appellant had the following monthly expenses for basic necessities in 2018: rent including heat and electricity-$300; phone-$70; food and personal items-$300; car insurance-$300; gas-$80; car payment- $100; clothes-about $10. Appellant also had to pay $160 for old credit card debt. See the testimony of the appellant which I find credible.

Based upon Appellant’s adjusted gross income, he had income of about $1,500 before taxes a month. His monthly expenses amounted to approximately $1,350. Based upon theses facts, I determine that the cost of purchasing health insurance would have caused the appellant to experience a serious deprivation of basic necessities. Pursuant to 956 CMR 6.08 (1)(e),and 6.08(3), the appellant had a serious financial hardship such that the cost of purchasing health insurance was not affordable for the appellant. After paying his expenses for basic necessities and taxes, Appellant had little or no disposable income.

Appellant’s penalty is fully waived because of financial hardship. I note that Appellant thought he had coverage for a number of months. He kept paying the premium until he found out that his coverage had been dropped. I also note that Appellant obtained coverage through the Connector as of May 1, 2019. Appellant should note that any waiver granted here is for 2018 only and is based upon the specific facts I have found to be true and should not assume that the same determination will be made should Appellant be assessed a penalty in the future.

PENALTY ASSESSED
Number of Months Appealed: ___8____ Number of Months Assessed: ____0___
If the number of months assessed is zero (0) because your penalty has been overturned, the Connector has notified the Department of Revenue that you should NOT be assessed a penalty for Tax Year 2018.

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

CC. Connector Appeals Unit

Hearing Officer
Massachusetts Health Connector Appeals Unit

FINAL APPEAL DECISION: PA18-669

**Appeal Decision:** Penalty Overturned in Full

**Hearing Issue:** Appeal of the 2018 Tax Year Penalty

**Hearing Date:** October 16, 2019

**Decision Date:** November 14, 2019

**AUTHORITY**

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

**JURISDICTION**

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

**HEARING RECORD**

The appellant appeared at the hearing which was held by telephone on October 16, 2019 and testified under oath. The hearing record consists of her testimony and the following documents which were admitted into evidence without her objection:

Ex. 1—Statement of Grounds for Appeal—2018
Ex. 2—Appeal Case Information from Schedule HC
Ex. 3—Notice of Hearing

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

Ex. 4—2018 Form 1095-B

**FINDINGS OF FACT**

The record shows, and I so find:

1. The appellant is 62-years-old, is single and does not have children. In 2018, she had health insurance from January through September. (Testimony, Ex. 4)

2. The appellant had health insurance through MassHealth from January through September, 2018. That insurance was terminated when she reported an income change which made her ineligible for continued coverage. (Testimony, Ex. 4)

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1 Ex. 2 is a computer printout that extracts information submitted by the appellant on Schedule HC as part of her 2018 Massachusetts income tax return. It also contains information about prior appeals, if any.
3. Following her termination from MassHealth, the appellant contacted the Health Connector in October and believed that she was enrolled in new coverage beginning on November 1, 2018. She did not receive a bill and called the Connector on two more occasions to follow up. (Testimony)

4. With the assistance of a customer service representative, the appellant successfully enrolled in insurance through the Health Connector for January, February and March, 2019. At that point, she lost her job and became eligible again for insurance through MassHealth where she continued to be enrolled at the time of the instant hearing. (Testimony)

5. The appellant mistakenly indicated on her Schedule HC that she did not have health insurance for any month in 2018. (Testimony, Ex. 2)

6. The appellant received a Form 1095-B from MassHealth showing coverage for the months of January through September, 2018. She was uncertain whether she had also received a Form 1099 showing minimum creditable coverage (MCC) coverage. (Testimony, Ex. 4)

In addition to the foregoing, I take administrative notice of the 2018 Schedule HC Instructions and Worksheets, available at http://www.mass.gov.dor/docs/dor/health-care/2018, and in particular, Tables 1-6 which, as discussed below, include the Affordability Schedule and other financial information used in making 2018 individual mandate tax penalty determinations.

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

The appellant submitted a statement of grounds for appeal (Ex. 1), claiming that the individual mandate did not apply to her during 2018 for “other” reasons such as not being a resident of the state. On her statement, she added that she applied for insurance in October and November, but never received a bill.

The appellant had health insurance from January through September, but indicated on her Schedule HC that she was uninsured for the entire year. According to M.G.L. c. 111M, s. 2, residents are permitted a 63-day gap between periods of coverage without facing a tax penalty; for Tax Year 2018, Administrative Bulletin 03-10: Guidance Regarding M.G.L. c. 111M and M.G.L. c. 176Q, as implemented by 956 CMR 6.00, interprets the 63-day gap in coverage to be three months. As a result, gaps of three months are not subject to penalty. Although the appellant was insured for nine months, she was assessed and is appealing a penalty of twelve months based on the information she provided on her Schedule HC.

The appellant submitted a Form 1095-B following the hearing which indicated that she had insurance from January through September. It is unclear if she also received a Form 1099 HC showing minimum creditable coverage (MCC) for those months. According to the instructions on the 2018 Massachusetts Schedule HC Health Care form, health insurance through MassHealth is considered to meet MCC standards, in which case the appellant’s coverage for the first nine months of the year is deemed compliant. (See page HC-1.) As for the remaining months of October through December when she was uninsured, she is entitled to the aforementioned three-month gap in coverage, since she testified credibly that she enrolled in insurance beginning on January 1, 2019.
Based on the totality of the evidence, it is concluded that the appellant is entitled to a waiver of the penalty based on her coverage for nine months in 2018. Accordingly, her request for a waiver from the penalty is granted. The determination that the appellant is eligible for a waiver is with respect to 2018, only and is based upon the extent of information submitted by her in this appeal.

**PENALTY ASSESSED**
Number of Months Appealed: ___12____  Number of Months Assessed: ___0___

The Connector has notified the Department of Revenue that, pursuant to its decision, you should be assessed a penalty for Tax Year 2018 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 2018.

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

Hearing Officer

Cc:  Connector Appeals Unit
Massachusetts Health Connector Appeals Unit

FINAL APPEAL DECISION: PA18-674

Appeal Decision: Penalty Overturned in Full

Hearing Issue: Appeal of the 2018 Tax Year Penalty
Hearing Date: October 16, 2019
Decision Date: November 8, 2019

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 husband appeared at the hearing which was held by telephone on October 16, 2019 and testified under oath. The hearing record consists of his testimony and the following documents which were admitted into evidence without his objection:

Ex. 1—Health Connector’s Notice of Dismissal dated April 30, 2019
Ex. 2—Letter from the appellants dated May 9, 2019
Ex. 2A—United HealthCare Certificate of Creditable Coverage dated January 16, 2019
Ex. 2B—2018 Form MA 1099-HC
Ex. 3—Appeal Case Information from Schedule HC ¹
Ex. 4—Notice of Hearing

FINDINGS OF FACT
The record shows, and I so find:

1. The appellant husband is 45-years-old, the appellant wife is 37-years-old and they have three children. In 2018, they had minimum creditable coverage (MCC) health insurance from June through December. (Testimony, Exs. 2B, 3)

2. The appellant husband lived in Massachusetts from 2008 until 2012 when he moved to Saudi Arabia. (Testimony)

¹ Ex. 2 is a computer printout that extracts information submitted by the appellants on Schedule HC as part of their 2018 Massachusetts income tax return. It also contains information about prior appeals, if any.
3. The appellants moved to Massachusetts in June from Saudi Arabia and the husband started a job at the end of the month. The husband’s employer offered health insurance and the appellants enrolled in a family plan in June for the remainder of the year. (Testimony, Exs. 2B,3)

4. The appellants’ 2018 tax return was prepared by an accountant who did not indicate on their Schedule HC that they were part-year residents of the state. (Testimony, Ex. 2)

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

The appellants did not submit a statement of grounds for appeal but indicated in a letter (Ex.2) that they were part-year residents of the state and had health insurance for the months that they lived here. Their tax preparer did not indicate on their Schedule HC that they did not reside in the state prior to June, 2018. According to M.G.L. c. 111M, s. 2, residents are permitted a 63-day gap between periods of coverage without facing a tax penalty; for Tax Year 2018, Administrative Bulletin 03-10: Guidance Regarding M.G.L. c. 111M and M.G.L. c. 176Q, as implemented by 956 CMR 6.00, interprets the 63-day gap in coverage to be three months. As a result, gaps of three months are not subject to penalty. Although the appellants were not residents of the state until June, they were assessed and are appealing a penalty of two months (i.e. the months of uninsurance less the gap period of three months) based on the information provided on their Schedule HC.

The appellant husband testified credibly that he, his wife and children moved to Massachusetts from Saudi Arabia in June, 2018, and he began work that month. He testified that his employer offered health insurance and he enrolled himself and his family in coverage for the remainder of the year. Finally, he testified that his tax preparer erroneously failed to indicate on their Schedule HC that they did not begin their residence in the state until June.

Based on the totality of the evidence, it is concluded that since the appellants were not residents of the state until June, 2018, their request for a waiver from the penalty for the months in question is granted. The determination that the appellants are eligible for a waiver is with respect to 2018, only and is based upon the extent of information submitted by them in this appeal.

PENALTY ASSESSED
Number of Months Appealed (husband): ___2____       Number of Months Assessed (husband): ___0___
Number of Months Appealed (wife): ___2____        Number of Months Assessed (wife): ___0___

The Connector has notified the Department of Revenue that, pursuant to its decision, you should be assessed a penalty for Tax Year 2018 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 2018.

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

Hearing Officer

Cc: Connector Appeals Unit
Massachusetts Health Connector Appeals Unit

FINAL APPEAL DECISION: PA18-689

**Appeal Decision:** Appeal Denied

**Hearing Issue:** Appeal of the 2018 Tax Year Penalty

**Hearing Date:** October 18, 2019

**Decision Date:** November 18, 2019

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

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

**HEARING RECORD**
The Appellant appeared at the hearing, which was held by telephone, on October 18, 2019. The procedures to be followed during the hearing were reviewed with the Appellant who was then sworn in. Exhibits were marked and admitted into evidence with no objection from the Appellant. The record was left open until November 1, 2018 to allow the Health Connector to submit additional information. The information was submitted, and copies were mailed to the Appellant. The Appellant was advised that the record would remain open until November 15, 2019 to allow the Appellant to submit a written response. The Appellant did not submit a response.

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

- **Exhibit 1:** Health Connector Appeals Unit Notice of Hearing dated September 13, 2019.
- **Exhibit 2:** Appeal Case Information from Schedule HC 2018.
- **Exhibit 3:** Statement of Grounds for Appeal signed by the Appellant on May 13, 2019.
- **Exhibit 4:** A letter written by the Appellant in support of this appeal, dated May 13, 2019 with an attachment.
- **Exhibit 5:** Health Connector Appeals Unit Open Record Form dated October 18, 2019.
- **Exhibit 6:** Business records submitted by the Health Connector during the record open period, including eligibility notices and Customer Service Call Center notes (Exhibit 6).

**FINDINGS OF FACT**
The record shows, and I so find:

1. The Appellant, age 32 in October, filed their Federal Income Tax return as a single person with no dependents claimed (Exhibit 2).

2. The Appellant lived in Essex County, MA in 2018 (Exhibit 2).
3. The Appellant’s Federal Adjusted Gross Income for 2018 was $30,202 (Exhibit 2).

4. The Appellant had health insurance for the period of January through March but did not have health insurance for the period of April through December in tax year 2018 (Exhibit 2 and Appellant Testimony).

5. The Appellant has been assessed a six-month tax penalty for 2018. The Appellant filed an appeal of the assessment in May 2019 (Exhibits 2, 3, 4).

6. I take administrative notice of the financial information set forth in Tables 1 through 6 in the DOR 2018 Massachusetts Schedule HC Health Care Instructions and Worksheets. Tables 3 and 4 incorporate affordability and premium schedules adopted by the Board of Directors for the Commonwealth Health Insurance Connector Authority for 2018. Table 2 sets forth income at 300% of the Federal poverty level and Tables 5 and 6 set forth tax penalties in effect for 2018.

7. In accordance with Table 3 of Schedule HC for 2018, the Appellant, filing the Federal tax return as a single person, with no dependents claimed, with an annual adjusted gross income of $30,202 could afford to pay $126 per month for health insurance. In accordance with Table 4, the Appellant, age 32, living in Essex County, could have purchased private insurance for $282 per month for a plan (Schedule HC for 2018). Private insurance was not affordable for the Appellant.

8. The Appellant would have been eligible for ConnectorCare coverage in 2018 because the Appellant’s income was less than 300% of the federal poverty level, which was $36,180 for a household of one in 2018 (See Table 2 of Schedule HC-2018 and 956 CMR 12.04).

9. The Appellant signed the Statement of Grounds for Appeal on May 13, 2019 citing Other as the basis of the appeal. The Appellant wrote that they had attempted to purchase health insurance through the Health Connector but due to errors on the part of the Health Connector were unable to do so (Exhibits 3, 4).

10. The Appellant submitted a list of their monthly expenses for tax year 2018. The expenses total $2,140 (Exhibit 4).

11. The Appellant testified that they had employer sponsored health insurance for the first three months of tax year 2018. The Appellant explained that they changed jobs and their new employer did not offer health insurance. The Appellant said that they tried to apply for insurance through the Health Connector but had trouble with the system. The Appellant said that they contacted Customer Service and the representative also had trouble with the system. The Appellant said that they did not receive any follow up documentation from the Health Connector. The Appellant testified that they called Customer Service again and was told that it was too late for them to apply using unforeseen circumstances and would have to wait until the next open enrollment period. The Appellant said that they asked if they could appeal and was told there was no appeal for their situation (Exhibit 4 and Appellant Testimony).

12. The Appellant was advised that their testimony regarding their interactions with Customer Service were not in compliance with Health Connector policy regarding appeal rights. The Appellant was told that the record would be left open and the Health Connector would be asked to provide copies of any applications, eligibility notices and Customer Service notes for the period of March 2018.
through December 2018 dealing with the Appellant’s interactions with the Health Connector (Exhibit 5).

13. The Health Connector submitted a copy of an Eligibility Approval Notice issued to the Appellant on February 24, 2018. The Appellant was informed that the Health Connector approved the Appellant’s application and had determined that the Appellant was eligible for ConnectorCare Plan Type 3A with Advance Premium Tax Credits effective April 1, 2018. The Appellant was instructed to enroll in a plan before their special enrollment period ends on April 25, 2018. The Appellant was also instructed to choose a plan and pay the first monthly premium by March 23, 2018 for insurance to be effective April 1, 2018. This notice had a Hearing Request Form attached as well as detailed the steps required to file an appeal if the Appellant disagreed with the determination. The notice was sent to the Appellant’s address of record (Exhibit 5A).

14. I take administrative notice of the fact that the monthly premium for ConnectorCare Plan Type 3A was $85 in tax year 2018.

15. The Appellant telephoned the Health Connector on June 4, 2018 to update their income. The Appellant was advised that they were not eligible for a Special Enrollment Period (Exhibit 5D).

16. On June 21, 2018 the Health Connector issued a Special Enrollment Period Decision. The Appellant was informed that they did not qualify for a special enrollment period at that time. The notice contained a Hearing Request Form and detailed instructions on how to file an appeal if the Appellant disagreed with Health Connector’s decision. The notice was sent to the Appellant’s address of record (Exhibit 5B).

17. On November 1, 2018 the Appellant telephoned Customer Service to apply for health insurance for tax year 2019. The Application was completed on the telephone and the Appellant informed Customer Service that they wished to shop for plans on their own (Exhibit 5D).

18. On November 1, 2018 the Health Connector issued a Special Enrollment Period Decision. The Appellant was informed that they did not qualify for a special enrollment period at that time. The notice contained a Hearing Request Form and detailed instructions on how to file an appeal if the Appellant disagreed with Health Connector’s decision. The notice was sent to the Appellant’s address of record (Exhibit 5B).

19. On November 30, 2018 the Appellant telephoned Customer Service for assistance making their first binder payment for 2019. The Appellant was advised that coverage could not begin in December 2018 but would be effective January 2019 (Exhibit 5D).

20. The information submitted by the Health Connector was forwarded to the Appellant and the record was left open until November 15, 2019 to allow the Appellant to file a written response (Exhibits 5, 6).

21. The Appellant did not submit any additional information during the record open period.

22. The Appellant’s testimony that they were unable to enroll in ConnectorCare due to errors on the part of Health Connector Staff and system difficulties was not supported by the evidence in the record. The Appellant’s testimony that they were told that they could not appeal the denials of a
special enrollment period was not credible and was refuted by the eligibility notices issued to the Appellant on February 24, 2018, June 21, 2018, and November 1, 2018 (Exhibit 5 and Appellant Testimony).

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

The Appellant had health insurance for the first three months of tax year 2018 but was uninsured for the period of April through December. The Appellant was assessed a six-month tax penalty. The Appellant submitted a statement of grounds for this appeal citing circumstances other than financial hardship as the reason for their failure to obtain health insurance tax year 2018. In their letter submitted on May 13, 2019 and at the Hearing, the Appellant cited problems with the computer system and lack of assistance from Health Connector Customer Service as the reasons for their failure to have health insurance for the period of April through December in tax year 2018.

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 2018, the Appellants filing the Federal tax return as a single person with no dependents claimed, with an adjusted gross income of $30,202 could afford to pay $126 per month for health insurance. In accordance with Table 4, the Appellant, age 32 living in Essex County, could have purchased private insurance for $282 per month for a plan (Schedule HC for 2018). Private insurance was not affordable for the Appellants in 2018.

The Appellant would have been eligible for ConnectorCare coverage in 2018 because their income was less than 300% of the federal poverty level of $36,180 for a household of one (See Table 2 of Schedule HC-2018 and 956 CMR 12.04). As noted below the Appellant was determined eligible for ConnectorCare effective April 1, 2018.

The Appellant maintains that they tried to obtain health insurance through the Health Connector but due to systems errors were unable to do so. The Appellant testified that they telephone Customer Service and the representative had the same problems and could not assist the Appellant. The Appellant said that they did not receive any correspondence from the Health Connector and was later told that they did not qualify for a special enrollment period but could not appeal that determination. The Appellant’s testimony was contradicted by the business records submitted by the Health Connector during the record open period following the October 18, 2019 Hearing.
The Appellant’s February 24, 2018 application for health insurance was approved by the Health Connector by notice dated February 24, 2018. The notice informed the Appellant that they were eligible for ConnectorCare Plan Type 3A effective April 1, 2018. The notice advised the Appellant to choose a Plan and pay the first month premium by March 23, 2018 for insurance to be effective April 1, 2018. The notice also informed the Appellant in bold print that they had 60 days to enroll in coverage and that their special enrollment period would end on April 25, 2018.

Under 45 CFR § 155.410 and 956 CMR 12.10(5), enrollees may enroll in a Health Plan in that Enrollee’s Service Area during any open enrollment periods established by state or federal law. Typically, enrollees may not transfer from a Health Plan or enroll in a Health Plan outside of open enrollment unless the enrollee experiences a qualifying life event as listed in the Health Connector’s Policy NG 1E which was in effect for tax year 2018.

The Appellant did not enroll in a health plan prior to April 25, 2018. The Appellant did not contact the Health Connector until June 4, 2018 to ask about enrollment. The Appellant was correctly advised that their special enrollment period had ended. The Appellant did not receive misinformation from the Health Connector that entitled them to a second special enrollment period. 45 CFR § 155.420(d)(4). The Appellant maintains that they were told by Customer Service that they could not appeal the Health Connector’s decision regarding a second special enrollment period. I did not find this testimony to be credible. Business records obtained in response to the Appellant’s testimony verify that the Health Connector issued a Special Enrollment Period Decision denial notice on June 21, 2018. The notice contained a Hearing Request Form and instructions to file an appeal if the Appellant wished to dispute the denial. See 956 CMR 12.10, 12.12 and 12.13.

The evidence and testimony in this administrative record do not support the Appellant’s contention that their failure to have health insurance for the period of April through December in tax year 2018 was a result of Health Connector error. The Appellant submitted documentation verifying monthly expenses of $2,140. Given the Appellant’s income of $30,202 and the fact that the Appellant had the opportunity to enroll in ConnectorCare effective April 1, 2018 at a monthly premium cost of $85, the Appellant has failed to demonstrate that purchasing health insurance would have caused the Appellant to experience substantial financial hardship. See Schedule HC for 2018 and 956 CMR 6.08. The Appellant’s six-month penalty is upheld.

**PENALTY ASSESSED**
Number of Months Appealed: ____6___ Number of Months Assessed: __6_____

The Connector has notified the Department of Revenue that, pursuant to its decision, you should be assessed a penalty for Tax Year 2018 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 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: PA18-691

Appeal Decision: Appeal Approved

Hearing Issue: Appeal of the 2018 Tax Year Penalty
Hearing Date: October 18, 2019
Decision Date: November 6, 2019

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

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

HEARING RECORD
The Appellant appeared at the hearing, which was held by telephone, on October 18, 2019. The Appellant Spouse did not appear. 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. After the hearing concluded, the record was left open until November 18, 2019 to allow the Appellant to submit additional information. Additional information was submitted on October 30, 2019. The hearing record consists of the Appellant’s testimony and the following documents which were admitted into evidence:

Exhibit 2: Appeal Case Information from Schedule HC 2018.
Exhibit 3: The Statement of Grounds for Appeal signed by the Appellants on May 5, 2019, with an attachment.
Exhibit 4: Health Connector Appeals Unit Open Record Form dated October 18, 2019.
Exhibit 5: Additional information submitted by the Appellant on October 30, 2019, including the Appellant’s Massachusetts 1099-HC form for tax year 2018.

FINDINGS OF FACT
The record shows, and I so find:

1. The Appellants filed their 2018 Federal Income Tax return as a married couple with no dependents claimed (Exhibit 2).
2. The Appellants lived in Middlesex County, MA in 2018 (Exhibit 2).
3. The Appellants’ Federal Adjusted Gross Income for 2018 was $133,543 (Exhibit 2).
4. According to the information on the Appellants’ Schedule HC for tax year 2018, the Appellant and their Spouse did not have insurance for any months of tax year 2018. The Appellant and their
Spouse have both been assessed a twelve-month tax penalty for 2018. The Appellants filed an appeal of the assessment in May 2019 (Exhibits 2, 3).

5. The Appellants submitted a copy of tax year 2018 form 1095-C with their appeal request. The Appellant argues that this demonstrates that they and their Spouse had health insurance for all months of tax year 2018 (Exhibit 3 and Appellant Testimony).

6. The Appellant was advised that the document submitted verifies that they had insurance that met federal standards but did not verify that they had insurance that met Massachusetts Minimum Creditable Coverage Standards. The Appellant testified that they could obtain a Form MA 1099-HC for tax year 2018 (Appellant Testimony).

7. The Record was left open until November 18, 2019 to allow the Appellant to submit additional information verifying the Appellants’ health insurance coverage for tax year 2018 (Exhibit 4).

8. The Appellant submitted a copy of Form MA 1099-HCs issued by Aetna. The Appellant and their Spouse had health insurance that met Massachusetts minimum creditable coverage standards for all twelve months in tax year 2018 (Exhibit 5).

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

The Appellants filed their 2018 tax return as a married couple with no dependents. Based on the information from the Appellants’ 2018 Schedule HC, it appeared that the Appellant and their Spouse did not have health insurance that met Massachusetts minimum creditable coverage requirements in tax year 2018. Consequently, the Appellant and their Spouse have each been assessed a twelve-month penalty. The Appellants submitted an appeal request with a copy of their federal Form 1095-C from their employer. This document verifies that the Appellants had insurance that met federal standards but was insufficient to verify that the Appellants’ insurance met Massachusetts standards. The record was left open to allow the Appellant to submit additional information. The Appellant submitted a copy of Form MA 1099-HC for tax year 2018. This document verifies that the Appellant and their Spouse had employer sponsored health insurance for all twelve months of tax year 2018. The twelve-month penalties for the Appellant and their Spouse are both waived.

The Appellants should note that the waiver of their penalty is based upon the facts that I have determined to be true in 2018. 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 meeting Massachusetts requirements.
**PENALTY ASSESSED**

Appellant Primary Taxpayer: Number of Months Appealed: ___12___ Number of Months Assessed: ___0____
Appellant Spouse: Number of Months Appealed: ___12___ Number of Months Assessed: ___0____

If the number of months assessed is zero (0) because your penalty has been overturned, the Connector has notified the Department of Revenue that you should NOT be assessed a penalty for Tax Year 2017.

**NOTIFICATION OF YOUR RIGHT TO APPEAL TO COURT**

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

Cc: Connector Appeals Unit

**ADDENDUM**

If the Appellants have not done so, it is suggested that the Appellants file an amended tax return for tax year 2018 and include the documentation necessary to verify their health insurance coverage for the year.
Massachusetts Health Connector Appeals Unit

Tax Penalty Appeal Decision—Docket No. PA18-701

**Appeal Decision**: Appeal Approved -- 2018 tax penalty overturned.

**Hearing Issue**: Appeal of the 2018 Tax Year Penalty
**Hearing Date**: October 28, 2019
**Decision Date**: November 3, 2019

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

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

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

1. DOR Appeal Case Information from Schedule HC (1 page);
2. Appellant’s Statement of Grounds for Appeal – 2018;
3. Wife’s Letter in Support of Appeal (1 page, dated 5/12/19);
4. Husband’s Medical Treatment Summary (1 page, dated 3/7/18); and

**FINDINGS OF FACT**
I make the following findings of fact based on the testimony at the hearing and the exhibits and reasonable inferences from the evidence, applying the preponderance of the evidence standard.
1. The Appellants appealed from the Department of Revenue’s assessment of a 6 month penalty for 2018. The basis for the penalty was that the Husband was insured for all 12 months in 2018 but the Wife was insured for only 3 months (January, February and March). Exhibits 1 and 2. Based on Exhibit 1 and the Appellants’ hearing testimony, I find that the penalty assessment is accurate. (The calculation is 12 months minus 3 months insured = 9 months uninsured minus 3-month administrative grace period = 6 penalty months for Wife.)

2. The Husband received an initial cancer diagnosis in 2017 and began treatment in 2018. Effective on December 1, 2019, the Husband will be insured by the federal Medicare program. Testimony. See also Exhibit 1 (Husband’s date of birth) and Exhibit 4 (Husband’s radiation oncology consultation dated 3/7/18).

3. In 2018 both Husband and Wife were privately insured under separate Harvard Pilgrim health plans. The renewal date for the health plans was April 2018. The Husband renewed his Harvard Pilgrim health plan which provided him with coverage for all of 2018. The Wife did not renew her Harvard Pilgrim health plan so she had coverage for only January, February and March in 2018. Testimony. See also Exhibit 1.

4. The Appellants’ Harvard Pilgrim health plans both had $6,500 deductibles. The Wife did not renew her coverage effective April 2018 so that she and her Husband would have sufficient income to cover his cancer treatments in 2018. Exhibit 3 and Testimony.

5. For 2019 the Husband continued coverage under the Harvard Pilgrim health plan (until he enrolled in Medicare), but the Wife shifted her coverage to a less expensive Tufts health plan. Testimony.

6. For 2018 the Husband was self-employed running a cleaning business that did not provide health insurance coverage. The Wife was employed part-time, and her job did not provide health insurance coverage. Testimony.

7. The Appellants filed an amended Massachusetts personal income tax return for 2018 as a married couple filing jointly with no dependents. The Appellant’s federal adjusted gross income (AGI) for 2018 was $40,764. Exhibit 1.
8. The Husband was 63 years old at the beginning of 2018, and the Wife was 56 years old. They resided in [name of city or town omitted] in Bristol County, Massachusetts. Exhibit 1.

9. The Appellants’ AGI was more than 150% of the federal poverty level. On this basis I conclude that the Appellants were not automatically exempt from the assessment of a tax penalty in 2018. DOR Table 1.

10. The Appellants’ 2018 AGI ($40,764) was less than 300% of the federal poverty level ($48,720 for a two person household). DOR Table 2. On this basis I infer that it is likely that the Appellants would satisfy the financial eligibility requirements for government-subsidized health insurance.

11. Based on DOR Table 3 the Appellants could afford to pay 7.45% of their income -- or $253 per month -- for health insurance coverage in 2018. (The calculation is 7.45% multiplied by $40,764 AGI = $3,036.91 per year divided by 12 months = $253.07 per month.)

12. Based on DOR Table 4 (Region 2) the Appellant could obtain married couple (no dependents) health insurance coverage at their ages and location for $846 per month in 2018 (55+ years of age). Alternatively, individual coverage was available to the Wife for $423 per month.

13. Based on their hearing testimony I find that the Appellants were both paying substantially more than $253 per month for their Harvard Pilgrim health plans in 2018. The Husband continue to pay monthly premiums for all 12 months in 2018, while the Wife paid premiums for only January, February and March 2018.

14. Except as set forth in the foregoing findings of fact, I adopt the facts set forth in Exhibit 1 as my own findings of fact. Exhibit 1 is a computer printout prepared by the Massachusetts Department of Revenue (DOR) that extracts information submitted by the Appellant on Schedule HC as part of the Appellant’s 2018 Massachusetts income tax return.

15. I take administrative notice of the financial information set forth in Tables 1 through 6 of the DOR 2017 Massachusetts Schedule HC Health Care Instructions and Worksheet. Tables 3 and 4 incorporate the affordability schedules adopted by
the board of directors for the Commonwealth Health Insurance Connector Authority (Health Connector or Connector) for 2018. See 956 Code Mass. Regs. 6.05. Table 1 sets forth income levels less than 150% of the federal poverty level that are exempt from the assessment of a state tax penalty. Table 2 sets forth income eligibility standards for various family sizes at 300% of the federal poverty level, which is the income eligibility standard for the ConnectorCare government subsidized health insurance program. Tables 5 and 6 set forth the tax penalties in effect for 2018. (The DOR instructions are published online at http://www.mass.gov/dor/2018ScheduleHCInstructions and are also available in the state income tax forms supplied to taxpayers. See also DOR Technical Information Release (TIR) 12-7: Individual Mandate Penalties for Tax Year 2018.)

ANALYSIS AND CONCLUSIONS OF LAW

The case is before me on the Appellants’ appeal from the state Department of Revenue’s (DOR) assessment of a tax penalty because the Wife did not renew her health insurance coverage after March 2018. See Exhibits 1 and 2. The issue to be decided is whether the penalty should be waived, either in whole or in part.

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

If these requirements are not met, a tax penalty is assessed for “each of the months” that the person did not have health insurance, as required by the individual mandate. Mass. Gen. Laws 111M, sec. 2(b). See Exhibit 1. There is, however, a three-month grace period for any lapse in coverage to allow the taxpayer to make a transition between health insurance policies. Health Connector’s Administrative Bulletin 03-10, applying Mass. Gen. Laws 111M, sec. 2(b). See also DOR Instructions, at page HC-3. A tax penalty will not be assessed during the 3-month administrative grace period.
The Health Connector’s regulations also provide for a “hardship” appeal from the assessment of a penalty. 956 Code Mass. Regs. 6.07 and 6.08. The grounds for a hardship appeal are summarized in the Statement of Grounds for Appeal – 2017 that the Appellant signed and filed in this case. See Exhibit 2.

In her letter in support of the appeal the Wife contends that, “I do not think it is right that I have to pay a penalty for wanting to make sure my husband is taken care of and not have to worry about paying his deductible while fighting his cancer and being under stress with all his health problems.” Exhibit 3 (final paragraph). After considering the evidence presented on appeal I conclude that the 2018 penalty assessment should be waived in its entirety.

The Appellants each privately purchased a high deductible health insurance policy in 2018 because neither of them could obtain employer-sponsored health insurance coverage. The Wife dropped her coverage at the April 2018 renewal date because the Appellants’ household income was insufficient to cover the anticipated coverage required for the Husband’s cancer treatment in 2018. For 2019, however, the Appellants represent that the Wife made new, less costly arrangements for her health insurance coverage, while the Husband continued the same high deductible health plan until he became eligible for Medicare in December 2019.

Under the objective standards set forth in the DOR Tables the Appellants could not afford to maintain coverage under the two Harvard Pilgrim health plans in 2018. Under DOR Table 2 their 2018 federal adjusted gross income ($40,764) was less than 300% of the federal poverty level for a two person household ($48,720 per year). Under DOR Table 3 the Appellants could afford to pay $253 per month for health insurance on their income, while the anticipated monthly premium under DOR Table 4 (Region 2) to cover both of them was $846 per month (or $423 for the Wife alone). See Findings of Fact, Nos. 10 - 13, above. Since the Appellants were already bearing the cost of the Husband’s monthly health insurance premium, the Wife’s position the she could not afford to pay a separate monthly insurance premium while she and her Husband were paying the deductible on his health plan is reasonable.

For the foregoing reasons I will waive the entire tax penalty that the DOR assessed for 2018. See Mass. Gen. Laws c. 111M, sec. 2 (a), above. See also 956 Code Mass. Regs. 6.08 (1) (e) ([The Appellants] experienced financial circumstances such that the expense
of purchasing health insurance that met minimum creditable coverage standards would have caused [them] to experience a serious deprivation of food, shelter, clothing or other necessities.”). See my RECOMMENDATION below.

**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 2018 for the amount equal to one half of the lowest cost health insurance plan available to you for each month you have been assessed the penalty, as listed above, plus applicable interest back to the due date of the return without regard to extension.

OR

If the number of months assessed is zero (0) because your penalty has been overturned, the Connector has notified the Department of Revenue that you should NOT be assessed a penalty for Tax Year 2018.

**NOTIFICATION OF YOUR RIGHT TO APPEAL TO COURT**

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

Hearing Officer

Cc: Connector Appeals Unit

**RECOMMENDATION.** Your health insurance situation will be different in 2020 since Husband will be enrolled in Medicare for the entire year. For Wife I suggest that you reevaluate your health insurance options to assure that you enroll in the best coverage available to you. To do this, I suggest that you file an application with the Health Connector. You will learn if you are eligible for a government subsidy to help pay your monthly premium. Even if you are not eligible for a subsidy you will be offered coverage under group plans available through the Health Connector so that you can compare the coverage and monthly cost for several health insurance plans and compare them to your current coverage.
The Health Connector’s open enrollment period began on **November 1** for coverage that starts in January 2020. I suggest that you apply as early as possible in case you are asked to provide more information and to give yourself time to compare policies that are available to you. You can apply online at [www.mahealthconnector.org](http://www.mahealthconnector.org) or by calling Customer Service at 1-877-623-6765
Massachusetts Health Connector Appeals Unit

Tax Penalty Appeal Decision—Docket No. PA18-704

**Appeal Decision**: Appeal Approved  --  2018 tax penalty overturned.

**Hearing Issue**: Appeal of the 2018 Tax Year Penalty  
**Hearing Date**: October 28, 2019  
**Decision Date**: November 3, 2019

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

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

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

1. DOR Appeal Case Information from Schedule HC (1 page);  
2. Appellant’s Statement of Grounds for Appeal – 2018;  
3. Appellant’s Letter in Support of Appeal (1 page, undated); and  

**FINDINGS OF FACT**
I make the following findings of fact based on the testimony at the hearing and the exhibits and reasonable inferences from the evidence, applying the preponderance of the evidence standard.
1. The Appellant appealed from the Department of Revenue’s assessment of a 12 month penalty for 2018. The basis for the penalty was that the Appellant was not insured at any time in 2018. Exhibits 1 and 2. Based on Exhibit 1 and the Appellant’s hearing testimony, I find that the penalty assessment is accurate.

2. The Appellant filed a Massachusetts personal income tax return for 2018 as a single person with no dependents. The Appellant’s federal adjusted gross income (AGI) for 2018 was $36,287. Exhibit 1.

3. The Appellant was 24 years old at the beginning of 2018 and resided in [name of city or town omitted] in Norfolk County, Massachusetts. Exhibit 1.

4. The Appellant’s AGI was more than 150% of the federal poverty level. On this basis I conclude that the Appellant was not automatically exempt from the assessment of a tax penalty in 2018. DOR Table 1.

5. The Appellant’s 2018 AGI ($36,287) was slightly more than 300% of the federal poverty level ($36,180 for a one person household). DOR Table 2. On this basis I infer that it is unlikely that the Appellant would satisfy the financial eligibility requirements for government-subsidized health insurance. I note that the Appellant’s hourly wage rate was lower in the first half of 2018 than it was in the second half of the year. (See Findings of Fact, Nos. 8 and 9, below.)

6. Based on DOR Table 3 the Appellant could afford to pay 7.45% of his income -- or $225 per month -- for health insurance coverage in 2018. (The calculation is 7.45% multiplied by $36,287 AGI = $2,703.38 per year divided by 12 months = $225.28 per month.)

7. Based on DOR Table 4 (Region 2) the Appellant could obtain individual health insurance coverage at his age and location for $249 per month in 2018.

8. The Appellant had two jobs in 2018. He started the second job moving furniture on June 20, 2018, where he earned $16 per hour (later increased to $17 per hour). This small (3 person) firm did not offer the Appellant health insurance as a job benefit. The Appellant worked for this employer until December 2018. Testimony. See also Exhibit 3.
9. In the first half of 2018 the Appellant worked as a driver making grocery store deliveries. The Appellant’s starting pay was $10.10 per hour, which later increased to $13.50 per hour. Although the evidence is not clear, I find that the Appellant worked part-time most weeks at this job and that he was accordingly not eligible for the health insurance that the employer offered to its full-time employees. The Appellant felt that he could not afford health insurance. Consequently, he did not learn the terms under which health insurance was offered or how much he would have to pay to enroll. Testimony. See also Exhibit 3.

10. At some point in mid-2019 the Appellant was unemployed. He applied for, and enrolled in, MassHealth. Testimony and Exhibit 3.

11. I credit the list of monthly living expenses that the Appellant set forth in Exhibit 3: $550 rent, $170 telephone, 110 cable service, $250 food, $100 personal care, $388 car insurance (rate increased due to accident), $576 car loan, $200 gasoline, $510 credit cards, and $225 personal loan (loan balance = $9,000). On an annual basis the $3,079 monthly total is somewhat more than the Appellant’s AGI for 2018.

12. The Appellant was not insured under his parents’ health plan after he was 18 years old. Testimony.

13. Except as set forth in the foregoing findings of fact, I adopt the facts set forth in Exhibit 1 as my own findings of fact. Exhibit 1 is a computer printout prepared by the Massachusetts Department of Revenue (DOR) that extracts information submitted by the Appellant on Schedule HC as part of the Appellant’s 2018 Massachusetts income tax return.

14. I take administrative notice of the financial information set forth in Tables 1 through 6 of the DOR 2017 Massachusetts Schedule HC Health Care Instructions and Worksheet. Tables 3 and 4 incorporate the affordability schedules adopted by the board of directors for the Commonwealth Health Insurance Connector Authority (Health Connector or Connector) for 2018. See 956 Code Mass. Regs. 6.05. Table 1 sets forth income levels less than 150% of the federal poverty level that are exempt from the assessment of a state tax penalty. Table 2 sets forth income eligibility standards for various family sizes at 300% of the federal poverty level, which is the income eligibility standard for the ConnectorCare government subsidized health insurance program. Tables 5 and 6 set forth the tax penalties in
ANALYSIS AND CONCLUSIONS OF LAW

The case is before me on the Appellant’s appeal from the state Department of Revenue’s (DOR) assessment of a tax penalty because the Appellant did not have health insurance coverage in 2018. See Exhibits 1 and 2. The issue to be decided is whether the penalty should be waived, either in whole or in part.

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

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

The Health Connector’s regulations also provide for a “hardship” appeal from the assessment of a penalty. 956 Code Mass. Regs. 6.07 and 6.08. The grounds for a hardship appeal are summarized in the Statement of Grounds for Appeal – 2017 that the Appellant signed and filed in this case. See Exhibit 2.
In this case, the objective standards set forth in the DOR Tables show that the Appellant could not afford health insurance in 2018. Under DOR Table 3 the Appellant could afford to pay $225 per month for insurance based on his income, but DOR Table 4 indicates that he would have to pay $249 per month for individual coverage. At the same time, however, it is unlikely that the Appellant would have qualified for a government subsidized health insurance premium, though that fact cannot be established with certainty since the Appellant did not submit an application to the Health Connector or MassHealth in 2018. (The Appellant testified that he received MassHealth sometime in 2019, but his job situation had changed again by that time.) See Findings of Fact, Nos. 5 – 7 and 10, above.

Under the circumstances I conclude that the Appellant has established a financial hardship, though by a narrow margin. If, for example, the Appellant were to assert in a future year that he could not afford a health plan offered by an employer without informing himself about the details of the offered coverage (most especially the amount of the monthly premium) it is unlikely that I would waive the tax penalty. See Findings of Fact, No. 9, above. The Appellant would be well-advised to submit an application to the Health Connector during the open enrollment period that began on November 1 for coverage that begins in January 2020.

In sum, I waive the entire 12 month penalty that the DOR assessed for 2018. See, e.g., 956 Code Mass. Regs. 6.08 (1) (e) ([The Appellant] experienced financial circumstances such that the expense of purchasing health insurance that met minimum creditable coverage standards would have caused him to experience a serious deprivation of food, shelter, clothing or other necessities.”).

**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 2018 for the amount equal to one half of the lowest cost health insurance plan available to you for each month you have been assessed the penalty, as listed above, plus applicable interest back to the due date of the return without regard to extension.

OR
If the number of months assessed is zero (0) because your penalty has been overturned, the Connector has notified the Department of Revenue that you should NOT be assessed a penalty for Tax Year 2018.

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

Hearing Officer

Cc: Connector Appeals Unit
Massachusetts Health Connector Appeals Unit

Tax Penalty Appeal Decision—Docket No. PA18-707

**Appeal Decision**: Appeal Approved -- 2018 tax penalty overturned.

**Hearing Issue**: Appeal of the 2018 Tax Year Penalty
**Hearing Date**: October 28, 2019
**Decision Date**: November 3, 2019

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

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

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

1. DOR Appeal Case Information from Schedule HC (1 page);
2. Appellant’s Statement of Grounds for Appeal – 2018;
3. Appellant’s Letter in Support of Appeal (1 page, dated 5/13/19); and

**FINDINGS OF FACT**
I make the following findings of fact based on the testimony at the hearing and the exhibits and reasonable inferences from the evidence, applying the preponderance of the evidence standard.
1. The Appellant appealed from the Department of Revenue’s assessment of a 5 month penalty for 2018. The basis for the penalty was that the Appellant was insured for the months of January and February and again for the months of November and December but was not insured for the intervening 8 months in 2018 (March – October). Exhibits 1 and 2. Based on Exhibit 1 and the Appellant’s hearing testimony, I find that the penalty assessment is accurate. (The calculation is 12 months minus 4 months insured = 8 months uninsured minus 3-month administrative grace period = 5 penalty months.)

2. The Appellant filed a Massachusetts personal income tax return for 2018 as a single person with no dependents. The Appellant’s federal adjusted gross income (AGI) for 2018 was $21,402. Exhibit 1.

3. The Appellant was 56 years old at the beginning of 2018 and resided in [name of city or town omitted] in Suffolk County, Massachusetts. Exhibit 1.

4. The Appellant’s AGI was more than 150% of the federal poverty level. On this basis I conclude that the Appellant was not automatically exempt from the assessment of a tax penalty in 2018. DOR Table 1.

5. The Appellant’s 2018 AGI ($21,402) was less than 300% of the federal poverty level ($36,180 for a one person household). DOR Table 2. On this basis I infer that it is likely that the Appellant would satisfy the financial eligibility requirements for government-subsidized health insurance.

6. Based on DOR Table 3 the Appellant could afford to pay 2.90% of his income -- or $52 per month -- for health insurance coverage in 2018. (The calculation is 2.90 % multiplied by $21,402 AGI = $620.65 per year divided by 12 months = $51.72 per month.)

7. Based on DOR Table 4 (Region 2) the Appellant could obtain individual health insurance coverage at his age and location for $423 per month in 2018.

8. In January 2018 the Appellant lost his job as a maintenance technician for a realty firm where he was paid $21 per hour. The Appellant was enrolled in the health insurance plan offered by his employer and lost that coverage at the end of February. Testimony and Exhibit 3. The evidence presented by the Appellant is
consistent with the evidence presented by the DOR. See Exhibit 1 (coverage January and February).

9. The Appellant did not receive unemployment insurance benefits within the usual period after he was laid off, so the Appellant went months without any income. The Appellant exhausted his savings and has only $1,000 in the bank. Ultimately, the state Division of Unemployment Assistance approved his claim for unemployment insurance benefits and issued a retroactive check, which the Appellant used to paid debts that he accumulated while he was unemployed. Testimony and Exhibit 3.

10. After he was laid off the Appellant sought health insurance coverage from “numerous” insurers. His applications were denied because he did not have the ability to pay the insurer’s premiums. Exhibit 3 and Testimony. See also Exhibit 1 (no coverage March – October 2018).

11. The Appellant contacted the Health Connector at some point in 2018. He did not pursue an application after he received a reply telephone call seeking to sell him insurance coverage that he did not consider legitimate. Testimony.

12. A friend subsequently advised the Appellant that he should seek coverage through MassHealth. In October 2018 the Appellant was informed that he was eligible to receive MassHealth, and he enrolled in a Fallon health plan for November and December 2018. Exhibit 3 and Testimony. The Appellant’s evidence is consistent with the evidence presented by the DOR. See Exhibit 1 (coverage in November and December).

13. The Appellant represents that he is still insured through MassHealth in 2019 in a health plan with no monthly premiums and no copayments (the Appellant has prostate cancer). The Appellant has not found a new full-time job. Testimony and Exhibit 3.

14. Except as set forth in the foregoing findings of fact, I adopt the facts set forth in Exhibit 1 as my own findings of fact. Exhibit 1 is a computer printout prepared by the Massachusetts Department of Revenue (DOR) that extracts information submitted by the Appellant on Schedule HC as part of the Appellant’s 2018 Massachusetts income tax return.
15. I take administrative notice of the financial information set forth in Tables 1 through 6 of the DOR 2017 Massachusetts Schedule HC Health Care Instructions and Worksheet. Tables 3 and 4 incorporate the affordability schedules adopted by the board of directors for the Commonwealth Health Insurance Connector Authority (Health Connector or Connector) for 2018. See 956 Code Mass. Regs. 6.05. Table 1 sets forth income levels less than 150% of the federal poverty level that are exempt from the assessment of a state tax penalty. Table 2 sets forth income eligibility standards for various family sizes at 300% of the federal poverty level, which is the income eligibility standard for the ConnectorCare government subsidized health insurance program. Tables 5 and 6 set forth the tax penalties in effect for 2018. (The DOR instructions are published online at http://www.mass.gov/dor/2018ScheduleHCInstructions and are also available in the state income tax forms supplied to taxpayers. See also DOR Technical Information Release (TIR) 12-7: Individual Mandate Penalties for Tax Year 2018.)

ANALYSIS AND CONCLUSIONS OF LAW

The case is before me on the Appellant’s appeal from the state Department of Revenue’s (DOR) assessment of a tax penalty because the Appellant did not have health insurance coverage for the months of March through October 2018. See Exhibits 1 and 2. The issue to be decided is whether the penalty should be waived, either in whole or in part.

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

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

The Health Connector’s regulations also provide for a “hardship” appeal from the assessment of a penalty. 956 Code Mass. Regs. 6.07 and 6.08. The grounds for a hardship appeal are summarized in the Statement of Grounds for Appeal – 2017 that the Appellant signed and filed in this case. See Exhibit 2.

The evidence presented in this appeal is clear that the Appellant could not afford health insurance coverage in 2018 after he lost his job and his employer-sponsored health insurance in January and February 2018. The Appellant did not have any source of income while his claim for unemployment insurance benefits was being resolved. In November and December of 2018 the Appellant regained health insurance coverage through MassHealth. The Appellant’s federal adjusted gross income was especially low ($21,402). Under the objective standards set forth in the DOR Tables the Appellant could afford to pay only $52 per month for health insurance that would cost $423 per month at his age. See, e.g., Findings of Fact, Nos. 5, 6, 7 and 12, above.

Despite his lack of income while his unemployment claim was resolved, the Appellant did seek health insurance coverage in the private market. The Appellant only belatedly understood that government-subsidized coverage was available. Once he obtained guidance, the Appellant applied and enrolled in MassHealth, with coverage starting in November 2018.

I will waive the entire 5 month penalty that the DOR assessed for 2018 because the Appellant either had no income or reduced income from unemployment and was not able to afford health insurance after he was laid off. See Mass. Gen. Laws c. 111M, sec. 2 (a), above, and 956 Code Mass. Regs. 6.08 (1) (e) (“[The Appellant] experienced financial circumstances such that the expense of purchasing health insurance that met minimum creditable coverage standards would have caused him to experience a serious deprivation of food, shelter, clothing or other necessities.”).

The Appellant should take care to follow the procedures to continue his health insurance coverage next year (starting January 2020).
PENALTY ASSESSED
Number of Months Appealed: ___5____  Number of Months Assessed: _-0-_______

The Connector has notified the Department of Revenue that, pursuant to its decision, you should be assessed a penalty for Tax Year 2018 for the amount equal to one half of the lowest cost health insurance plan available to you for each month you have been assessed the penalty, as listed above, plus applicable interest back to the due date of the return without regard to extension.

OR
If the number of months assessed is zero (0) because your penalty has been overturned, the Connector has notified the Department of Revenue that you should NOT be assessed a penalty for Tax Year 2018.

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

Hearing Officer

Cc:   Connector Appeals Unit
Massachusetts Health Connector Appeals Unit

FINAL APPEAL DECISION: PA18-710

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

Hearing Issue: Appeal of the 2018 Tax Year Penalty
Hearing Date: October 31, 2019
Decision Date: November 12, 2019

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

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

HEARING RECORD
The Appellant appeared at the hearing, which was held by telephone, on October 31, 2019. The hearing record consists of Appellant’s testimony and the following documents, which were admitted into evidence:

Exhibit 1: The Connector’s Hearing Notice (4 pages)
Exhibit 2: An Appeal Case Information sheet containing information from Appellant’s Schedule HC (1 page)
Exhibit 3: Statement of Grounds (4 pages)
Exhibit 4: Appellant’s 2017 1040 form (1 page)
Exhibit 5: Xfinity bill (2 pages)
Exhibit 6: Capital One statement (1 page)
Exhibit 7: First page of a lease (1 page)
Exhibit 8: Chase statement (1 page)
Exhibit 9: Independent contractor agreement (2 pages)
Exhibit 10: Independent contractor agreement (6 pages)
Exhibit 11: Health insurance cards (2 pages)

FINDINGS OF FACT

The record shows, and I so find, that:

1. As of the end of 2018, Appellant was 28 years old.
2. During 2018 and at the time of the hearing, Appellant resided in Suffolk County in the Commonwealth of Massachusetts.

3. During 2018, and at the time of the hearing, Appellant was unmarried with no dependents. He filed his 2018 state taxes with a tax filing status of single.

4. Appellant reported on his Schedule HC and confirmed in his testimony at the hearing that he had no insurance meeting minimum creditable coverage (MCC) standards for the entire year of 2018.

5. During 2018, Appellant worked as an independent contractor for two different organizations. He was not offered health insurance through either position because as an independent contractor he was not benefits-eligible.

6. Because his work involved providing instruction to individual clients, his income was unpredictable and fluctuated throughout the year. He was building up a client base throughout 2018, and hoped that over time his income would increase. However, during the course of the year, there were slow periods, such as holiday or vacation times, when he was giving fewer classes and accordingly getting less income.

7. In 2018, Appellant had adjusted gross income of $42,275, all of it derived from his work as an independent contractor. This is the amount he reported on his 2018 state tax return and he confirmed that amount in his testimony at the hearing.

8. Appellant had monthly rent of $1600, which he split with another person. He had other expenses, including utilities, basic cable and internet service, and a public transportation pass. Further, because he was an independent contractor, he was required to pay taxes, including self-employment taxes, on his earnings, and was setting aside money regularly to make those payments.

9. Up to August 2017, Appellant had been covered through a student health insurance plan while he was a graduate student. However, his studies ended that year and he was no longer eligible for that insurance. At that time, he was just starting his work as an independent contractor and so had few clients and consequently a low income. He considered that he could not afford health insurance at that time, and so became uninsured.

10. At some point, Appellant investigated the possibility of obtaining insurance through the Health Connector. However, he found that he was unable to estimate his income in order to determine if he was eligible for government-subsidized insurance through the Health Connector. Further, he concluded that the cost of insurance without government subsidy was too high for him to afford.

11. As of the start of January 2019, Appellant was eligible to obtain health insurance coverage through his partner’s employment, and he became insured effective that date. This was confirmed by the insurance cards contained in Exhibit 11.

ANALYSIS AND CONCLUSIONS OF LAW

G.L c. 111M, § 2, also called the “individual mandate,” requires every adult resident of Massachusetts to obtain insurance coverage “[s]o long as it is deemed affordable.” Residents who do not obtain insurance are subject to a tax penalty.
Appellant submitted a statement of grounds for this appeal, claiming that the penalty should be waived in his case because obtaining health insurance would have caused him a “serious deprivation” of the necessities of life, which would constitute grounds for a waiver pursuant to 956 CMR 6.08(1)(e).

First, I must determine if Appellant had affordable insurance available to him in 2018. During 2018, Appellant worked only as an independent contractor. As a result, he was not offered employer-subsidized health insurance.

Further, during 2018, Appellant would not have been eligible for government-subsidized insurance. He earned an income of $42,275. This amount is above $36,180, the amount equal to three times, or 300%, of the federal poverty level (FPL) for an individual in 2018. (The figure of $36,180 is obtained from Table 2 of the instructions to the Schedule HC, governing the individual mandate penalty calculation, of which I take administrative notice.) Persons with an income above 300% of FPL are not eligible for government-subsidized insurance. See 956 CMR 12.04 (ConnectorCare eligibility requirements).

However, during 2018, Appellant was able to afford unsubsidized health insurance that was available to him. In making this calculation, I rely on Table 3, Affordability, and Table 4, Premiums, in the instructions to Schedule HC, of which I take administrative notice. Based on his status as an individual with no dependents, and his annual income of $42,275, Appellant was deemed able to afford 7.6% of his income for health insurance. This amounted to $3,212 annually or $267 a month. At the time, based on the premium table, an individual of Appellant’s age in Suffolk County could have obtained insurance for a monthly premium of $249 a month. Thus, Appellant could have obtained affordable insurance in 2018.

Nonetheless, I determine that Appellant has established grounds for a waiver. Although, in retrospect, he is deemed able to afford health insurance, that conclusion would not have been clear during the open enrollment period for purchasing insurance, which occurred at the end of 2017 and the beginning of 2018, because of the fluctuating and unpredictable nature of his income. Further, Appellant was building a client base, so that his income would have increased over the course of the year. Finally, even in retrospect, his income was such that the amount he could afford for insurance was only slightly above the actual cost of insurance. Thus, at the time that he would have had to purchase insurance during open enrollment at the end of 2017, it would have caused him a serious deprivation to purchase insurance. Additionally, I take into consideration the fact that Appellant obtained insurance when he became eligible for an affordable option at the start of 2019 and so is currently insured. This indicates that the period of uninsurance in 2018 was a temporary condition brought on by unpredictable income.

**PENALTY ASSESSED**
Number of Months Appealed: __12____ Number of Months Assessed: __0_____

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

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

Hearing Officer

Cc: Connector Appeals Unit
Massachusetts Health Connector Appeals Unit

FINAL APPEAL DECISION: PA18-711

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

Hearing Issue:  Appeal of the 2018 Tax Year Penalty
Hearing Date:  October 31, 2019
Decision Date:  November 12, 2019

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

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

HEARING RECORD
The Appellant appeared at the hearing, which was held by telephone, on October 31, 2019. The hearing record consists of Appellant’s testimony and the following documents, which were admitted into evidence:

Exhibit 1:  The Connector’s Hearing Notice (4 pages)
Exhibit 2:  Appeal Case Information sheet containing information from Appellant’s Schedule HC (1 page)
Exhibit 3:  Statement of Grounds (4 pages)
Exhibit 4:  Insurance Card (2 pages)
Exhibit 5:  Letter dated May 12, 2019 (1 page)

FINDINGS OF FACT

The record shows, and I so find, that:

2.  During 2018 and at the time of the hearing, Appellant resided in Bristol County in the Commonwealth of Massachusetts.
3.  During 2018, and at the time of the hearing, Appellant was unmarried with no dependents. She filed her 2018 state taxes with a tax filing status of single.
4. Appellant reported on her Schedule HC and confirmed in her testimony at the hearing that she had health insurance meeting minimum creditable coverage (MCC) standards for January 2018, but did not have any health insurance for the remaining 11 months of the year.

5. Throughout 2018, and for some years before, Appellant worked for a health care organization that provided health insurance to its employees.

6. Before January 2018, when Appellant turned 26, she had been insured as a dependent on her parent’s health insurance plan. When she turned 26, she was no longer eligible for that insurance.

7. Appellant wished to enroll in the insurance offered by her employer to replace the insurance she had previously had through her parent. She contacted her employer’s human resources department and was told that in order for her to enroll outside of the annual open enrollment period, she had to get a letter from her previous insurer confirming that she was no longer covered by that insurance. She was told she would have 30 days from the end of her previous coverage in order to enroll in the new insurance.

8. Her parent requested such a letter from the insurance plan. The letter arrived in March 2018, more than 30 days after the last day that Appellant was insured under her parent’s plan.

9. When Appellant gave that letter to her employer, she was told it was too late to sign up for insurance and she would have to wait for the next open enrollment period, which was at the end of the calendar year. At that point, Appellant made no further effort to obtain insurance during 2018.

10. At the end of 2018, during her employer’s open enrollment period, she signed up for health insurance and was covered effective the start of 2019. She was still covered as of the time of the hearing.

11. Appellant’s adjusted gross income in 2018 was $58,852. This is the amount she reported on her Schedule HC and she confirmed that amount in her testimony at the hearing.

12. During 2018, Appellant had expenses that included rent, car loan payments, student loan repayment, gas used in commuting, utilities and other expenses, that averaged about $2,300 a month.

13. Appellant’s income varied somewhat over the course of the year, depending on whether she had the opportunity to work overtime. She also got a raise during the course of the year.

ANALYSIS AND CONCLUSIONS OF LAW

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

Appellant submitted a statement of grounds for this appeal, claiming that the penalty should be waived in her case because there were circumstances that would make the imposition of the penalty inequitable in her case.

Appellant was uninsured for only part of the year. Appellant did not have insurance in the months of February through December 2018, a total of eleven months. According to M.G.L. c. 111M, s. 2, residents are permitted a 63-day gap between periods of coverage without facing a penalty; for Tax
Year 2011, Administrative Bulletin 03-10: Guidance Regarding M.G.L. c. 111M and M.G.L. c. 176Q, as implemented by 956 CMR 6.00, interprets the 63-day gap in coverage to be three months. As a result, gaps of three months are not subject to penalty. Thus, Appellant is subject to a penalty for only eight months, which she is appealing.

First, I must determine whether Appellant had affordable health insurance available to her during the period when she was uninsured. During 2018, Appellant was unable to obtain health insurance through her employment because of the difficulty she experienced in enrolling outside of open enrollment. Although that insurance would have been affordable to her, it was in effect unavailable to her.

Further, during 2018, Appellant would not have been eligible for government subsidized insurance. She earned an income of $58,852. This amount is above $36,180, the amount equal to three times or 300% of the federal poverty level (FPL) for an individual in 2018. (The figure of $36,180 is obtained from Table 2 of the instructions to the Schedule HC, governing the individual mandate penalty calculation, of which I take administrative notice.) Persons with an income above 300% of FPL are not eligible for government-subsidized insurance. See 956 CMR 12.04 (ConnectorCare eligibility requirements).

However, during 2018, Appellant was able to afford unsubsidized health insurance that was available to her. In making this calculation, I rely on Table 3, Affordability, and Table 4, Premiums, in the instructions to Schedule HC, of which I take administrative notice. Based on her status as an individual with no dependents, and her annual income of $58,852, Appellant was deemed able to afford 8.05% of her income for health insurance. This amounted to $4,737 annually or $394 a month. At the time, based on the premium table, an individual of Appellant’s age in Bristol County could have obtained insurance for a monthly premium of $249 a month. Thus, Appellant could have afforded insurance in 2018. However, such insurance might not have been available to her by the time that she realized that she needed it, because the annual open enrollment for purchasing insurance ended at the end of January 2018; moreover, to establish a qualifying event that would have allowed her to enroll outside of open enrollment, Appellant would have had to act within 60 days of the last day of her previous coverage, but at that point, which was March 2018, she was just learning that she would be unable to obtain insurance through her employer. Thus, it would likely have been too late for her to purchase insurance by the time she realized that she had to do so.

In any event, I determine that Appellant has established circumstances that justify a waiver of the penalty even if she had affordable insurance available to her. She had significant expenses during the period of uninsurance, including monthly student loan and car loan repayments, and the cost of commuting to her employment. These expenses would have made it difficult to pay the cost of unsubsidized health insurance. Additionally, her income varied somewhat during the year, depending on the availability of overtime, and it also increased over the course of the year; again, this would have made it difficult to sign up for insurance in the first part of 2018 when she realized that she was going to be uninsured. Further, Appellant knew that she would be able to obtain health insurance that met MCC standards for 2019 through her employment, and it would have been inconvenient to obtain another insurance, with a different network of providers, during the interim. Finally, Appellant did enroll in health insurance through her employer as soon as she was able, indicating that this period of uninsurance was a temporary condition brought on by the unfortunate circumstances that made her...
unable to enroll at the start of the year. For these reasons, I exercise my discretion to waive the penalty assessed against her.

**PENALTY ASSESSED**
Number of Months Appealed: __8____  Number of Months Assessed: __0_____

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

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

Hearing Officer

Cc:  Connector Appeals Unit
Massachusetts Health Connector Appeals Unit

FINAL APPEAL DECISION: PA18-712

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

Hearing Issue: Appeal of the 2018 Tax Year Penalty
Hearing Date: October 31, 2019
Decision Date: November 12, 2019

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

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

HEARING RECORD
The Appellant appeared at the hearing, which was held by telephone, on October 31, 2019. The hearing record consists of Appellant’s testimony and the following documents, which were admitted into evidence:

Exhibit 1: The Connector’s Hearing Notice (4 pages)
Exhibit 2: Appeal Case Information sheet containing information from Appellant’s Schedule HC (1 page)
Exhibit 3: Statement of Grounds (6 pages)

FINDINGS OF FACT

The record shows, and I so find, that:

1. Appellant was 22 at the end of 2018.
2. During 2018 and at the time of the hearing, Appellant resided in Essex County in the Commonwealth of Massachusetts. He was a citizen of the United States.
3. During 2018, and at the time of the hearing, Appellant was unmarried with no dependents. He filed his 2018 state taxes with a tax filing status of single.
4. Appellant reported on his Schedule HC and confirmed in his testimony at the hearing that he did not have health insurance meeting minimum creditable coverage (MCC) standards at any point in 2018.
5. Appellant had adjusted gross income in 2018 of $20,437. This is the amount that he reported on his 2018 state taxes and he confirmed that amount in his testimony.

6. During 2018, Appellant worked several part-time or temporary jobs. He was not eligible for health insurance through any of those positions.

7. Appellant stated that he applied for subsidized health insurance through the Health Connector at some point, but that was rejected. He did not understand the reasons why he was rejected. He did not specify the point in time when this occurred, and it was unclear if it was in 2018.

8. Appellant stated that, as of the time of the hearing, he was expecting shortly to start a permanent full-time job that would offer him health insurance. He stated that he had already applied for that insurance.

ANALYSIS AND CONCLUSIONS OF LAW

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

Appellant submitted a statement of grounds for this appeal, claiming that the penalty should be waived in this case because obtaining health insurance would have caused him a “serious deprivation” of the necessities of life, which would constitute grounds for a waiver pursuant to 956 CMR 6.08(1)(e).

First, I must determine whether Appellant had affordable health insurance available to him during the period when he was uninsured. During 2018, Appellant was not eligible for insurance through an employer because he was in temporary or part-time positions that were not benefits-eligible.

However, during 2018, Appellant would have been eligible for government subsidized insurance, which would have been affordable. He earned an income of $20,437. This amount is below $36,180, the amount equal to three times or 300% of the federal poverty level (FPL) for an individual in 2018. (The figure of $36,180 is obtained from Table 2 of the instructions to the Schedule HC, governing the individual mandate penalty calculation, of which I take administrative notice.) He met the other criteria for eligibility for ConnectorCare, which is subsidized insurance, because he was a citizen of the United States and did not have affordable insurance available to him through an employer or a government program such as Medicare. See 956 CMR 12.04 (ConnectorCare eligibility requirements). Appellant stated, however, that at some point, he applied for health insurance but was rejected. It is unclear whether this occurred because of incorrect information submitted in the application or for some other reason. In any event Appellant did not obtain government-subsidized insurance. This is unfortunate because ConnectorCare would have been affordable, as the premium amount is based on income and there are no deductibles.

During 2018, Appellant was unable to afford unsubsidized health insurance that was available to him. In making this calculation, I rely on Table 3, Affordability, and Table 4, Premiums, in the instructions to Schedule HC, of which I take administrative notice. Based on his status as an individual with no dependents, and his annual income of $20,437, Appellant was deemed able to afford only 2.95% of his income for health insurance. This amounted to $602 annually or $50 a month. At the time, based on
the premium table, an individual of Appellant’s age in Essex County could have obtained insurance for a monthly premium of $249 a month. Thus, Appellant could not have afforded unsubsidized insurance in 2018.

In any event, I determine that Appellant has established circumstances that justify a waiver of the penalty even if he had affordable insurance available to him. His income was uncertain and fluctuated over the course of the year because he had several temporary and part-time jobs and changed positions, resulting in gaps in earning. It would have been impossible for him to pay for insurance without government subsidies, and he was for some reason unable to obtain those subsidies. He did not have health insurance through his family. Finally, Appellant reported that he was about to enroll in health insurance through an employer as a consequence of obtaining a permanent full-time job that is benefits-eligible. Thus, he has taken steps to end his period of uninsurance. Based on these circumstances, I exercise my discretion to waive the penalty.

**PENALTY ASSESSED**

Number of Months Appealed: _12_  
Number of Months Assessed: _0_

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

**NOTIFICATION OF YOUR RIGHT TO APPEAL TO COURT**

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

Hearing Officer

Cc: Connector Appeals Unit
Massachusetts Health Connector Appeals Unit

FINAL APPEAL DECISION: PA18-713

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

**Hearing Issue:** Appeal of the 2018 Tax Year Penalty  
**Hearing Date:** October 31, 2019  
**Decision Date:** November 12, 2019

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

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

**HEARING RECORD**  
The Appellant appeared at the hearing, which was held by telephone, on October 31, 2019. Additionally, Appellant’s son (“Son”) testified. The hearing record consists of Appellant’s and Son’s testimony and the following documents, which were admitted into evidence:

- Exhibit 1: The Connector’s Hearing Notice (4 pages)
- Exhibit 2: Appeal Case Information sheet containing information from Appellant’s Schedule HC (1 page)
- Exhibit 3: Statement of Grounds (6 pages)

**FINDINGS OF FACT**

The record shows, and I so find, that:

1. Appellant was 50 at the end of 2018.
2. During 2018 and at the time of the hearing, Appellant resided in Essex County in the Commonwealth of Massachusetts. He was a legal permanent resident of the United States.
3. During 2018, and at the time of the hearing, Appellant was unmarried with one dependent. He filed his 2018 state taxes with a tax filing status of head of household with one dependent.
4. Appellant reported on his Schedule HC and confirmed in his testimony at the hearing that he did not have health insurance meeting minimum creditable coverage (MCC) standards at any point in 2018.
5. Appellant had adjusted gross income in 2018 of $25,939. This is the amount that he reported on his 2018 state taxes and he confirmed that amount in his testimony.

6. During 2018, Appellant worked at a factory. He was not eligible for health insurance through that position.

7. Appellant stated that he has never applied for subsidized health insurance through the Health Connector.

8. During 2018, Appellant had expenses including a mortgage and car loan payments, that totaled over $2,000 a month.

ANALYSIS AND CONCLUSIONS OF LAW

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

Appellant submitted a statement of grounds for this appeal, claiming that the penalty should be waived in this case because of circumstances that would make the imposition of the penalty inequitable.

First, I must determine whether Appellant had affordable health insurance available to him during the period when he was uninsured. During 2018, Appellant was not eligible for insurance through an employer because the position in which he worked did not offer health insurance.

However, based on the information he provided, during 2018, Appellant would likely have been eligible for government subsidized insurance, which would have been affordable. He earned an income of $25,939. This amount is below $36,180, the amount equal to three times or 300% of the federal poverty level (FPL) for an individual in 2018. (The figure of $36,180 is obtained from Table 2 of the instructions to the Schedule HC, governing the individual mandate penalty calculation, of which I take administrative notice.) He met the other criteria for eligibility for ConnectorCare, which is subsidized insurance, because he was a legal permanent resident of the United States and did not have affordable insurance available to him through an employer or another form of government health insurance, such as Medicare. See 956 CMR 12.04 (ConnectorCare eligibility requirements). Appellant stated, however, that he never applied for health insurance. This is unfortunate because ConnectorCare would have been affordable, as the premium amount is based on income and there are no deductibles. Appellant was advised during the hearing that he would likely be eligible for ConnectorCare and was told how to apply.

During 2018, Appellant was unable to afford unsubsidized health insurance that was available to him. In making this calculation, I rely on Table 3, Affordability, and Table 4, Premiums, in the instructions to Schedule HC, of which I take administrative notice. Based on his status as an unmarried head of household with one dependent, and his annual income of $25,939, Appellant was deemed able to afford only 4.35% of his income for health insurance. This amounted to $1128 annually or $94 a month. At the time, based on the premium table, an individual of Appellant’s age in Essex County could have obtained insurance for a monthly premium of $411 a month. Thus, Appellant could not have afforded unsubsidized insurance in 2018.
In any event, I determine that Appellant has established circumstances that justify a waiver of the penalty even if he had affordable insurance available to him. His income was low. He had considerable expenses that would have left him with almost no disposable income. He seemed unaware that he had an option of obtaining subsidized health insurance with government assistance. Based on these circumstances, I exercise my discretion to waive the penalty.

**PENALTY ASSESSED**
Number of Months Appealed: __12____ Number of Months Assessed: __0_____

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

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

Hearing Officer

Cc: Connector Appeals Unit
Massachusetts Health Connector Appeals Unit

FINAL APPEAL DECISION: PA18-714

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

**Hearing Issue:** Appeal of the 2018 Tax Year Penalty  
**Hearing Date:** October 31, 2019  
**Decision Date:** November 12, 2019

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

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

**HEARING RECORD**  
The Appellant appeared at the hearing, which was held by telephone, on October 31, 2019. The hearing record consists of Appellant’s testimony and the following documents, which were admitted into evidence:

- **Exhibit 1:** The Connector’s Hearing Notice (4 pages)  
- **Exhibit 2:** Appeal Case Information sheet containing information from Appellant’s Schedule HC (1 page)  
- **Exhibit 3:** Statement of Grounds (3 pages)  
- **Exhibit 4:** Letter attached to statement of grounds (1 page)

**FINDINGS OF FACT**  
The record shows, and I so find, that:

1. Appellant was 63 at the end of 2018.
2. During 2018 and at the time of the hearing, Appellant resided in Plymouth County in the Commonwealth of Massachusetts.
3. During 2018, and at the time of the hearing, Appellant was married with one dependent. She filed her 2018 state taxes with a tax filing status of married filing jointly with one dependent.
4. Appellant reported on her Schedule HC that she did not have health insurance meeting minimum creditable coverage (MCC) standards at any point in 2018.
5. Appellant and her husband (“Husband”) had adjusted gross income in 2018 of $57,820. This is the amount that they reported on their 2018 state taxes and Appellant confirmed that amount in her testimony.

6. The income was derived from two sources: disability payments to Husband, and salary that Appellant earned through a part-time job.

7. During 2018, until October, Appellant worked at a nursing home. She worked fewer than 32 hours a week. Because of her reduced work week, she was not eligible for insurance through her employer. She had been eligible for insurance through employment before June 2017, but at that point the employer’s policy regarding coverage changed and she was no longer eligible. Thus, after June 2017, she stopped having employer-sponsored health insurance.

8. In early 2018, she applied for health insurance through the Health Connector. She applied over the phone. When she provided her information, she was told that she was not eligible for financial assistance because her income was too high.

9. Because she believed that she was not eligible for financial assistance, she purchased health insurance at the market rate. She enrolled in a Tufts bronze plan and was insured under that plan for the months of February, March and April 2018. This contradicts what was reported on her Schedule HC. However, I credit her testimony that she was insured for three months in the year.

10. During 2018, her husband was covered through Medicare.

11. In October 2018, Appellant suffered an injury that prevented her from working. At that point, she was no longer earning income. At some point in 2019, Appellant decided to retire.

12. During 2018, particularly after her injury, Appellant and her Husband were having difficulty paying bills.

13. She and her Husband fell two months behind in their mortgage payment at the end of 2018.

14. Additionally, they received a shutoff notice from Eversource, their electricity utility, in October 2018. They were able to work out a payment plan that forestalled shutoff.

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.

First, I must determine whether Appellant had affordable health insurance available to her during the period when she was uninsured. During 2018, Appellant was not eligible for insurance through an employer because her employment did not offer health insurance to persons like herself who worked fewer than 32 hours a week.

However, during 2018, based on the information she provided, Appellant would likely have been eligible for government subsidized insurance, which would have been affordable. She had a household income of $57,820. This amount is below $61,260, the amount equal to three times or 300% of the federal poverty level (FPL) for a family of three. Appellant’s family for these purposes consisted of herself, her Husband, and her one dependent. (The figure of $61,260 is obtained from Table 2 of the instructions to the Schedule HC, governing the individual mandate penalty calculation, of which I take administrative
Persons with incomes below 300% of the federal poverty limit are eligible for ConnectorCare, which is government assisted insurance, provided they meet the other eligibility requirements of citizenship and lack of access to employer-sponsored insurance. See 956 CMR 12.04 (ConnectorCare eligibility requirements).

Nonetheless, Appellant testified, and I credit her testimony, that when she applied for health insurance at the start of 2018, she was told she would not be eligible for government financial assistance. It appears that was because, when she applied for financial assistance, she would been asked in the application to project her income for the entire upcoming year. At that time, she was working. Therefore, she projected her 2018 income based on her 2017 income, which would have been too high to qualify for ConnectorCare. However, she stopped working in the course of 2018 because of her injury, and as a result her income for that year was lower than she would have originally projected. She could have applied for ConnectorCare at that time, based on her reduced income, but she was unaware of that fact. This is unfortunate because ConnectorCare would have been affordable, as the premium amount is based on income and there are no deductibles. Appellant was advised at the hearing that she could still apply for ConnectorCare given her current income level. Additionally, within four months of the date of the hearing, Appellant will be eligible to receive Medicare.

Without government assistance, Appellant was unable to afford unsubsidized health insurance that was available to her during 2018. In making this calculation, I rely on Table 3, Affordability, and Table 4, Premiums, in the instructions to Schedule HC, of which I take administrative notice. Based on her filing status as married filing jointly with one dependent, and her annual income of $57,820, Appellant was deemed able to afford only 5.95% of her income for health insurance. This amounted to $3,440 annually or $286 a month. At the time, based on the premium table, an individual of Appellant’s age in Plymouth County could have obtained insurance for an individual at a monthly premium of $423 a month. (Appellant would have needed insurance only for an individual as her husband was covered by Medicare and her dependent had other coverage.) Thus, Appellant could not have afforded unsubsidized insurance in 2018.

In any event, I determine that Appellant has established circumstances that justify a waiver of the penalty even if she had affordable insurance available to her. She received a shutoff notice of an essential utility, which constitutes grounds for a waiver under 956 CMR 6.08(b). She also was more than 30 days in arrears on a mortgage, which constitutes grounds for a waiver under 956 CMR 6.08(a). Based on these circumstances, she is entitled to a waiver of the penalty.

PENALTY ASSESSED
Number of Months Appealed: __12____ Number of Months Assessed: __0____

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

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

Hearing Officer

Cc: Connector Appeals Unit
Massachusetts Health Connector Appeals Unit

FINAL APPEAL DECISION: PA18-716

Appeal Decision: Appeal Approved.

Hearing Issue: Appeal of the 2018 Tax Year Penalty
Hearing Date: October 28, 2019
Decision Date: November 4, 2019

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

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

HEARING RECORD
The Appellant appeared at the hearing, which was held by telephone, on October 28, 2019. The Appellant’s friend attended as a Witness. The procedures to be followed during the hearing were reviewed with the parties who were then sworn in. Exhibits were marked and admitted into evidence with no objection from the Appellant or their Witness. The hearing record consists of the testimony of the Appellant and Witness as well as the following documents which were admitted into evidence:

Exhibit 1: Health Connector Appeals Unit Notice of Hearing dated September 17, 2019.
Exhibit 2: Appeal Case Information from Schedule HC 2018.

FINDINGS OF FACT
The record shows, and I so find:

1. The Appellant turned 37 years old in October 2018. The Appellant filed their Federal Income Tax return as a head of household with one dependent claimed (Exhibit 2).

2. The Appellant lived in Hampden County, MA in 2018 (Exhibit 2).

3. The Appellant’s Federal Adjusted Gross Income for 2018 was $32,124 (Exhibit 2 and Appellant Testimony).

4. The Appellant did not have health insurance for any months in tax year 2018 (Exhibit 2 and Appellant Testimony).

5. The Appellant has been assessed a twelve-month tax penalty for 2018. The Appellant filed an appeal of the assessment in May 2019 (Exhibits 2, 3 and Appellant Testimony).
6. I take administrative notice of the financial information set forth in Tables 1 through 6 in the DOR 2018 Massachusetts Schedule HC Health Care Instructions and Worksheets. Tables 3 and 4 incorporate affordability and premium schedules adopted by the Board of Directors for the Commonwealth Health Insurance Connector Authority for 2018. Table 2 sets forth income at 300% of the Federal poverty level and Tables 5 and 6 set forth tax penalties in effect for 2018.

7. In accordance with Table 3 of Schedule HC for 2018, the Appellant filing the Federal tax return as a head of household with one dependent claimed, with an annual adjusted gross income of $32,124 could afford to pay $116 per month for health insurance. In accordance with Table 4, the Appellant, age 37, living in Hampden County, could have purchased private insurance for $736 per month for a family plan (Schedule HC for 2018). Private insurance was not affordable for the Appellant in 2018.

8. The Appellant would have been eligible for ConnectorCare coverage in 2018 because the Appellant’s income was less than 300% of the federal poverty level, which was $48,720 for a household of two in 2018. The Appellant had no access to affordable insurance through employment in tax year 2018 (See Table 2 of Schedule HC-2018 and 956 CMR 12.04) (Exhibit 3 and Appellant Testimony).

9. The Appellant’s 2018 monthly living expenses of $2,441 included: rent-$950; electricity-$60; car payment-$470; car insurance-$120; gasoline-$173; telephone-$75; cable/internet $160 and food-$433 (Appellant Testimony).

10. The Appellant testified that their mother became ill and moved in with the Appellant and their dependent. As a result, their utility and food expenses increased. The Appellant said that they did not apply for insurance in a timely manner and could not afford to pay a healthcare premium. I found the Appellant to be credible (Appellant Testimony).

11. The Appellant’s friend testified that the Appellant had a lot on their plate in 2018 and had a difficult time paying all the bills. I found the Appellant’s friend to be credible (Witness Testimony).

ANALYSIS AND CONCLUSIONS OF LAW

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

The Appellant did not have health insurance in tax year 2018. The Appellant has been assessed a twelve-month penalty. The Appellant asserts that the penalty should not apply in this case because of financial hardship. To determine if the penalty should be waived in whole or in part, there must be an evaluation of whether affordable insurance which met minimum creditable coverage standards was available to the Appellant through employment, through private insurance, or through a government sponsored program. If affordable insurance was available, it must be determined if such insurance was not affordable to the Appellant because the Appellant experienced a financial hardship as defined in 956 CMR 6.08.
In accordance with Table 3 of Schedule HC for 2018, the Appellant filing the Federal tax return as a head of household with one dependent claimed with an adjusted gross income of $32,124 could afford to pay $116 per month for health insurance. According to Table 4, the Appellant, age 37, living in Hampden County, could have purchased a private insurance plan for $736 per month. See Schedule HC for 2018. Private insurance was not affordable for the Appellant in tax year 2018.

The Appellant had no access to affordable employer-sponsored health insurance in 2018. The Appellant would have been eligible for ConnectorCare coverage based upon the Appellant’s income which was less than 300% of the federal poverty level which was $48,720 for a family of two. See Table 2 of Schedule HC 2018 and 956 CMR 12.04 for eligibility criteria. Since affordable insurance was available to the Appellant in 2018, it must be determined whether the Appellant experienced a financial hardship pursuant to 956 CMR 6.08 (1).

The Appellant testified credibly that their mother became ill and moved in with the Appellant and their dependent. This resulted in an increase in the household’s monthly expenses. 956 CMR 6.08(1)(d)(3). The Appellant verified substantial monthly living expenses and testified credibly that they struggled to meet these expenses with their limited income.

Based on the evidence and testimony in this administrative record, the Appellant has demonstrated that the cost of purchasing health insurance would have caused the Appellant to experience a serious financial hardship. See 956 CMR 6.08(1)(e). The Appellant’s twelve-month penalty is therefore waived.

The Appellant should note that the waiver of their penalty is based upon the facts that I have determined to be true in 2018. The Appellant should not assume that a similar determination will be made for subsequent tax years should they again be assessed a penalty for failure to have health insurance.

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

If the number of months assessed is zero (0) because your penalty has been overturned, the Connector has notified the Department of Revenue that you should NOT be assessed a penalty for Tax Year 2018.

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

Cc: Connector Appeals Unit

ADDENDUM
The Appellant is reminded that Open Enrollment for obtaining health insurance coverage for 2020 through the Health Connector is November 1, 2019 through January 23, 2020. The Appellant may contact Health Connector Customer Service at 1-877-623-6765 for assistance.
Massachusetts Health Connector Appeals Unit

FINAL APPEAL DECISION: PA18-717

Appeal Decision: Appeal Approved.

Hearing Issue: Appeal of the 2018 Tax Year Penalty
Hearing Date: October 28, 2019
Decision Date: November 1, 2019

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

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

HEARING RECORD
The Appellant appeared at the hearing, which was held by telephone, on October 28, 2019. The procedures to be followed during the hearing were reviewed with the Appellant who was then sworn in. Exhibits were marked and admitted into evidence with no objection from the Appellant. The hearing record consists of the Appellant’s testimony and the following documents which were admitted into evidence:

Exhibit 1: Health Connector Appeals Unit Notice of Hearing dated September 17, 2019.
Exhibit 2: Appeal Case Information from Schedule HC 2018.
Exhibit 4: The Appellant’s letter in support of this appeal.

FINDINGS OF FACT
The record shows, and I so find:

1. The Appellant turned 51 years old in January 2018. The Appellant filed their Federal Income Tax return as a single person with no dependents claimed (Exhibit 2).

2. The Appellant lived in Middlesex County, MA in 2018 (Exhibit 2).

3. The Appellant’s Federal Adjusted Gross Income for 2018 was $24,731 (Exhibit 2 and Appellant Testimony).

4. The Appellant had health insurance for the period of January through March. The Appellant did not have health insurance for the period of April through December in tax year 2018 (Exhibit 2 and Appellant Testimony).

5. The Appellant has been assessed a six-month tax penalty for 2018. The Appellant filed an appeal of the assessment in May 2019 (Exhibits 2, 3, 4 and Appellant Testimony).
6. I take administrative notice of the financial information set forth in Tables 1 through 6 in the DOR 2018 Massachusetts Schedule HC Health Care Instructions and Worksheets. Tables 3 and 4 incorporate affordability and premium schedules adopted by the Board of Directors for the Commonwealth Health Insurance Connector Authority for 2018. Table 2 sets forth income at 300% of the Federal poverty level and Tables 5 and 6 set forth tax penalties in effect for 2018.

7. In accordance with Table 3 of Schedule HC for 2018, the Appellant filing the Federal tax return as a single person, with no dependents claimed, with an annual adjusted gross income of $24,731 could afford to pay $87 per month for health insurance. In accordance with Table 4, the Appellant, age 51, living in Middlesex County, could have purchased private insurance for $411 per month for a plan (Schedule HC for 2018). Private insurance was not affordable for the Appellant in 2018.

8. The Appellant would have been eligible for ConnectorCare coverage in 2018 because the Appellant’s income was less than 300% of the federal poverty level, which was $36,180 in 2018. The Appellant had no access to affordable insurance through employment during the period of April through December in tax year 2018 (See Table 2 of Schedule HC-2018 and 956 CMR 12.04) (Exhibit 4 and Appellant Testimony).

9. The Appellant testified that the adjusted gross income does not adequately reflect their monthly circumstances for all of tax year 2018. The Appellant said that they had employer sponsored health insurance for the period of January through March. The Appellant’s employment ended in March and the Appellant remained unemployed through November. The new employer had a two-month waiting period to be eligible for insurance. The Appellant explained that they had voluntarily left their job due to stress and the long commute. They were not eligible for unemployment compensation. The Appellant said that they did not expect it would take so long to obtain another job (Exhibit 4 and Appellant Testimony).

10. The Appellant’s 2018 monthly living expenses included: rent with heat and electricity-$800; telephone-$100 and food-$433. The Appellant said that they borrowed a car when needed. The Appellant testified credibly that they struggled to pay their monthly expenses during the months of April through October with no income. The Appellant said that they used their savings to meet these expenses, was worried they would exhaust their savings, and could not afford to pay a healthcare premium. I found the Appellant’s testimony to be credible (Appellant Testimony).

11. The Appellant is currently insured (Appellant Testimony).

ANALYSIS AND CONCLUSIONS OF LAW

The tax penalty was enacted by the Massachusetts Legislature to encourage compliance with G.L c. 111M, § 2, also called the “individual mandate”. The mandate requires every adult resident of Massachusetts to obtain insurance coverage “[s]o long as it is deemed affordable” under the schedule set by the board of directors for the Commonwealth Health Insurance Connector Authority. Residents who do not obtain insurance are subject to a tax penalty for each of the months that the individual did not have health insurance as required by the individual mandate. There is a three-month grace period to allow the taxpayer to obtain health insurance coverage or to make the transition between health insurance policies See G.L. C. 111M, sec. 2(b) and for Tax Year 2010, Administrative Bulletin 03-10: Guidance Regarding M.G.L. c. 111M and M.G.L. c.176Q as implemented by 956 CMR 6.00, which interprets the 63-day gap in coverage to be three months. The Connector’s regulations provide for a waiver of the tax penalty in the case of financial hardship. See 956 CMR 6.08.
The Appellant did not have health insurance during the period of April through December in tax year 2018. The Appellant has been assessed a six-month penalty. The Appellant asserts that the penalty should not apply in this case because of financial hardship. To determine if the penalty should be waived in whole or in part, there must be an evaluation of whether affordable insurance which met minimum creditable coverage standards was available to the Appellant through employment, through private insurance, or through a government sponsored program. If affordable insurance was available, it must be determined if such insurance was not affordable to the Appellant because the Appellant experienced a financial hardship as defined in 956 CMR 6.08.

In accordance with Table 3 of Schedule HC for 2018, the Appellant filing the Federal tax return as a single person with no dependents claimed with an adjusted gross income of $24,731 could afford to pay $87 per month for health insurance. According to Table 4, the Appellant, age 51, living in Middlesex County, could have purchased a private insurance plan for $411 per month. See Schedule HC for 2018. Private insurance was not affordable for the Appellant in tax year 2018.

The Appellant had no access to affordable employer-sponsored health insurance during the period of April through December 2018. The Appellant would have been eligible for ConnectorCare coverage based upon the Appellant’s income which was less than $36,180. See Table 2 of Schedule HC 2018 and 956 CMR 12.04 for eligibility criteria. Since affordable insurance was available to the Appellant in 2018, it must be determined whether the Appellant experienced a financial hardship pursuant to 956 CMR 6.08 (1).

The Appellant testified credibly that their gross income figure does not reflect their month to month financial circumstances in tax year 2018. The Appellant was employed and had employer sponsored health insurance for the period of January through March. The Appellant’s job ended in March and the Appellant remained unemployed through the end of October. The Appellant had left their job voluntarily and was not eligible to receive unemployment compensation. The Appellant had no income until November 2018 and their new employer had a sixty-day waiting period to allow the Appellant to enroll in the employer sponsored health insurance. The Appellant verified substantial day to day living expenses and testified credibly that they struggled to meet these expenses with no income during the period of April through October.

Based on the evidence and testimony in this administrative record, the Appellant has demonstrated that the cost of purchasing health insurance would have caused the Appellant to experience a serious financial hardship. See 956 CMR 6.08(1)(e). The Appellant’s six-month penalty is therefore waived.

The Appellant should note that the waiver of their penalty is based upon the facts that I have determined to be true in 2018. The Appellant should not assume that a similar determination will be made for subsequent tax years should they again be assessed a penalty for failure to have health insurance.

**PENALTY ASSESSED**
Number of Months Appealed: ____6___ Number of Months Assessed: __0_____

If the number of months assessed is zero (0) because your penalty has been overturned, the Connector has notified the Department of Revenue that you should NOT be assessed a penalty for Tax Year 2018.

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

Cc: Connector Appeals Unit
Massachusetts Health Connector Appeals Unit

FINAL APPEAL DECISION: PA18-719

Appeal Decision: Appeal Approved

Hearing Issue: Appeal of the 2018 Tax Year Penalty
Hearing Date: October 28, 2019
Decision Date: November 8, 2019

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

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

HEARING RECORD
The Appellant appeared at the hearing, which was held by telephone, on October 28, 2019. 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. After the hearing concluded, the record was left open until November 11, 2019 to allow the Appellant to submit additional information. Additional information was submitted in a timely manner. The hearing record consists of the Appellant’s testimony and the following documents which were admitted into evidence:

Exhibit 1: Health Connector Appeals Unit Notice of Hearing dated September 17, 2019.
Exhibit 2: Appeal Case Information from Schedule HC 2018.
Exhibit 4: The Appellant’s letter in support of this Appeal, with attachments.
Exhibit 5: Health Connector Appeals Unit Open Record Form dated October 28, 2019.
Exhibit 6: Documents from Lesley University submitted on October 31, 2019 verifying that the Appellant had BlueCross Blue Shield health insurance for the period of August 15, 2018 through August 14, 2019.
Exhibit 7: A copy of the Appellant’s Form MA 1099 HC 2018.

FINDINGS OF FACT
The record shows, and I so find:

1. The Appellant filed their 2018 Federal Income Tax return as single person with no dependents claimed (Exhibit 2).

2. The Appellant lived in Suffolk County, MA in 2018 (Exhibit 2).

3. The Appellant’s Federal Adjusted Gross Income for 2018 was $53,594 (Exhibit 2).
4. According to the information on the Appellants’ Schedule HC for tax year 2018, the Appellant had health insurance for the period of January through August but did not have insurance for the period of September through December in tax year 2018 (Exhibit 2).

5. The Appellant has been assessed a one-month tax penalty for 2018. The Appellant filed an appeal of the assessment in May 2019 (Exhibits 2, 3, 4).

6. The Appellant was enrolled in ConnectorCare for the period of January 1, 2018 through August 31, 2018 (Exhibit 4 and Appellant Testimony).

7. The Appellant submitted a copy Account Information from Lesley College indicating that the Appellant had health insurance through the College from August 15, 2018 through August 14, 2019. The Appellant paid $4,960 for this coverage (Exhibit 4 and Appellant Testimony).

8. The Appellant testified that they had BlueCross Blue Shield health insurance. The Appellant explained that a relative helped them with their tax return. The Appellant was unsure if a Form 1099 HC had been filed (Appellant Testimony).

9. The Record was left open until November 28, 2019 to allow the Appellant to submit additional information verifying the Appellants’ health insurance coverage for tax year 2018 (Exhibit 5).

10. On October 31, 2019 the Appellant submitted a letter from Gallagher Student Health verifying that the Appellant was enrolled in Lesley University BlueCross Blue Shield health insurance for the period of August 15, 2018 through August 14, 2019 (Exhibit 6).

11. On November 5, 2019 the Appellant submitted a copy of Form MA 1099-HC issued by BlueCross Blue Shield. The Appellant had health insurance that met Massachusetts minimum creditable coverage standards from August through December in tax year 2018 (Exhibit 7).

**ANALYSIS AND CONCLUSIONS OF LAW**

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

The Appellant filed their 2018 tax return as a single person with no dependents. Based on the information from the Appellant’s 2018 Schedule HC, it appeared that the Appellant did not have health insurance that met Massachusetts minimum creditable coverage requirements for the months of September through December in tax year 2018. Consequently, the Appellant has been assessed a one-month penalty. The Appellant submitted an appeal request with documents from the Health Connector and Lesley College. The Appellant had ConnectorCare
coverage from January through August and was enrolled in a health insurance plan through the College from August 15 through December 31, 2018.

The record was left open to allow the Appellant to submit additional information verifying that their student insurance met Massachusetts minimum creditable coverage requirements. The Appellant submitted additional information including a copy of Form MA 1099-HC for tax year 2018. This document verifies that the Appellant had BlueCross BlueShield health insurance for the period of August through December. The one-month penalty is waived.

The Appellant should note that the waiver of their penalty is based upon the facts that I have determined to be true in 2018. The Appellant should not assume that a similar determination will be made for subsequent tax years should they again be assessed a penalty for failure to have health insurance meeting Massachusetts requirements.

**PENALTY ASSESSED**

Number of Months Appealed: ____1___ 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 2017.

**NOTIFICATION OF YOUR RIGHT TO APPEAL TO COURT**

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

Cc: Connector Appeals Unit

**ADDENDUM**

If the Appellants have not done so, it is suggested that the Appellants file an amended tax return for tax year 2018 and include the documentation necessary to verify their health insurance coverage for the year.
Massachusetts Health Connector Appeals Unit

FINAL APPEAL DECISION: PA18-720

Appeal Decision: Appeal Approved.

Hearing Issue: Appeal of the 2018 Tax Year Penalty
Hearing Date: October 28, 2019
Decision Date: November 4, 2019

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

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

HEARING RECORD
The Appellant appeared at the hearing, which was held by telephone, on October 28, 2019. The procedures to be followed during the hearing were reviewed with the Appellant who was then sworn in. Exhibits were marked and admitted into evidence with no objection from the Appellant. The hearing record consists of the Appellant’s testimony and the following documents which were admitted into evidence:

Exhibit 1: Health Connector Appeals Unit Notice of Hearing dated September 17, 2019.
Exhibit 2: Appeal Case Information from Schedule HC 2018.
Exhibit 3: The unsigned and undated Statement of Grounds for Appeal.
Exhibit 4: The Appellant’s letter in support of this appeal, with attachments.

FINDINGS OF FACT
The record shows, and I so find:

1. The Appellant turned 39 years old in March 2018. The Appellant filed their Federal Income Tax return as a single person with no dependents claimed (Exhibit 2).

2. The Appellant lived in Norfolk County, MA in 2018 (Exhibit 2).

3. The Appellant’s Federal Adjusted Gross Income for 2018 was $46,988 (Exhibit 2 and Appellant Testimony).

4. The Appellant had health insurance for the period of February through April. The Appellant did not have health insurance for the month of January and the period of May through December in tax year 2018 (Exhibit 2 and Appellant Testimony).

5. The Appellant has been assessed a five-month tax penalty for 2018. The Appellant filed an appeal of the assessment in May 2019 (Exhibits 2, 3, 4 and Appellant Testimony).
6. I take administrative notice of the financial information set forth in Tables 1 through 6 in the DOR 2018 Massachusetts Schedule HC Health Care Instructions and Worksheets. Tables 3 and 4 incorporate affordability and premium schedules adopted by the Board of Directors for the Commonwealth Health Insurance Connector Authority for 2018. Table 2 sets forth income at 300% of the Federal poverty level and Tables 5 and 6 set forth tax penalties in effect for 2018.

7. In accordance with Table 3 of Schedule HC for 2018, the Appellant filing the Federal tax return as a single person, with no dependents claimed, with an annual adjusted gross income of $46,988 could afford to pay $298 per month for health insurance. In accordance with Table 4, the Appellant, age 39, living in Norfolk County, could have purchased private insurance for $290 per month for a plan (Schedule HC for 2018). Private insurance was affordable for the Appellant in 2018.

8. The Appellant would not have been eligible for ConnectorCare coverage in 2018 because the Appellant’s income was greater than 300% of the federal poverty level, which was $36,180 in 2018. The Appellant had no access to affordable insurance through employment in tax year 2018 (See Table 2 of Schedule HC-2018 and 956 CMR 12.04) (Exhibit 4 and Appellant Testimony).

9. The Appellant testified that they separated from their spouse and the divorce became final in January 2018. The Appellant lost their insurance. The Appellant said that they enrolled in an insurance plan through the Health Connector and had coverage for the months of February through April but could not afford the monthly $250 premium. The Appellant explained that prior to October 2017 that had been receiving spousal support income. When the income ended, the Appellant could not afford to keep up with their monthly living expenses. I found the Appellant to be credible (Appellant Testimony).

10. The Appellant’s 2018 monthly living expenses of $3,291 included: rent-$1,125; electricity-$50; natural gas-$35; oil heat-$165; food-$860; gasoline-$86; student loans-$600; telephone-$50; toiletries-$65; clothing-$40 and laundry-$86. The Appellant also indicated that they have pet expenses of $129 each month. The Appellant verified their after-tax income as being $761.29 weekly (Exhibit 4 and Appellant Testimony).

11. As of November 29, 2018, the Appellant had an outstanding fuel bill of $734.98 from National Grid and received several utility shut off notices (Exhibit 4 and Appellant Testimony).

12. The Appellant is currently insured (Appellant Testimony).

ANALYSIS AND CONCLUSIONS OF LAW
The tax penalty was enacted by the Massachusetts Legislature to encourage compliance with G.L c. 111M, § 2, also called the “individual mandate”. The mandate requires every adult resident of Massachusetts to obtain insurance coverage “[s]o long as it is deemed affordable” under the schedule set by the board of directors for the Commonwealth Health Insurance Connector Authority. Residents who do not obtain insurance are subject to a tax penalty for each of the months that the individual did not have health insurance as required by the individual mandate. There is a three-month grace period to allow the taxpayer to obtain health insurance coverage or to make the transition between health insurance policies See G.L. C. 111M, sec. 2(b) and for Tax Year 2010, Administrative Bulletin 03-10: Guidance Regarding M.G.L. c. 111M and M.G.L. c.176Q as implemented by 956 CMR 6.00, which interprets the 63-day gap in coverage to be three months. The Connector’s regulations provide for a waiver of the tax penalty in the case of financial hardship. See 956 CMR 6.08.
The Appellant did not have health insurance during the month of January and the period of May through December in tax year 2018. The Appellant has been assessed a five-month penalty. The Appellant asserts that the penalty should not apply in this case because of financial hardship. To determine if the penalty should be waived in whole or in part, there must be an evaluation of whether affordable insurance which met minimum creditable coverage standards was available to the Appellant through employment, through private insurance, or through a government sponsored program. If affordable insurance was available, it must be determined if such insurance was not affordable to the Appellant because the Appellant experienced a financial hardship as defined in 956 CMR 6.08.

In accordance with Table 3 of Schedule HC for 2018, the Appellant filing the Federal tax return as a single person with no dependents claimed with an adjusted gross income of $46,988 could afford to pay $298 per month for health insurance. According to Table 4, the Appellant, age 39, living in Norfolk County, could have purchased a private insurance plan for $290 per month. See Schedule HC for 2018. Private insurance was affordable for the Appellant in tax year 2018.

The Appellant had no access to affordable employer-sponsored health insurance in 2018. The Appellant would not have been eligible for ConnectorCare coverage based upon the Appellant’s income which was greater than $36,180. See Table 2 of Schedule HC 2018 and 956 CMR 12.04 for eligibility criteria. Since affordable insurance was available to the Appellant in 2018, it must be determined whether the Appellant experienced a financial hardship pursuant to 956 CMR 6.08 (1).

The Appellant testified credibly that their marriage ended in a divorce effective January 2018. The Appellant lost their health insurance coverage as a result. In addition to their earned income, the Appellant had been receiving spousal support which also ended in November 2017. The Appellant explained that they enrolled in health insurance through the Health Connector and tried to meet their monthly living expenses and pay the monthly healthcare premium of $250 but could not afford to keep up with the payments. The Appellant verified monthly living expenses that roughly equaled their monthly net income. The Appellant was unable to keep up with their utility bills and did receive several shut off notices. The Appellant would not have been able to pay the monthly health care premium of $250 and meet these expenses.

Based on the evidence and testimony in this administrative record, the Appellant has demonstrated that the cost of purchasing health insurance would have caused the Appellant to experience a serious financial hardship. See 956 CMR 6.08(1)(e). The Appellant’s five-month penalty is therefore waived.

The Appellant should note that the waiver of their penalty is based upon the facts that I have determined to be true in 2018. The Appellant should not assume that a similar determination will be made for subsequent tax years should they again be assessed a penalty for failure to have health insurance.

**PENALTY ASSESSED**

Number of Months Appealed: ____5____ Number of Months Assessed: __0_____ 

If the number of months assessed is zero (0) because your penalty has been overturned, the Connector has notified the Department of Revenue that you should NOT be assessed a penalty for Tax Year 2018.
NOTIFICATION OF YOUR RIGHT TO APPEAL TO COURT
If you disagree with this decision, you have the right to appeal to Court in accordance with Chapter 30A of the Massachusetts General Laws. To appeal, you must file a complaint with the Superior Court for the county where you reside, or Suffolk County Superior Court within thirty (30) days of your receipt of this decision.

Cc: Connector Appeals Unit
Massachusetts Health Connector Appeals Unit

FINAL APPEAL DECISION: PA18-721

Appeal Decision: Appeal Approved.

Hearing Issue: Appeal of the 2018 Tax Year Penalty
Hearing Date: October 28, 2019
Decision Date: November 4, 2019

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

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

HEARING RECORD
The Appellant appeared at the hearing, which was held by telephone, on October 28, 2019. The procedures to be followed during the hearing were reviewed with the Appellant who was then sworn in. Exhibits were marked and admitted into evidence with no objection from the Appellant. The hearing record consists of the Appellant’s testimony and the following documents which were admitted into evidence:

Exhibit 1: Health Connector Appeals Unit Notice of Hearing dated September 17, 2019.
Exhibit 2: Appeal Case Information from Schedule HC 2018.
Exhibit 3: An undated Statement of Grounds for Appeal signed by the Appellant.

FINDINGS OF FACT
The record shows, and I so find:

1. The Appellant age 43 and their Spouse, age 63 in 2018, filed their 2018 Federal Income Tax return as a married couple with no dependents claimed (Exhibit 2).

2. The Appellant lived in Essex County, MA in 2018 (Exhibit 2).

3. The Appellant’s Federal Adjusted Gross Income for 2018 was $59,879 (Exhibit 2).

4. The Appellant Spouse had Medicaid health insurance in tax year 2018 and is not being assessed tax penalty (Exhibit 2 and Appellant Testimony).

5. The Appellant did not have health insurance for any months of tax year 2018 and is being assessed a twelve-month tax penalty (Exhibit 2).
6. The Appellant filed an appeal of the assessment (Exhibit 3).

7. I take administrative notice of the financial information set forth in Tables 1 through 6 in the DOR 2018 Massachusetts Schedule HC Health Care Instructions and Worksheets. Tables 3 and 4 incorporate affordability and premium schedules adopted by the Board of Directors for the Commonwealth Health Insurance Connector Authority for 2018. Table 2 sets forth income at 300% of the Federal poverty level and Tables 5 and 6 set forth tax penalties in effect for 2018.

8. In accordance with Table 3 of Schedule HC for 2018, the Appellant filing the Federal tax return as a married couple with no dependents claimed, with an annual adjusted gross income of $59,879 could afford to pay $379 per month for health insurance. In accordance with Table 4, the Appellant, with one spouse age 63, living in Essex County, could have purchased private insurance for $846 per month (Schedule HC for 2018). Private insurance was not affordable for the Appellant in tax year 2018.

9. The Appellant testified that their employer provided access to health insurance at a cost of $300 for a single plan and more than $500 for a couple. The Appellant said that they could not afford this insurance. The monthly cost of this insurance is more than the $379 deemed affordable to the Appellant in accordance with Table 3 of Schedule HC for 2018 (See page HC-7 of the 2018 Schedule HC Worksheet) (Appellant Testimony).

10. The Appellant would not have been eligible for ConnectorCare coverage in 2018 because the Appellant’s income was greater than 300% of the federal poverty level, which was $48,720 for a household of two in 2018 (See Table 2 of Schedule HC-2018 and 956 CMR 12.04) (Exhibit 2).

11. In tax year 2018 the Appellant did not have access to affordable health insurance through the private market, their employer or a government sponsored program. See Tables 3 and 4 of Schedule HC-2018 (Exhibits 2, 3 and Appellant Testimony).

ANALYSIS AND CONCLUSIONS OF LAW

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

The Appellant filed their 2018 tax return as a married couple person with no dependents claimed. The Appellant Spouse had health insurance in tax year 2018 and is not subject to a tax penalty. The Appellant did not have health insurance for any months of tax year 2018 and consequently has been assessed a twelve-month penalty. The Appellant submitted a statement of grounds for this appeal citing financial hardship.

To determine if the penalty should be waived in whole or in part, there must be an evaluation of whether affordable insurance which met minimum creditable coverage standards was available to the Appellant through
In accordance with Table 3 of Schedule HC for 2018, the Appellant filing the Federal tax return as a married couple with no dependents claimed, with an adjusted gross income of $59,879 could afford to pay $379 per month for health insurance. In accordance with Table 4, the Appellant with the Spouse age 63 living in Essex County, could have purchased private insurance for $846 per month for a plan (Schedule HC for 2018). Private insurance was not affordable for the Appellant in 2018.

The Appellant’s employer provided access to health insurance in 2018, but the monthly cost to insure the Appellant and their Spouse was more than the $379 deemed affordable to the Appellant in accordance with Table 3 of Schedule HC for 2018. The Appellant would not have been eligible for ConnectorCare coverage in 2018 because the Appellant’s income of $59,879 was greater than 300% of the federal poverty level, which was $48,720 for a household of two in 2018.

The Appellant had no affordable health insurance available to them in tax year 2018 through employment, the private market or through a government program such as ConnectorCare. Because of this, the twelve-month penalty must be waived in full. See Massachusetts General Laws, Chapter 111M, Section 2. Since the penalty is waived, there is no need to determine if Appellant experienced a financial hardship in 2018.

The Appellant should note that the waiver of their penalty is based upon the facts that I have determined to be true in 2018. The Appellant should not assume that a similar determination will be made for subsequent tax years should they again be assessed a penalty for failure to have health insurance.

**PENALTY ASSESSED**

Number of Months Appealed: ____12____ Number of Months Assessed: __0_____

If the number of months assessed is zero (0) because your penalty has been overturned, the Connector has notified the Department of Revenue that you should NOT be assessed a penalty for Tax Year 2018.

**NOTIFICATION OF YOUR RIGHT TO APPEAL TO COURT**

If you disagree with this decision, you have the right to appeal to Court in accordance with Chapter 30A of the 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: PA18-722

**Appeal Decision:** Appeal Approved.

**Hearing Issue:** Appeal of the 2018 Tax Year Penalty
**Hearing Date:** October 28, 2019
**Decision Date:** November 6, 2019

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

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

**HEARING RECORD**
The Appellant appeared at the hearing, which was held by telephone, on October 28, 2019. The procedures to be followed during the hearing were reviewed with the Appellant who was then sworn in. Exhibits were marked and admitted into evidence with no objection from the Appellant. The hearing record consists of the Appellant’s testimony and the following documents which were admitted into evidence:

- **Exhibit 1:** Health Connector Appeals Unit Notice of Hearing dated September 17, 2019.
- **Exhibit 2:** Appeal Case Information from Schedule HC 2018.
- **Exhibit 3:** The Statement of Grounds for Appeal signed by the Appellant on May 13, 2019.
- **Exhibit 4:** The Appellant’s letter in support of this appeal.

**FINDINGS OF FACT**
The record shows, and I so find:

1. The Appellant turned 25 years old in October 2018. The Appellant filed their Federal Income Tax return as a single person with no dependents claimed (Exhibit 2).

2. The Appellant lived in Suffolk County, MA in 2018 (Exhibit 2).

3. The Appellant’s Federal Adjusted Gross Income for 2018 was $35,565 (Exhibit 2 and Appellant Testimony).

4. The Appellant did not have health insurance for any months in tax year 2018 (Exhibit 2 and Appellant Testimony).

5. The Appellant has been assessed a twelve-month tax penalty for 2018. The Appellant filed an appeal of the assessment in May 2019 (Exhibits 2, 3, 4 and Appellant Testimony).
6. I take administrative notice of the financial information set forth in Tables 1 through 6 in the DOR 2018 Massachusetts Schedule HC Health Care Instructions and Worksheets. Tables 3 and 4 incorporate affordability and premium schedules adopted by the Board of Directors for the Commonwealth Health Insurance Connector Authority for 2018. Table 2 sets forth income at 300% of the Federal poverty level and Tables 5 and 6 set forth tax penalties in effect for 2018.

7. In accordance with Table 3 of Schedule HC for 2018, the Appellant filing the Federal tax return as a single person with no dependents claimed, with an annual adjusted gross income of $35,565 could afford to pay $148 per month for health insurance. In accordance with Table 4, the Appellant, age 25, living in Suffolk County, could have purchased private insurance for $249 per month for a plan (Schedule HC for 2018). Private insurance was not affordable for the Appellant in 2018.

8. The Appellant would have been eligible for ConnectorCare coverage in 2018 because the Appellant’s income was less than 300% of the federal poverty level, which was $36,180 in 2018. The Appellant had no access to affordable insurance through employment in tax year 2018 (See Table 2 of Schedule HC-2018 and 956 CMR 12.04) (Exhibit 3, 4 and Appellant Testimony).

9. The Appellant lives in a shared housing arrangement. The Appellant testified that they do not have a car and use the MBTA and Uber for transportation. The Appellant said that they have high credit card debt and are trying to get the balances down. The Appellant’s 2018 monthly living expenses of $1,625 included: rent and utilities-$400; food-$435; transportation-$542 and credit card payments of $250. I found the Appellant’s testimony credible (Appellant Testimony).

10. The Appellant testified that they were unaware of the Massachusetts Health Connector and the existence of subsidized health care until they received their tax forms. The Appellant explained that they had health insurance a few years ago and believed based on what they paid in the past they could not afford to purchase health insurance (Appellant Testimony).

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

The Appellant did not have health insurance in tax year 2018. The Appellant has been assessed a twelve-month penalty. The Appellant asserts that the penalty should not apply in this case because of financial hardship. To determine if the penalty should be waived in whole or in part, there must be an evaluation of whether affordable insurance which met minimum creditable coverage standards was available to the Appellant through employment, through private insurance, or through a government sponsored program. If affordable insurance was available, it must be determined if such insurance was not affordable to the Appellant because the Appellant experienced a financial hardship as defined in 956 CMR 6.08.
In accordance with Table 3 of Schedule HC for 2018, the Appellant filing the Federal tax return as a single person household with no dependents claimed with an adjusted gross income of $35,565 could afford to pay $148 per month for health insurance. According to Table 4, the Appellant, age 25, living in Suffolk County, could have purchased a private insurance plan for $249 per month. See Schedule HC for 2018. Private insurance was not affordable for the Appellant in tax year 2018.

The Appellant had no access to affordable employer-sponsored health insurance in 2018. The Appellant would have been eligible for ConnectorCare coverage based upon the Appellant’s income which was less than 300% of the federal poverty level which was $36,180. See Table 2 of Schedule HC 2018 and 956 CMR 12.04 for eligibility criteria. Since affordable insurance was available to the Appellant in 2018, it must be determined whether the Appellant experienced a financial hardship pursuant to 956 CMR 6.08 (1).

The Appellant testified credibly that they were unaware that they could apply for help with paying for health insurance through the Health Connector. The Appellant said that they had health insurance a few years ago and based on what they paid then knew they could not afford to buy insurance. The Appellant verified substantial monthly living expenses and testified credibly that they struggled to meet these expenses and pay off their large credit card debt.

Based on the evidence and testimony in this administrative record, the Appellant has demonstrated that the cost of purchasing health insurance would have caused the Appellant to experience a serious financial hardship. See 956 CMR 6.08(1)(e). The Appellant’s twelve-month penalty is therefore waived.

The Appellant should note that the waiver of their penalty is based upon the facts that I have determined to be true in 2018. The Appellant should not assume that a similar determination will be made for subsequent tax years should they again be assessed a penalty for failure to have health insurance.

**PENALTY ASSESSED**
Number of Months Appealed: ____12____ Number of Months Assessed: __0_____

If the number of months assessed is zero (0) because your penalty has been overturned, the Connector has notified the Department of Revenue that you should NOT be assessed a penalty for Tax Year 2018.

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

Cc: Connector Appeals Unit

**ADDENDUM**
The Appellant is reminded that Open Enrollment for obtaining health insurance coverage for 2020 through the Health Connector is November 1, 2019 through January 23, 2020. The Appellant may contact Health Connector Customer Service at 1-877-623-6765 for assistance.
Massachusetts Health Connector Appeals Unit

FINAL APPEAL DECISION: PA18-733

Appeal Decision: Penalty Overturned in Full

Hearing Issue: Appeal of the 2018 Tax Year Penalty
Hearing Date: October 30, 2019
Decision Date: November 10, 2019

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

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

HEARING RECORD
The appellant appeared at the hearing which was held by telephone on October 30, 2019 and testified under oath. The hearing record consists of his testimony and the following documents which were admitted into evidence without his objection:

Ex. 1—Statement of Grounds for Appeal—2018
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 36–years-old, is single and does not have children. In 2018, he had minimum creditable coverage (MCC) health insurance from January through June. (Testimony, Ex. 2)

2. The appellant had health insurance in 2017. In 2018, he had employer provided health insurance from January through June. (Testimony, Ex. 2)

3. The appellant began a new job on a probationary basis in July, 2018. The probationary period ended in December at which time he became eligible to enroll in employer provided health insurance beginning on January 1, 2019. (Testimony)

¹ Ex. 2 is a computer printout that extracts information submitted by the appellant on Schedule HC as part of his 2018 Massachusetts income tax return. It also contains information about prior appeals, if any.
4. The appellant investigated health insurance options during his probationary period and determined that he could not enroll in anything because he was outside the open enrollment period. (Testimony)

5. The appellant received a shut off notice for his electricity in 2018, but was able to avoid termination by entering into a payment plan with the provider. He did not keep a copy of the notice. (Testimony)

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

The appellant submitted a statement of grounds for appeal (Ex. 1), claiming that the individual mandate did not apply to him during 2018 because 1) he received a shut-off notice, was shut off, or was refused delivery of essential utilities; and 2) the expense of purchasing health insurance would have caused a serious deprivation of food, shelter, clothing or other necessities.

The appellant had health insurance from January through June, 2018. According to M.G.L. c. 111M, s. 2, residents are permitted a 63-day gap between periods of coverage without facing a tax penalty; for Tax Year 2018, Administrative Bulletin 03-10: Guidance Regarding M.G.L. c. 111M and M.G.L. c. 176Q, as implemented by 956 CMR 6.00, interprets the 63-day gap in coverage to be three months. As a result, gaps of three months are not subject to penalty. Since the appellant was insured for six months, he was assessed and is appealing a penalty of three months (i.e. the months of uninsurance less the gap period of three months).

The appellant testified credibly that he was employed from January through June during which time he had employer health insurance. He testified that he began a new job in July and was in a probationary period until December at which time he became eligible to enroll in employer health insurance beginning on January 1, 2019. He testified that he investigated health insurance options during his probationary period and determined that he could not enroll in anything because he was outside the open enrollment period. Finally, he testified that he received a shut-off notice for his electricity in 2018, but did not keep a copy.

Since the appellant was in a six-month probationary/waiting period for employer health insurance for which he ultimately enrolled, those six months (July through December) should not be considered in the calculation of the penalty. Given this conclusion, it is not necessary to consider the hardship grounds alleged by the appellant as grounds for his appeal.

Based on the foregoing, the appellant’s request for a waiver from the penalty is **granted** for the months in question. The determination that the appellant is eligible for a waiver is with respect to 2018, only and is based upon the extent of information submitted by him in this appeal.

PENALTY ASSESSED
Number of Months Appealed: **3** Number of Months Assessed: **0**

The Connector has notified the Department of Revenue that, pursuant to its decision, you should be assessed a penalty for Tax Year 2018 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 2018.

**NOTIFICATION OF YOUR RIGHT TO APPEAL TO COURT**

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

Hearing Officer

Cc: Connector Appeals Unit
Massachusetts Health Connector Appeals Unit

FINAL APPEAL DECISION: PA18-736

**Appeal Decision:** Penalty Overturned in Full

**Hearing Issue:** Appeal of the 2018 Tax Year Penalty  
**Hearing Date:** October 30, 2019  
**Decision Date:** November 19, 2019

**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 husband appeared at the hearing which was held by telephone on October 30, 2019, and testified under oath. The hearing record consists of the appellant’s testimony and the following documents which were admitted into evidence without his objection:

- Ex. 1—Statement of Grounds for Appeal-2018  
- Ex. 1A—Letter from the appellants dated May 13, 2019  
- Ex. 2—Appeal Case Information from Schedule HC ¹  
- Ex. 3—Notice of Hearing

**FINDINGS OF FACT**  
The record shows, and I so find:

1. The appellants, husband and wife, are both 53-years-old and have two children. In 2018, they resided in Worcester County, MA. They had minimum creditable coverage (MCC) health insurance from January through June, 2018. (Testimony, Ex. 2)

2. The appellant husband lost his job at the end of 2016 and received unemployment insurance benefits for most of 2017. He and his wife were both self-employed in 2017 and 2018. While searching for projects to stay afloat in 2017, he withdrew significant funds from his retirement account, refinanced his car, opened new credit cards and borrowed money. Notwithstanding their financial problems, both appellants had health insurance for all of 2017. (Testimony, Ex. 1A)

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¹ Ex. 2 is a computer printout that extracts information submitted by the appellants on Schedule HC as part of their 2018 Massachusetts income tax return. It also contains information about prior appeals, if any.
3. The appellants began 2018 struggling to keep up with their bills. They investigated health insurance options but did not qualify for subsidies due to their 2017 income which was inflated as a result of withdrawals from the husband’s retirement account. The husband had some small projects for the first half of the year and they had sufficient income to obtain health insurance from January through June. By July, there was not enough income to meet their expenses and they dropped their insurance. The husband missed a mortgage payment and had his children get their insurance through their student health plans. His car broke down at the end of November and he maxed out his credit cards to pay for the repairs. He finally secured a couple of contracts towards the end of the year and estimates that over half of their joint income for the year came in the month of December. (Testimony, Ex. 2)

4. The appellants were able to purchase private health insurance for the first half of 2019, after which the husband became employed and enrolled in employer provided insurance for the remainder of the year. (Testimony)

5. The appellants reported an adjusted gross income of $61,126.00 on their jointly filed 2018 federal tax return, and reported that they were married with two dependents. (Ex. 2)

6. In 2018, the appellants had regular monthly expenses of approximately $5175.00 for their mortgage which included real estate taxes ($2600.00), homeowner’s insurance ($53.00), heat ($300.00), electricity ($120.00), water and sewer ($40.00), cable and internet package ($120.00), cell phones ($200.00), automobile payments for two vehicles ($347.00), automobile insurance for two vehicles ($175.00), children’s’ student loan debt ($300.00), gasoline for two vehicles ($120.00), and food ($800.00). In addition, they paid approximately $980.00/month for credit card debt and personal loans. (Testimony)

In addition to the foregoing, I take administrative notice of the 2018 Schedule HC Instructions and Worksheets, available at http://www.mass.gov.dor/docs/dor/health-care/2018, and in particular, Tables 1-6 which, as discussed below, include the Affordability Schedule and other financial information used in making 2018 individual mandate tax penalty determinations.

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

The appellants submitted a statement of grounds for appeal (Ex. 1), claiming that the individual mandate did not apply to them during 2018, but did not check off a specific reason for their appeal. They also submitted a letter with their statement (Ex. 1A) in which they stated in part that by July of 2018, they were late on all their monthly payments, including their mortgage, and could no longer pay for health insurance. They further stated that they limped along with very little income until December when some larger checks came in.

The appellants had health insurance from January 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 2018, Administrative Bulletin 03-10: Guidance Regarding M.G.L. c. 111M and M.G.L. c. 176Q, as implemented by 956 CMR 6.00, interprets the 63-day gap in coverage to be three months. As a result, gaps of three months are not subject to penalty. Since the appellants were uninsured for the six months, they were assessed and are appealing a penalty of three months each (i.e. the months of uninsurance less the gap period of three months).
The appellant husband testified credibly that he lost his job at the end of 2016 and received unemployment insurance benefits for most of 2017. He testified that he took a significant amount of money out of his retirement account in 2017 and he and his wife were able to obtain health insurance. He testified that they began 2018 struggling to meet their expenses, but had sufficient income to cover health insurance until July when they could not pay their bills, including the mortgage. He testified that he maxed out his credit cards in November to pay for car repairs. He testified that he secured a couple of contracts towards the end of the year, and that over half of his joint income for the year was earned in December. Finally, he testified that both he and his wife have been enrolled in insurance in 2019.

The evidence provided by the appellants established that their income for 2018, $61,126.00, was less than 300% of the federal poverty level, which for 2018 was $73,800.00 for a four-person family. Pursuant to the Code of Massachusetts Regulations, 956 CMR 6.05(1), the Connector has established an affordability schedule that sets forth the percentage of an individual’s adjusted gross income which s/he can be expected to contribute toward the cost of private health insurance that meets minimum creditable coverage standards. Table 3 of the Affordability Schedule indicates that a married couple filing jointly with one or more dependents with a federal adjusted gross income between $51,051.00 and $61,260.00 is deemed to be able to afford a monthly premium of $303.00 (5.95% of $61,126.00/12). Table 4 of the Premium Schedule indicates that a 52-year-old individual (the age of both of the appellants in 2018) in Worcester County (where the appellants resided in 2018) could have purchased private health insurance for $979.00 per month, more than the monthly amount deemed affordable from Table 3. Thus, according to the foregoing analysis, the appellants could not have purchased affordable private health insurance in 2018.

Since the appellants’ income was within 300% of the FPL, they should have qualified for subsidized health insurance through the Health Connector, assuming they met all other eligibility criteria, and for which they would have been subject to a subsidized premium of approximately $303.00 per month, pursuant to the aforementioned Affordability Schedule in Table 3.

Even though subsidized health insurance may have been affordable to the appellants under the law, they may nevertheless not be subject to a penalty for failing to get health insurance for the months in question if they can show that they experienced a hardship during 2018. Examples of hardships include being homeless or overdue in rent or mortgage payments, receiving a shut-off notice for utilities, or incurring unexpected increases in basic living expenses due to domestic violence, death of a family member, sudden responsibility for providing care for a family member or fire, flood or natural disaster. In addition, the appellants’ tax penalty for 2018 could be waived if they experienced financial circumstances such that the expense of purchasing health insurance would have caused them to experience a serious deprivation of food, shelter, clothing or other necessities. See 956 CMR 6.08.

The evidence presented by the appellants in this case is sufficient to establish that they experienced a financial hardship as defined by law so as to waive their penalty for the months in question. The appellant husband testified that in 2018 they incurred basic monthly expenses of approximately $6155.00 including credit card debt. Those expenses were more than their regular monthly pre-tax income of approximately $5094.00, thereby making a subsidized health insurance premium through the Health Connector of $303.00/month unmanageable. Hence, it is concluded that the totality of the evidence presented by the appellants established that they experienced financial circumstances such that the expense of purchasing health insurance that met minimum creditable coverage standards would have caused them to experience a serious deprivation of food, shelter, clothing or other necessities. See 956 CMR 6.08 (1)(e).
Based upon the foregoing, the appellants’ request for a waiver from the penalty is granted for the months in question. The determination that the appellants are eligible for a hardship waiver is with respect to 2018, only and is based upon the extent of information submitted by them in this appeal.

**PENALTY ASSESSED**

Number of Months Appealed (husband): ___3____  Number of Months Assessed (husband): ___0___  
Number of Months Appealed (wife): ___3___  Number of Months Assessed (wife): ___0___

The Connector has notified the Department of Revenue that, pursuant to its decision, you should be assessed a penalty for Tax Year 2018 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 2018.

**NOTIFICATION OF YOUR RIGHT TO APPEAL TO COURT**

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

Hearing Officer

Cc: Connector Appeals Unit
Massachusetts Health Connector Appeals Unit

FINAL APPEAL DECISION: PA18-747

Appeal Decision: Appeal Approved.

Hearing Issue: Appeal of the 2018 Tax Year Penalty
Hearing Date: November 5, 2019
Decision Date: November 12, 2019

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 November 5, 2019. 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 2: Appeal Case Information from Schedule HC 2018.
Exhibit 3: An undated Statement of Grounds for Appeal signed by the Appellant.

FINDINGS OF FACT
The record shows, and I so find:

1. The Appellant age 63, filed their 2018 Federal Income Tax return as a single person with one dependent claimed (Exhibit 2).
2. The Appellant lived in Essex County, MA in 2018 (Exhibit 2).
3. The Appellant’s Federal Adjusted Gross Income for 2018 was $50,812 (Exhibit 2).
4. The Appellant did not have health insurance for any months of tax year 2018 and is being assessed a twelve-month tax penalty (Exhibit 2).
5. The Appellant filed an appeal of the assessment (Exhibit 3).
6. I take administrative notice of the financial information set forth in Tables 1 through 6 in the DOR 2018 Massachusetts Schedule HC Health Care Instructions and Worksheets. Tables 3 and 4 incorporate affordability and premium schedules adopted by the Board of Directors for the
Commonwealth Health Insurance Connector Authority for 2018. Table 2 sets forth income at 300% of the Federal poverty level and Tables 5 and 6 set forth tax penalties in effect for 2018.

7. In accordance with Table 3 of Schedule HC for 2018, the Appellant filing the Federal tax return as a single person with one dependent claimed, with an annual adjusted gross income of $50,812 could afford to pay $315 per month for health insurance. In accordance with Table 4, the Appellant age 61, with one dependent living in Essex County, could have purchased private insurance for $1,003 per month (Schedule HC for 2018). Private insurance was not affordable for the Appellant in tax year 2018.

8. The Appellant testified that they do not have access to employer sponsored health insurance and cannot afford to purchase insurance and pay for all the household expenses and the expenses associated with his diabetic dependent (Appellant Testimony).

9. The Appellant would not have been eligible for ConnectorCare coverage in 2018 because the Appellant’s income was greater than 300% of the federal poverty level, which was $48,720 for a household of two in 2018 (See Table 2 of Schedule HC-2018 and 956 CMR 12.04) (Exhibit 2).

10. In tax year 2018 the Appellant did not have access to affordable health insurance through the private market, their employer or a government sponsored program. See Tables 3 and 4 of Schedule HC-2018 (Exhibits 2, 3 and Appellant Testimony).

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

The Appellant filed their 2018 tax return as a single person with one dependent claimed. The Appellant did not have health insurance for any months of tax year 2018 and consequently has been assessed a twelve-month penalty. The Appellant has appealed the penalty citing financial hardship.

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

In accordance with Table 3 of Schedule HC for 2018, the Appellant filing the Federal tax return as a single person with one dependent claimed, with an adjusted gross income of $50,812 could afford to pay $315 per month for health insurance. In accordance with Table 4, the Appellant, age 61, with one dependent, living in Essex County,
could have purchased private insurance for $1,003 per month for a plan (Schedule HC for 2018). Private insurance was not affordable for the Appellant in 2018.

The Appellant did not have access to affordable employer sponsored insurance. The Appellant would not have been eligible for ConnectorCare coverage in 2018 because the Appellant’s income of $50,812 was greater than 300% of the federal poverty level, which was $48,720 for a household of two in 2018.

The Appellant had no affordable health insurance available to them in tax year 2018 through employment, the private market or through a government program such as ConnectorCare. Because of this, the twelve-month penalty must be waived in full. See Massachusetts General Laws, Chapter 111M, Section 2. Since the penalty is waived, there is no need to determine if Appellant experienced a financial hardship in 2018.

The Appellant should note that the waiver of their penalty is based upon the facts that I have determined to be true in 2018. The Appellant should not assume that a similar determination will be made for subsequent tax years should they again be assessed a penalty for failure to have health insurance.

**PENALTY ASSESSED**

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

If the number of months assessed is zero (0) because your penalty has been overturned, the Connector has notified the Department of Revenue that you should NOT be assessed a penalty for Tax Year 2018.

**NOTIFICATION OF YOUR RIGHT TO APPEAL TO COURT**

If you disagree with this decision, you have the right to appeal to Court in accordance with Chapter 30A of the 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: PA18-749

Appeal Decision: Appeal Denied.

Hearing Issue: Appeal of the 2018 Tax Year Penalty
Hearing Date: November 5, 2019
Decision Date: November 12, 2019

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 November 5, 2019. 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 2: Appeal Case Information from Schedule HC 2018.
Exhibit 4: A letter written by the Appellant in support of this appeal, with attachments, dated May 7, 2019.

FINDINGS OF FACT
The record shows, and I so find:


2. The Appellant lived in Bristol County, MA in 2018 (Exhibit 2).

3. The Appellant’s Federal Adjusted Gross Income for 2018 was $53,802 (Exhibit 2).

4. The Appellant had health insurance for the period of January through May but did not have health insurance for the period of June through December tax year 2018 (Exhibit 2 and Appellant Testimony).

5. The Appellant has been assessed a four-month tax penalty for 2018. The Appellant filed an appeal of the assessment in May 2019 (Exhibits 2, 3, 4).
6. I take administrative notice of the financial information set forth in Tables 1 through 6 in the DOR 2018 Massachusetts Schedule HC Health Care Instructions and Worksheets. Tables 3 and 4 incorporate affordability and premium schedules adopted by the Board of Directors for the Commonwealth Health Insurance Connector Authority for 2018. Table 2 sets forth income at 300% of the Federal poverty level and Tables 5 and 6 set forth tax penalties in effect for 2018.

7. In accordance with Table 3 of Schedule HC for 2018, the Appellant filing the Federal tax return as a single person, with no dependents claimed, with an annual adjusted gross income of $53,802 could afford to pay $361 per month for health insurance. In accordance with Table 4, the Appellant, age 25, living in Bristol County, could have purchased private insurance for $249 per month for a single plan (Schedule HC for 2018). Private insurance was affordable for the Appellant.

8. The Appellant would not have been eligible for ConnectorCare coverage in 2018 because the Appellant’s income was greater than 300% of the federal poverty level, which was $36,180 in 2018. (See Table 2 of Schedule HC-2018 and 956 CMR 12.04) (Appellant Testimony).

9. The Appellant testified that they had affordable health insurance for which they paid $48.00 per month for the first few months of tax year 2018. The Appellant said that they changed jobs and their new employer had a ninety-day waiting period to be eligible for the employer sponsored health insurance. The Appellant indicated that they looked to purchase private insurance but found plans that were too expensive, such as $485.00 per month. When finally offered insurance through the employer, the Appellant found that the cost was $194.00 per pay period (Exhibit 3, 4 and Appellant Testimony).

10. The Appellant’s employer sponsored health insurance was not affordable for the period of June through December 2018 because the monthly cost of $420 ($194 x 2.167 for biweekly pay period) exceeded the $361.00 deemed affordable in accordance with Table 3 of Schedule HC for 2018 (Exhibit 4).

11. The Appellant’s monthly living expenses of $2,840 included: rent-$925; heat:-$100; electricity-$50-$100 seasonally; car loan-$295; car insurance-$150; telephone-$90; cable/internet-$130; food-$433; gasoline-$217; student loans-$250; and credit card payments of $150 (Appellant Testimony).

12. The Appellant was not unemployed for any period in tax year 2018. The Appellant did not receive any eviction notices, utility shut off notices and did not experience any family emergency, human or natural caused disaster or other unexpected circumstances that resulted in increased expenses in 2018 (Exhibit 4 and Appellant Testimony).

13. Given the Appellant’s monthly income of $4,483, their monthly living expenses of $2,840 and the fact that private insurance was available to the Appellant at a cost of $249 per month (See Table 4 of Schedule HC for 2018) the Appellant has failed to demonstrate that purchasing health insurance would have caused the Appellant to experience a serious deprivation of food, shelter, clothing or other necessities (Exhibits 2, 3 and Appellant Testimony).

**ANALYSIS AND CONCLUSIONS OF LAW**

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

The Appellant had employer sponsored health insurance at a cost of $48 per month for the period of January through May in tax year 2018. The Appellant did not have health insurance for the months of June through December and consequently has been assessed a four-month penalty. The Appellant submitted a statement of grounds for this appeal citing financial hardship as the reason for their failure to obtain health insurance for the seven-month period of June through December in tax year 2018.

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 2018, the Appellant filing the Federal tax return as a single person with no dependents claimed, with an adjusted gross income of $53,802 could afford to pay $361 per month for health insurance. In accordance with Table 4, the Appellant, age 25, living in Bristol County, could have purchased private insurance for $249 per month for a plan (Schedule HC for 2018). Private insurance was affordable for the Appellant in 2018.

The Appellant changed jobs in tax year 2018. The Appellant’s new employer had a ninety-day waiting period to enroll in this employer’s health insurance plan but the monthly cost of $420 was more than the $361 deemed affordable for the Appellant in Accordance with Table 3 of Schedule HC for 2018. The Appellant was not financially eligible for ConnectorCare as the Appellant’s income of $53,802 exceeded 300% of the federal poverty level of $36,180 (See Table 2 of Schedule HC-2018 and 956 CMR 12.04).

The Appellant wrote in their letter of appeal that their transition from one employer to the next was seamless. The Appellant verified monthly living expenses of $2,840. The Appellant’s average monthly income was $4,483. The Appellant testified that they had looked into purchasing a private plan when told of the ninety-day waiting period to obtain insurance from their new employer, but monthly cost of $485 was too high. As discussed at the Hearing, private plans were available to the Appellant at a cost of $249 as noted in Table 4 of Schedule HC for 2018.

While the Appellant did verify significant monthly expenses, the Appellant was not facing eviction, did not receive any utility shut off notices and did not experience any family emergency, human or natural caused disaster or other unexpected circumstances that resulted in increased expenses in tax year 2018. With monthly income of $4,483, monthly expenses of $2,840 and availability of health insurance at a monthly cost of $249, the Appellant did not provide sufficient evidence or testimony to demonstrate that purchasing health insurance would have caused the Appellant to experience a serious deprivation of food, clothing, shelter or other necessities. See 956 CMR 6.08. The Appellant’s four-month penalty is upheld.
PENALTY ASSESSED
Number of Months Appealed: 4 Number of Months Assessed: 4

The Connector has notified the Department of Revenue that, pursuant to its decision, you should be assessed a penalty for Tax Year 2018 for the amount equal to one half of the lowest cost health insurance plan available to you for each month you have been assessed the penalty, as listed above, plus applicable interest back to the due date of the return without regard to extension.

NOTIFICATION OF YOUR RIGHT TO APPEAL TO COURT
If you disagree with this decision, you have the right to appeal to Court in accordance with Chapter 30A of the you reside, or Suffolk County Superior Court within thirty (30) days of your receipt of this decision.

Cc: Connector Appeals Unit
Massachusetts Health Connector Appeals Unit

FINAL APPEAL DECISION: PA18-752

Appeal Decision: Appeal Approved.

Hearing Issue: Appeal of the 2018 Tax Year Penalty
Hearing Date: November 5, 2019
Decision Date: November 12, 2019

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 representing their Spouse, which was held by telephone, on November 5, 2019. 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 sent to dated September 27, 2019.
Exhibit 2: Appeal Case Information from Schedule HC 2018.
Exhibit 3: Statement of Grounds for Appeal signed by the Appellants on May 10, 2019, with attachments.

FINDINGS OF FACT
The record shows, and I so find:

1. The Appellant and their Spouse filed their Federal Income Tax return as a married couple with no dependents claimed (Exhibit 2).
2. The Appellants reported that they were full-year residents of Massachusetts living in Worcester county in tax year 2018 (Exhibit 2).
3. The Appellants’ Federal Adjusted Gross Income for 2018 was $42,478 (Exhibit 2).
4. The Appellant had health insurance for all of tax year 2018 and is not being assessed a tax penalty. The Appellant Spouse did not have health insurance for the period of January through August in tax year 2018 (Exhibit 2 and Appellant Testimony).
5. The Appellant Spouse has been assessed a five-month tax penalty for 2018. The Appellants filed an appeal of the assessment in May 2019 (Exhibits 2).
6. The Appellant testified that their Spouse is not a U.S. citizen. The Appellant explained that their Spouse obtained a Visa in their home country on June 22, 2018 and entered the United States on July 19, 2018. The Appellant applied for health insurance through the Health Connector and their Spouse was insured effective September 2018. The Appellant’s credible testimony is supported by a copy of their Spouse’s Visa (Exhibit 3 and Appellant Testimony).

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

The Appellants filed their income tax return as a married couple with no dependents claimed. The Appellants claimed full year Massachusetts residency in Worcester county during tax year 2018. The Appellant had health insurance for all of 2018 and is not being assessed a tax penalty. The Appellant Spouse did not have health insurance for the period of January through August and consequently has been assessed a five-month tax penalty for tax year 2018.

The Appellants filed a timely appeal. The Appellant testified that their Spouse is not a U.S. citizen and did not enter the country until July 19, 2018. The Appellant said they applied for health insurance through the Health Connector and their Spouse was insured effective September 2018. The Appellant’s credible testimony was supported by a copy of their Spouse’s Visa verifying the date of issue. Under these circumstances, the five-month penalty of the Appellant Spouse is waived.

The Appellants should note that the waiver of their penalty is based upon the facts that I have determined to be true in 2018. 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 Spouse: Number of Months Appealed: ____5____  Number of Months Assessed: __0_____

If the number of months assessed is zero (0) because your penalty has been overturned, the Connector has notified the Department of Revenue that you should NOT be assessed a penalty for Tax Year 2017.

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: PA18-757

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

**Hearing Issue:** Appeal of the 2018 Tax Year Penalty  
**Hearing Date:** November 6, 2019  
**Decision Date:** November 18, 2019

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

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

**HEARING RECORD**  
The Appellants, a married couple, both appeared at the hearing, which was held by telephone, on November 6, 2019. The hearing record consists of Appellants’ testimony and the following documents which were admitted into evidence:

- **Exhibit 1:** The Connector’s Hearing Notice (4 pages)
- **Exhibit 2:** An Appeal Case Information sheet containing information from Appellants’ Schedule HC (1 page)
- **Exhibit 3:** Statement of Grounds (4 pages)
- **Exhibit 4:** A written statement attached to the Statement of Grounds (1 page)
- **Exhibit 5:** Printout of emails re terminating an apartment rental (2 pages)
- **Exhibit 6:** Copies of electric bills (2 pages)
- **Exhibit 7:** Copy of a lease (1 page)

**FINDINGS OF FACT**

The record shows, and I so find:

1. Appellants are a married couple and will be referred to herein as Husband and Wife.
2. As of the end of 2018, Husband and Wife were each 28 years old.
3. Between the months of January and mid-July 2018, Appellants resided in Suffolk County in the Commonwealth of Massachusetts. In mid-July, Appellants moved to New York State, where they were still residing at the time of the hearing.
4. Appellants filed their 2018 Massachusetts taxes as part-year residents. They reported a tax filing status of married filing jointly with no dependents.

5. Appellants reported on their Massachusetts tax return and confirmed in their testimony at the hearing that they had adjusted gross income in 2018 of $120,503.

6. Husband worked full-time for two different parts of the year and was unemployed for several months in the middle of the year. Wife was a freelancer whose income was variable during the year.

7. At the start of 2018, Husband was working for an employer in Boston through which he obtained health insurance for himself and Wife. However, he was laid off from that job at the end of March and thus was no longer eligible for employer-subsidized insurance.

8. Husband was given the option of continuing with his employer’s insurance at his own expense under COBRA. (COBRA is an acronym for the Consolidated Omnibus Budget Reconciliation Act, a federal law that, among other things, provides individuals with the right to continue in a former employer’s insurance plan at their own expense for a period of time after the end of their employment.) However, the cost of COBRA coverage was about $1,800 a month, which Appellants considered too expensive, and so they didn’t opt to take it.

9. During 2018, Wife was self-employed as a freelancer and so was not eligible for insurance through employment.

10. After being laid off in March 2018, Husband started to look for work. However, at the end of April, Appellants decided that they would move to New York, where they had family. Husband then re-directed his job search to seeking employment in New York.

11. During the period that Husband was unemployed, he received unemployment payments of approximately $500 a week.

12. Appellants gave notice to their landlord that they were moving out of their rental in Suffolk County and they vacated that apartment in mid-July. See Exhibit 5.

13. While they were living in that apartment, they were paying rent of $2,050 a month. See Exhibit 7. They had utility bills of between $100 and $300 a month. See Exhibit 6.

14. Appellants had insurance meeting minimum creditable coverage (MCC) standards during the first three months of 2018, while they were living in Massachusetts. This insurance was obtained through Husband’s employer. They did not have insurance during the months of April through August. In mid-July, they left Massachusetts and established residence in New York State. They became insured in September 2018 when Husband obtained new employment in New York with an employer who offered insurance. Appellants were still insured at the time of the hearing.

15. The information obtained from the Schedule HC that Appellants filed for 2018 reported that they did not have insurance meeting MCC standards for any of the months that they lived in Massachusetts, i.e., January through June 2018. Appellants stated that they did not understand why the information reported on their Schedule HC did not correspond to the actual circumstances of their situation. However, Husband stated that he had difficulty with the tax reporting software that he used to file his state taxes and stated that could be the cause for the inaccuracy.

16. I credit Appellants’ testimony that they were covered in MCC-compliant insurance from January through March 2018. Thus, the only period in which they were both residents of Massachusetts, and without insurance, was the period from April through June 2018.
ANALYSIS AND CONCLUSIONS OF LAW

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

Appellants submitted a statement of grounds for this appeal, claiming that there were circumstances justifying the waiver of the penalty in their case, in particular the facts described above regarding the Husband’s layoff and the move to New York State.

First, I must determine whether Appellants were even subject to the individual mandate penalty. The individual mandate applies only to Massachusetts residents. Appellants were Massachusetts residents for only six months in 2018, i.e., January through June. In July, they established residency in New York State, and after that were no longer subject to the Massachusetts individual mandate.

Further, according to M.G.L. c. 111M, § 2, residents are permitted a 63-day gap between periods of coverage without facing a penalty; Administrative Bulletin 03-10: Guidance Regarding M.G.L. c. 111M and M.G.L. c. 176Q, as implemented by 956 CMR 6.00, interprets the 63-day gap in coverage to be three months. As a result, gaps of three months are not subject to penalty.

Appellants stated, and I credit their testimony, that they were in fact insured with MCC-compliant insurance for the first three months of their Massachusetts residence in 2018. Thus, they had only three months in Massachusetts without insurance. Because they are entitled to a gap of three months without being subject to the penalty, they would not be subject to a penalty at all in 2018.

As noted above, the facts on which I base this analysis are different than what was reported on the Schedule HC. That form stated that they did not have any insurance while they resided in Massachusetts in 2018. As a result they were considered to have a period of six months without insurance, and so were assessed a penalty for three months (after subtracting the permissible three-month gap.) I conclude however that the information on the Schedule HC was incorrect and they should not have been assessed a penalty. I find they were incorrectly assessed the penalty because of an error in the reporting of their insurance status on the form they submitted.

Because I conclude that Appellants were not in fact subject to any penalty for 2018, I do not have to determine whether they could have afforded insurance in Massachusetts during a period of uninsurance or whether, if they could have afforded insurance, they nonetheless had grounds for a waiver. However, I note that, during their period without insurance, the COBRA insurance would not have been affordable, because at the time their only dependable income was Husband’s unemployment payment, and they were required to pay almost all of that in rent. Further, their annual income in 2018 was too high to qualify them for government-subsidized insurance. Finally, unsubsidized health insurance would have been unaffordable, again in light of their reduced income and high monthly living costs. Moreover, given their decision to move to New York State, it was reasonable to forego obtaining insurance in
Massachusetts for the short period when they did not have any. Thus, even if they had been subject to the penalty in 2018, I would have determined there were grounds to waive it in this case. In reaching this conclusion, I note that Appellants obtained health insurance as soon as Husband secured new employment in New York State, and they were both insured at the time of the hearing. This further indicates that their period without insurance was a temporary condition that was the result of job loss and relocation.

PENALTY ASSESSED
Number of Months Appealed: ___3____ Number of Months Assessed: __0_____

If the number of months assessed is zero (0) because your penalty has been overturned, the Connector has notified the Department of Revenue that you should NOT be assessed a penalty for Tax Year 2018.

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

Hearing Officer

Cc: Connector Appeals Unit
Massachusetts Health Connector Appeals Unit

FINAL APPEAL DECISION: PA 18-758

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

**Hearing Issue:**  Appeal of the 2018 Tax Year Penalty  
**Hearing Date:**  November 6, 2019  
**Decision Date:**  November 18, 2019

**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 November 6, 2019. The hearing record consists of Appellant’s testimony and the following documents, which were admitted into evidence:

- **Exhibit 1:** The Connector’s Hearing Notice (4 pages)  
- **Exhibit 2:** Appeal Case Information sheet containing information from Appellant’s Schedule HC (1 page)  
- **Exhibit 3:** Statement of Grounds (3 pages)  
- **Exhibit 4:** Letter attached to statement of grounds (1 page)  
- **Exhibit 5:** Utility bills from Eversource (3 pages)  
- **Exhibit 6:** Collection notice from Penn Credit (2 pages)  
- **Exhibit 7:** Utility bill from Eversource (1 page)  
- **Exhibit 8:** Statement from Direct Loans (2 pages)

**FINDINGS OF FACT**

The record shows, and I so find, that:

1. Appellant was 25 at the end of 2018.  
2. During 2018 and at the time of the hearing, Appellant resided in Worcester County in the Commonwealth of Massachusetts.  
3. Appellant filed his 2018 state taxes with a tax filing status of single with no dependents
4. Appellant reported on his Schedule HC that he did not have health insurance meeting minimum creditable coverage (MCC) standards at any point in 2018.

5. Appellants had adjusted gross income in 2018 of $38,136. This is the amount that he reported on his 2018 state taxes and Appellant confirmed that amount in his testimony.

6. The income was derived from Appellant’s employment. Appellant worked two different jobs at different periods during 2018. Neither job was a permanent position. Appellant also had a period of unemployment after he was injured and unable to work.

7. Neither job that Appellant worked at in 2018 offered him health insurance.

8. Appellant was not eligible for insurance through a parent’s health insurance even though he was under 26, because his parent did not have private insurance that would provide such coverage.

9. Appellant had considerable financial difficulties in 2018. He had outstanding student debt from a certificate program that he had completed. The outstanding balance of that loan was $26,153. At various points in 2018, he fell behind in payments and was being pursued by debt collectors. See Exhibit 8 (loans in either forebearance or default status). He worked out a payment plan to retire the debt, and was trying to stay current with that at the time of the hearing.

10. Appellant also had to pay for an expensive tool set for his employment, and borrowed money to do that. He was still struggling to pay that debt at the time of the hearing.

11. Appellant reported that his monthly rent in 2018 was $1,000 a month. He struggled to afford clothing and food.

12. Appellant had an outstanding balance of over $951 on a utility bill and received collection notices in that amount during 2018. See Exhibit 6.

13. At some point in 2019, Appellant obtained a permanent job that offered health insurance and he was enrolled in that insurance as of the date of the hearing.

ANALYSIS AND CONCLUSIONS OF LAW

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

Appellant submitted a statement of grounds for this appeal, claiming that the penalty should be waived in his case because obtaining health insurance would have caused him a “serious deprivation” of the necessities of life, which would constitute grounds for a waiver pursuant to 956 CMR 6.08(1)(e).

First, I must determine whether Appellant had affordable health insurance available to him in 2018. Appellant was not offered health insurance through employment during that year because he did not work in permanent positions.

Further, during 2018, based on the information provided, Appellant would not have been eligible for government subsidized insurance, which would have been affordable. His household income for that year was $38,136. That income is just slightly above $36,180, the amount equal to three times or 300% of the federal poverty level (FPL) for a family of one person in 2018. (The figure of $36,180 is obtained from Table 2 of the instructions to the Schedule HC, governing the individual mandate penalty.
calculation, of which I take administrative notice.) Persons with incomes above 300% of the federal poverty limit are not eligible for ConnectorCare, which is government subsidized insurance. See 956 CMR 12.04 (ConnectorCare eligibility requirements).

Further, Appellant would have been unable to afford any unsubsidized health insurance that was available to him during 2018. In making this calculation, I rely on Table 3, Affordability, and Table 4, Premiums, in the instructions to Schedule HC, of which I take administrative notice. As noted above, Appellant’s income in 2018 was $38,136. Using the affordability schedule in Table 3, an individual with that income is deemed able to afford only 7.45% of income for health insurance. In Appellant’s case, this amount equals $2,841 a year or $236 a month. Based on the premium schedule in Table 4, an individual of Appellant’s age in Worcester County would have had to pay $249 per month for the lowest-cost health insurance available in 2018. Thus, that insurance was unaffordable for him.

As a result, Appellant did not have affordable insurance available to him in 2018 and so should not have been assessed a penalty. Moreover, even if he did have affordable insurance available, he has established circumstances that justify a waiver of the penalty even if he had affordable insurance available to him. His expenses, including the debt service he was required to pay for his student and equipment loans, and his rent and other minimal costs of living, were so high in comparison to his income, that the additional cost of health insurance would have put him at risk of a deprivation of the necessities of life, which constitutes grounds for a waiver under 956 CMR 6.08(1)(e). Further, he had obtained insurance as of the time of the hearing, which indicated that his period without insurance was a temporary condition brought about by his challenging circumstances.

Based on all these facts, I conclude that Appellant is entitled to a waiver of the entire penalty against him.

PENALTY ASSESSED
Number of Months Appealed: __12____ Number of Months Assessed: __0_____

If the number of months assessed is zero (0) because your penalty has been overturned, the Connector has notified the Department of Revenue that you should NOT be assessed a penalty for Tax Year 2018.

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

Hearing Officer

Cc: Connector Appeals Unit
Massachusetts Health Connector Appeals Unit

FINAL APPEAL DECISION: PA18-759

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

Hearing Issue: Appeal of the 2018 Tax Year Penalty
Hearing Date: November 6, 2019
Decision Date: November 18, 2019

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 November 6, 2019. The hearing record consists of Appellant’s testimony and the following documents which were admitted into evidence:

Exhibit 1: The Connector’s Hearing Notice (4 pages)
Exhibit 2: An Appeal Case Information sheet containing information from Appellant’s Schedule HC (1 page)
Exhibit 3: Statement of Grounds (1 pages)
Exhibit 4: Appellant’s Form 1095C for 2018 (2 pages)

FINDINGS OF FACT

The record shows, and I so find:

1. Appellant was 31 at the end of 2018.
2. In 2018, Appellant resided in Plymouth County in the Commonwealth of Massachusetts.
3. Appellant filed her 2018 Massachusetts taxes with a status of single with no dependents.
4. Appellant reported on her Massachusetts tax return and confirmed in her testimony at the hearing that she had adjusted gross income in 2018 of $48,933.
5. Appellant’s household income was derived from her employment.
6. Appellant worked in 2018 for an employer in the health care industry.
7. Appellant’s employer offered her insurance, which met MCC standards. She took that insurance, and was insured for the entire year. This fact was confirmed both by her testimony, which I credit, and by a copy of the Form 1095-C, marked into evidence as Exhibit 4.

8. The information derived from Appellant’s Schedule HC, marked into evidence as Exhibit 2, indicates that the Schedule HC reported that Appellant did not have insurance at all in 2018 and thus she was assessed a penalty for 12 months without insurance. Appellant stated that she did not understand why the information reported on her Schedule HC did not correspond to the actual circumstances of her situation. However, she stated that she had filed her state taxes herself using an electronic filing method.

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.

First, I must determine whether Appellant was even subject to the individual mandate penalty in the first place. I have found as fact that Appellant was insured for all 12 months of 2018, based on her testimony, which I credit, and on the 1095-C form that she submitted and that was marked into evidence. It appears that the assessment of a penalty against her arose from erroneous information submitted by her on the Schedule HC. But the fact is that she was insured and so not subject to a penalty at all.

Because I have found that Appellant was not subject to a penalty at all in 2018, I do not have consider whether she has established grounds that would have justified a waiver, if she had not been insured. Instead, I am waiving the entire penalty because it was assessed based on erroneous information.

PENALTY ASSESSED
Number of Months Appealed: ___12____ Number of Months Assessed: __0_____

If the number of months assessed is zero (0) because your penalty has been overturned, the Connector has notified the Department of Revenue that you should NOT be assessed a penalty for Tax Year 2018.

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

Cc: Connector Appeals Unit
Massachusetts Health Connector Appeals Unit

FINAL APPEAL DECISION: PA18-760

**Appeal Decision**: Penalty Overturned in Full

**Hearing Issue**: Appeal of the 2018 Tax Year Penalty

**Hearing Date**: November 7, 2019

**Decision Date**: November 25, 2019

**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 November 7, 2019. 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. At the end of the hearing, the record was left open so that Appellant could submit further documents. Appellant submitted a document, which has been admitted as Exhibit 5.

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

- Exhibit 1: Correspondence from the Health Connector
- Exhibit 2: Appeal Case Information from Schedule HC 2018
- Exhibit 3: Notice of Appeal dated May 12, 2019
- Exhibit 4: Statement of Appellant in support of the Appeal
- Exhibit 5: Appellant’s Form 1099-HC for 2018

**FINDINGS OF FACT**

The record shows, and I so find:

1. Appellant was 28 years old in 2018. Appellant filed a Massachusetts 2018 tax return as single with no dependents claimed (Exhibit 2).
2. Appellant resided in Plymouth County, MA in 2018 (Exhibit 2).
3. Appellant had an Adjusted Gross Income for 2018 of $60,401 (Exhibit 2).
4. Appellant’s Massachusetts tax return indicated that Appellant did not have insurance for twelve months (Exhibit 2).
5. Appellant was assessed a penalty for twelve months for 2018 (Exhibit 2).
6. Appellant filed an appeal on May 12, 2019, claiming that Appellant was covered by health insurance for all months in 2018 (Exhibit 3).
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 2018, Administrative Bulletin 03-10: Guidance Regarding M.G.L. c. 111M and M.G.L. c. 176Q, as implemented by 956 CMR 6.00, 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 (1).

During all months in 2018 Appellant was covered by health insurance that met the Massachusetts minimum creditable coverage standards. See Exhibits 4 and 5 and Testimony of Appellant, which I find to be credible.

I find the penalty should be waived in its entirety for 2018.

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 2018 for the amount equal to one half of the lowest cost health insurance plan available to you for each month you have been assessed the penalty, as listed above, plus applicable interest back to the due date of the return without regard to extension.

OR
If the number of months assessed is zero (0) because your penalty has been overturned, the Connector has notified the Department of Revenue that you should NOT be assessed a penalty for Tax Year 2018.

NOTIFICATION OF YOUR RIGHT TO APPEAL TO COURT
If you disagree with this decision, you have the right to appeal to Court in accordance with Chapter 30A of the Massachusetts General Laws. To appeal, you must file a complaint with the Superior Court for the county where you reside, or Suffolk County Superior Court within thirty (30) days of your receipt of this decision.
Massachusetts Health Connector Appeals Unit

FINAL APPEAL DECISION: PA18-763

Appeal Decision: Appeal Approved  
Hearing Issue: Appeal of the 2018 Tax Year Penalty  
Hearing Date: November 7, 2019  
Decision Date: November 25, 2019

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 November 7, 2019. 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 Appellant’s testimony and the following documents which were admitted in evidence:

Exhibit 1: Notice of Hearing sent to Appellant dated October 2, 2019  
Exhibit 2: Appeal Case Information Sheet from Schedule HC 2018  
Exhibit 3: Notice of Appeal, dated May 18, 2019  
Exhibit 4: Statement in Support of Appeal  
Exhibit 5: Tax Penalty Appeal Decision for 2017

FINDINGS OF FACT
The record shows, and I so find:

1. Appellant was 44 years old in 2018 and filed a 2018 Massachusetts tax return as single, with no dependents claimed (Exhibit 2).
2. Appellant lived in Hampshire County, MA in 2018 (Exhibit 2).
3. Appellant’s Adjusted Gross Income for 2018 was $33,928 (Exhibit 2).
4. Employer sponsored health insurance was not available to Appellant in 2018 (Testimony of Appellant).
5. In 2018, Appellant worked a seasonal job from the spring through the fall (Testimony of Appellant).
6. Appellant received unemployment compensation during the time Appellant was not working (Testimony of Appellant).
7. Appellant was covered by government subsidized health insurance from October through December of 2018 (Testimony of Appellant and Exhibit 2).
8. Appellant struggled to pay for basic expenses in 2018 (Testimony of Appellant).
9. Appellant fell two months behind in rent payments during 2018 (Testimony of Appellant).
10. Appellant was assessed a penalty for six months for 2018 (Exhibit 2).
11. Appellant filed a hardship appeal on May 18, 2019, claiming that the expense of purchasing health insurance would have caused a serious deprivation of food, shelter, clothing or other necessities (Exhibit 3).
12. I take administrative notice of the financial information set forth in Tables 1 through 6 in the DOR 2018 Massachusetts Schedule HC Health Care Instructions and Worksheets. Tables 3 and 4 incorporate affordability and premium schedules adopted by the Board of Directors for the Commonwealth Health Insurance Connector Authority for 2018. Table 2 sets forth income at 300% of the Federal poverty level and Tables 5 and 6 set forth tax penalties in effect for 2018.
13. According to Table 3 of Schedule HC for 2018 a person filing as single, with no dependents claimed and with a Federal Adjusted Gross Income of $33,928 could afford to pay $141 per month for health insurance. According to Table 4, Appellant, age 44 and living in Hampshire County, could have purchased private insurance for $278 per month. Private insurance was not considered affordable for Appellant in 2018.
14. According to Table 2 of Schedule HC for 2018, Appellant, earning less than $36,180 would have met the income eligibility guidelines for government subsidized insurance.

ANALYSIS AND CONCLUSIONS OF LAW
The issue on appeal is whether the tax penalty assessed by the Massachusetts Department of Revenue for 2018 should be waived, either in whole or in part.

G.L c. 111M, § 2, also called the “individual mandate,” requires every adult resident of Massachusetts to obtain insurance coverage “[s]o long as it is deemed affordable” under the schedule set by the board of directors for the Commonwealth Health Insurance Connector Authority. Residents who do not obtain insurance are subject to a tax penalty for “each of the months” that the individual did not have health insurance as required by the individual mandate. There is a three-month grace period to allow the taxpayer to obtain health insurance coverage or to make the transition between health insurance policies. See G. L. c. 111M, sec. 2(b) and for Tax Year 2018, Administrative Bulletin 03-10: Guidance Regarding M.G.L. c. 111M and M.G.L. c. 176Q, as implemented by 956 CMR 6.00, 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 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 such that the purchase of insurance which met minimum creditable coverage standards would have caused Appellant to experience a serious deprivation of basic necessities. See 956 CMR 6.

During 2018, Appellant was considered to be income eligible for government subsidized health insurance. See Schedule HC for Healthcare, Table 2 and Testimony of Appellant, which I find to be credible. Since Appellant potentially had access to affordable insurance, we need to consider whether Appellant experienced a financial hardship as defined by 956 CMR 6.08.

Appellant worked a seasonal job and received unemployment compensation during times that Appellant did not work. Appellant struggled to pay basic expenses and fell two months behind in rent during 2018. I find that for 2018, the purchase of health insurance would have caused Appellant a serious deprivation of food, shelter, clothing or other necessities. See 956 CMR 6.08(1) (e).

I find that the penalty assessed against Appellant for 2018 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 2018 for the amount equal to one half of the lowest cost health insurance plan available to you for each month you have been assessed the penalty, as listed above, plus applicable interest back to the due date of the return without regard to extension.

OR

If the number of months assessed is zero (0) because your penalty has been overturned, the Connector has notified the Department of Revenue that you should NOT be assessed a penalty for Tax Year 2018.

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

ADDENDUM
Although Appellant began insurance in October 2018, there seemed to be some uncertainty about insurance coverage in 2019 and going forward. Appellant is encouraged to contact the Health Connector (1 877 623-4636) now (open enrollment for 2020 is November 1, 2019 through January 23, 2020) to update information about MassHealth or Health Connector coverage and follow all requests for information to obtain coverage.
MASSACHUSETTS HEALTH CONNECTOR APPEALS UNIT

FINAL APPEAL DECISION: PA18-766

Appeal Decision: Appeal Approved
Hearing Issue: Appeal of the 2018 Tax Year Penalty
Hearing Date: November 7, 2019
Decision Date: November 19, 2019

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 November 7, 2019. 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 Appellant’s testimony and the following documents which were admitted in evidence:

Exhibit 1: Notice of Hearing sent to Appellant dated October 2, 2019
Exhibit 2: Appeal Case Information Sheet from Schedule HC 2018
Exhibit 3: Notice of Appeal dated May 17, 2019
Exhibit 4: Statement in Support of Appeal
Exhibit 5: Final Appeal Decisions for 2016 and 2017

FINDINGS OF FACT
The record shows, and I so find:

1. Appellant was 46 years old in 2018 and filed a 2018 Massachusetts tax return as Head of Household, with one dependent claimed (Exhibit 2).
2. Appellant lived in Worcester County, MA in 2018 (Exhibit 2).
3. Appellant’s Adjusted Gross Income for 2018 was $54,080 (Exhibit 2).
4. From January through September, Appellant worked at a job where employer sponsored health insurance was not offered (Testimony of Appellant).
5. Appellant began a new job in October 2018, and the job offered employer sponsored health insurance (Testimony of Appellant).
6. After Appellant began the new job, there was a waiting period before Appellant would be eligible for the employer sponsored health insurance (Testimony of Appellant).
7. Appellant began coverage under the employer sponsored health insurance in December 2018 (Testimony of Appellant).
During 2018, Appellant struggled to pay basic expenses (Testimony of Appellant).
Appellant fell behind in payments for heating oil (Testimony of Appellant).
Appellant fell behind in mortgage payments and foreclosure was threatened (Testimony of Appellant).
Appellant spent all resources on trying to catch up with mortgage payments so that there would be no foreclosure (Testimony of Appellant).
Appellant was successful in getting a mortgage modification so that the mortgage became more affordable (Testimony of Appellant).
I take administrative notice of the financial information set forth in Tables 1 through 6 in the DOR 2018 Massachusetts Schedule HC Health Care Instructions and Worksheets. Tables 3 and 4 incorporate affordability and premium schedules adopted by the Board of Directors for the Commonwealth Health Insurance Connector Authority for 2018. Table 2 sets forth income at 300% of the Federal poverty level and Tables 5 and 6 set forth tax penalties in effect for 2018.
According to Table 3 of Schedule HC for 2018 a person filing as head of household with one dependent with an adjusted gross income of $54,080 could afford to pay $336 per month for private insurance. According to Table 4, Appellant, aged 46 and living in Worcester County could have purchased private insurance for $865 per month.
Private insurance was not considered to be affordable for Appellant in 2018 (Schedule HC for 2018).
According to Table 2 of Schedule HC for 2018, Appellant, earning more than $48,720 would not have met the income eligibility guidelines for government subsidized insurance.
Appellant was assessed a penalty for eight months for 2018 (Exhibit 2).
Appellant filed an appeal on May 17, 2019, claiming that the Appellant was more than thirty days in arrears in rent or mortgage payments (Exhibit 3).

ANALYSIS AND CONCLUSIONS OF LAW

The issue on appeal is whether the tax penalty assessed by the Massachusetts Department of Revenue for 2018 should be waived, either in whole or in part.

G.L c. 111M, § 2, also called the “individual mandate,” requires every adult resident of Massachusetts to obtain insurance coverage “[s]o long as it is deemed affordable” under the schedule set by the board of directors for the Commonwealth Health Insurance Connector Authority. Residents who do not obtain insurance are subject to a tax penalty for “each of the months” that the individual did not have health insurance as required by the individual mandate. There is a three-month grace period to allow the taxpayer to obtain health insurance coverage or to make the transition between health insurance policies. See G. L. c. 111M, sec. 2(b) and for Tax Year 2018, Administrative Bulletin 03-10: Guidance Regarding M.G.L. c. 111M and M.G.L. c. 176Q, as implemented by 956 CMR 6.00, 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 eight months. To determine if the penalty should be waived in whole or in part, we must consider whether affordable insurance was available to Appellant before we consider whether Appellant suffered a financial hardship such that the purchase of insurance which met minimum creditable coverage standards would have caused Appellant a hardship. See 956 CMR 6.

From January through November, employer sponsored health insurance was not available to Appellant. According to Tables 3 of Schedule HC for 2018, Appellant could afford to pay $336 per month for health insurance. According to Table 4, private insurance would have cost $865. Private insurance was not considered affordable for Appellant. Appellant, earning more than $48,720, would not have met the income eligibility
requirements for government sponsored insurance. See Schedule HC for 2018 and Testimony of Appellant, which I find to be credible.

I find that affordable health insurance was not available to Appellant in 2018

**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 2018 for the amount equal to one half of the lowest cost health insurance plan available to you for each month you have been assessed the penalty, as listed above, plus applicable interest back to the due date of the return without regard to extension.

OR

If the number of months assessed is zero (0) because your penalty has been overturned, the Connector has notified the Department of Revenue that you should NOT be assessed a penalty for Tax Year 2018.

**NOTIFICATION OF YOUR RIGHT TO APPEAL TO COURT**

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

FINAL APPEAL DECISION: 18-767

Appeal Decision: Appeal Approved
Hearing Issue: Appeal of the 2018 Tax Year Penalty
Hearing Date: November 7, 2019
Decision Date: November 25, 2019

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 November 7, 2019. 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 Appellant’s testimony and the following documents which were admitted in evidence:

Exhibit 1: Notice of Hearing sent to Appellant dated October 2, 2019
Exhibit 2: Appeal Case Information Sheet from Schedule HC 2018
Exhibit 3: Statement of Grounds for Appeal 2018 signed by Appellant on April 11, 2019

FINDINGS OF FACT
The record shows, and I so find:

1. Appellant was 57 years old in 2018. Appellant filed a 2018 Massachusetts tax return as single, with no dependents claimed (Exhibit 2).
2. Appellant lived in Middlesex County, MA in 2018 (Exhibit 2).
3. Appellant’s Adjusted Gross Income for 2018 was $40,641 (Exhibit 2).
4. Appellant’s job in 2018 did not offer employer sponsored health insurance (Testimony of Appellant).
5. Appellant struggled to pay for basic expenses in 2018 (Testimony of Appellant).
6. Appellant received shut off notices for electricity in 2018 (Testimony of Appellant).
7. I take administrative notice of the financial information set forth in Tables 1 through 6 in the DOR 2018 Massachusetts Schedule HC Health Care Instructions and Worksheets. Tables 3 and 4 incorporate affordability and premium schedules adopted by the Board of Directors for the Commonwealth Health Insurance Connector Authority for 2018. Table 2 sets forth income at 300% of the Federal poverty level and Tables 5 and 6 set forth tax penalties in effect for 2018.
8. According to Table 3 of Schedule HC for 2018 a person filing as single with no dependents with an adjusted gross income of $40,641 could afford to pay $252 per month for private insurance. According to Table 4, Appellant, aged 57 and living in Middlesex County could have purchased private insurance for $423 per month.

9. Private insurance was not considered affordable for Appellant in 2018.

10. According to Table 2 of Schedule HC for 2018, Appellant, earning more than $36,180, would not have met the income eligibility guidelines for government subsidized insurance.

11. Appellant was assessed a penalty for twelve months for 2018 (Exhibit 2).

12. Appellant filed an appeal on April 11, 2019, claiming that the expense of purchasing health insurance would have caused a serious deprivation of food, shelter, clothing or other necessities (Exhibit 3).

13. Appellant has obtained health insurance coverage beginning in January 2020 (Testimony of Appellant).

ANALYSIS AND CONCLUSIONS OF LAW

The issue on appeal is whether the tax penalty assessed by the Massachusetts Department of Revenue for 2018 should be waived, either in whole or in part.

G.L c. 111M, § 2, also called the “individual mandate,” requires every adult resident of Massachusetts to obtain insurance coverage “[s]o long as it is deemed affordable” under the schedule set by the board of directors for the Commonwealth Health Insurance Connector Authority. Residents who do not obtain insurance are subject to a tax penalty for “each of the months” that the individual did not have health insurance as required by the individual mandate. There is a three-month grace period to allow the taxpayer to obtain health insurance coverage or to make the transition between health insurance policies. See G. L. c. 111M, sec. 2(b) and for Tax Year 2018, Administrative Bulletin 03-10: Guidance Regarding M.G.L. c. 111M and M.G.L. c. 176Q, as implemented by 956 CMR 6.00, which interprets the 63-day gap in coverage to be three months. The Connector’s regulations provide for a waiver of the tax penalty in the case of a financial hardship. See 956 CMR 6.08.

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

During 2018, Appellant did not have access to employer sponsored health insurance. Private health insurance was not considered affordable for Appellant. Appellant was not income eligible for government subsidized health insurance. See Schedule HC for Healthcare, Tables 2, 3, and 4 and Testimony of Appellant, which I find to be credible.

I find that affordable health insurance was not available to Appellant in 2018. I find that the penalty should be waived in full.

PENALTY ASSESSED

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

The Connector has notified the Department of Revenue that, pursuant to its decision, you should be assessed a penalty for Tax Year 2018 for the amount equal to one half of the lowest cost health insurance plan available to you for each month you have been assessed the penalty, as listed above, plus applicable interest back to the due date of the return without regard to extension.

OR
If the number of months assessed is zero (0) because your penalty has been overturned, the Connector has notified the Department of Revenue that you should NOT be assessed a penalty for Tax Year 2018.

**NOTIFICATION OF YOUR RIGHT TO APPEAL TO COURT**
If you disagree with this decision, you have the right to appeal to Court in accordance with Chapter 30A of the Massachusetts General Laws. To appeal, you must file a complaint with the Superior Court for the county where you reside, or Suffolk County Superior Court within thirty (30) days of your receipt of this decision.
**Massachusetts Health Connector Appeals Unit**

**FINAL APPEAL DECISION: PA18-785**

**Appeal Decision:** The penalty is overturned in full.

**Hearing Issue:** Appeal of the 2018 Tax Year Penalty

**Hearing Date:** November 5, 2019

**Decision Date:** November 25, 2019

**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 November 5, 2019. The procedures to be followed during the hearing were reviewed with the appellant who was then sworn in. Exhibits were marked and admitted in evidence with no objection from the appellant. Appellant testified.

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

- **Exhibit 1:** Appeal Case Information from Schedule HC 2018.1(1P)
- **Exhibit 2:** Statement of Grounds for Appeal 2018 signed by Appellant on May 10, 2019. (2PP).
- **Exhibit 2(a)**: Appellant’s Supplemental Statement of Appeal. (3PP).
- **Exhibit 3:** Notice of Hearing dated October 3, 2019. (3PP).

**FINDINGS OF FACT**
The record shows, and I so find:

1. Appellant, who filed a 2018 Massachusetts tax return reported she was single, was age 28 in 2018, and did not have any dependents. (Exhibit 1, Testimony of Appellant).

2. Appellant moved to Massachusetts in June 2018. (Testimony of Appellant, Exhibit 2(a)).

3. Appellant was employed in an hourly full-time job that had a 90 day waiting period for health insurance benefits.

4. The Appellant left that job at the end of July 2018. (Testimony of Appellant).

5. Appellant moved to a new full-time position in August 2018 that also had a 90 day waiting period for health insurance benefits. (Testimony of Appellant, Exhibit 2(a)).

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Ex. 1 is a computer printout that extracts information submitted by the appellant on Schedule HC as part of her 2018 Massachusetts income tax return. It also contains information about prior appeals, if any.
6. Appellant inquired in November 2018 about signing up for a plan but discovered the insurance would be too expensive. (Testimony of Appellant).

7. Appellant’s Federal Adjusted Gross Income for 2018 was $24,918 (Exhibit 1).

8. Appellant has been assessed a tax penalty for five (5) months in 2018. The appellant has appealed this assessment (Exhibits 1, 2).

9. Once the Appellant was settled in Massachusetts and able to afford health insurance she did so in June 2019. (Testimony of Appellant).

10. Appellant had the following monthly expenses totaling $1,440/month for basic necessities in 2018 including: Rent $600, Phone $200, Food/Incidentals $150, Car Insurance $90, Credit Card $100, Collection from tuition $200, Student Loans $100. (Testimony of Appellant).

11. According to Table 3 Appellant could have afforded $87.21 per month for health insurance in 2018. According to Table 4 Appellant could have purchased insurance for $249.00 per month.

12. In addition to the foregoing, I take administrative notice of the 2018 Schedule HC Instructions and Worksheets, available at http://www.mass.gov.dor/docs/dor/health-care/2018, and in particular, Tables 1-6 which, as discussed below, include the Affordability Schedule and other financial information used in making 2018 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 2018 should be waived, either in whole or in part. Appellant has been assessed a tax penalty for five (5) months in 2018. Appellant has appealed the penalty. See Exhibits 1 and 2.

The appellant submitted a statement of grounds for appeal (Ex. 2) wherein he indicated she indicated “Other”.

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

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

Appellant testified credibly that she did not have access to Employer Sponsored Insurance until November 2018 and that she could not afford it. (Testimony of Appellant).
According to Table 3 of Schedule HC for 2018, the Appellant had an adjusted gross income of $24,918.00 in 2018 and could have afforded $87.21 per month. According to Table 4, Appellant, age 28 and living in Middlesex County during the time she was being penalized for not having insurance, could have purchased insurance for $249.00 per month. Individual coverage was not affordable through the individual market for the appellant in 2018 (Schedule HC for 2018).

According to Table 2 of Schedule HC for 2018, Appellant during 2018 would have been eligible for the Connector Care program based upon income (Exhibit 1, Table 2 of Schedule HC-2018). Since Appellant had access to insurance through the ConnectorCare program, we need to determine if Appellant experienced a financial hardship such the coverage would have been unaffordable. See 956 CMR 6.08. et. seq.

Appellant testified credibly that she had the following monthly expenses totaling $1,440/month for basic necessities in 2018 including: Rent $600, Phone $200, Food/Incidentals $150, Car Insurance $90, Credit Card $100, Collection from tuition $200, Student Loans $100. (Testimony of Appellant). Moreover, where she began residing at the West Newton, Middlesex County in June 2018 any potential penalty period should be reduced where 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.

Given the totality of the circumstances where that the Appellant did not reside in Massachusetts for the entire year and the three(3) month waiver, as well as that the Appellant’s cost of basic monthly expenses for necessities forced her to make choices to pay for living expenses rather than purchasing health insurance, I determine that pursuant to 956 CMR 6.08(1)(e), (3) the cost of purchasing health insurance would have caused the appellant to experience a serious deprivation of basic necessities.

The Appellant’s penalty is, therefore, waived.

Appellant should note that any waiver granted here is for 2018 only and is based upon the specific facts I have found to be true and should not assume that the same determination will be made should Appellant be assessed a penalty in the future.

**PENALTY ASSESSED**

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

If the number of months assessed is zero (0) because your penalty has been overturned, the Connector has notified the Department of Revenue that you should NOT be assessed a penalty for Tax Year 2018.

**NOTIFICATION OF YOUR RIGHT TO APPEAL TO COURT**

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

Cc: Connector Appeals Unit Hearing Officer

**ADDENDUM**

If the appellant still does not have health insurance, and if his income and employment have not changed, he is advised to investigate his eligibility for subsidized health insurance through the Health Connector at [www.mahealthconnector.org](http://www.mahealthconnector.org) or by contacting customer service at 1-877-623-6765. The open enrollment period runs from November 1, 2018-January 23, 2019.
Massachusetts Health Connector Appeals Unit

FINAL APPEAL DECISION: PA18-786

**Appeal Decision:** The penalty is overturned in full.

**Hearing Issue:** Appeal of the 2018 Tax Year Penalty

**Hearing Date:** November 5, 2019

**Decision Date:** November 25, 2019

**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 November 5, 2019. Appellant’s Spouse was not present. The procedures to be followed during the hearing were reviewed with the Appellant who was then sworn in. Exhibits were marked and admitted in evidence with no objection from the appellant. Appellant testified.

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

- Exhibit 1: Appeal Case Information from Schedule HC 2018.¹(1P)
- Exhibit 2(a) Appellant’s Supplemental Statement of Appeal and Supporting Documentation. (21PP).

**FINDINGS OF FACT**
The record shows, and I so find:

1. Appellant, who filed a 2018 Massachusetts tax return reported was married, was age 31 in 2018, and Appellant’s Spouse age 32 in 208. (Exhibit 1, Testimony of Appellant).

2. Appellants moved to Massachusetts in September 2018. (Testimony of Appellant, Exhibit 2(a)).


4. Appellants, had lived in Germany where one of the Appellant’s had been studying abroad for semester. (Testimony of Appellant, Exhibit 2(a)).

5. Appellants had submitted rental contracts for 2 locations where they resided in 2018 in Germany. (Exhibit 2(a).

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¹Ex. 1 is a computer printout that extracts information submitted by the appellant on Schedule HC as part of her 2018 Massachusetts income tax return. It also contains information about prior appeals, if any.
6. The Appellants lived in Waltham, Massachusetts from September through December 2018. (Testimony of Appellant, Exhibit 2(a)).

7. Appellants were covered by Appellant’s employer health insurance plan from August 28, 2018 through December 21, 2018. (Testimony of Appellant, Exhibit 2(a)).

8. Appellants were covered by the other Appellant’s employer health insurance plan from December 10, 2018 through the present. (Testimony of Appellant, Exhibit 2(a)).

9. Appellants Federal Adjusted Gross Income for 2018 was $28,801 (Exhibit 1).

10. Appellant has been assessed a tax penalty for four (4) months in 2018 and Appellant spouse has been assessed a twelve (12) month penalty for 2018. The Appellants have appealed this assessment (Exhibits 1, 2).

11. The Appellants provided evidence they had coverage through a German insurer through a student policy from January through August 2018. (Testimony of Appellant).

12. According to Table 3 Appellant could have afforded $100.80 per month for health insurance in 2018. According to Table 4 Appellant could have purchased insurance for $564.00 per month.

13. In addition to the foregoing, I take administrative notice of the 2018 Schedule HC Instructions and Worksheets, available at http://www.mass.gov.dor/docs/dor/health-care/2018, and in particular, Tables 1-6 which, as discussed below, include the Affordability Schedule and other financial information used in making 2018 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 2018 should be waived, either in whole or in part. Appellants have been assessed a tax penalty for four (4) months and 12 months respectively in 2018. Appellants have appealed the penalty. See Exhibits 1 and 2.

The Appellants did not elect submitted a statement of grounds for appeal but did submit a statement in support of their appeal claiming that the individual mandate did not apply to them the during 2018 because they resided outside of the United States for eight (8) months and had employer health insurance from August 28, 2018 through the remainder of the year. (Testimony, See Exhibit 2(a)).

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

Appellant testified credibly and provided supporting rental contracts that they lived abroad in Germany from January through August 2018. The Appellant also testified credibly and provided proof of insurance where they were insured under a German student health insurance plan. Appellant testified credibly and provided proof of insurance they were covered by each of their respective Appellants; employers’ health insurance Blue Cross Blue Shield plan from August 28, 2018 through the remainder of the year. (Testimony of Appellant, Exhibit 2(a)).
Given the totality of the circumstances; where the Appellants did not reside in Massachusetts until August 2018 and as referenced above the three(3) month grace period upon commencing residence in Massachusetts, as well the fact they had health insurance while they were living in Germany and in the month(August 2018) when they commenced residency in Massachusetts, I determine that based upon the totality of the evidence, it is concluded that the appellants were exempt from the individual mandate and their request for a waiver from the penalty is granted pursuant to 956 CMR 6.08(3).

The Appellants’ penalty is therefore, waived.

Appellants should note that any waiver granted here is for 2018 only and is based upon the specific facts I have found to be true and should not assume that the same determination will be made should Appellants be assessed a penalty in the future.

**PENALTY ASSESSED**

Number of Months Appealed: ___4___ Number of Months Assessed: ____0___

Number of Months Appealed: ___12___ Number of Months Assessed: ____0___

If the number of months assessed is zero (0) because your penalty has been overturned, the Connector has notified the Department of Revenue that you should NOT be assessed a penalty for Tax Year 2018.

**NOTIFICATION OF YOUR RIGHT TO APPEAL TO COURT**

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

Cc: Connector Appeals Unit Hearing Officer

**ADDENDUM**

If the appellant still does not have health insurance, and if his income and employment have not changed, he is advised to investigate his eligibility for subsidized health insurance through the Health Connector at www.mahealthconnector.org or by contacting customer service at 1-877-623-6765. The open enrollment period runs from November 1, 2018-January 23, 2019.
Massachusetts Health Connector Appeals Unit

Tax Penalty Appeal Decision—Docket No. PA18-792

Appeal Decision: Appeal Approved -- 2018 tax penalty overturned.

Hearing Issue: Appeal of the 2018 Tax Year Penalty
Hearing Date: November 6, 2019
Decision Date: November 8, 2019

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

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

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

1. DOR Appeal Case Information from Schedule HC (1 page);
2. Appellant’s Statement of Grounds for Appeal – 2018;
3. Appellant’s Letter in Support of Appeal (2 pages, dated 5/15/19);
4. Health Connector’s Notice of Hearing (3 pages, dated 10/3/19); and
5. Health Connector’s Second Notice of Hearing (same date; different addresss).

FINDINGS OF FACT
I make the following findings of fact based on the testimony at the hearing and the exhibits and reasonable inferences from the evidence, applying the preponderance of the evidence standard.
1. The Appellant appealed from the Department of Revenue’s assessment of a 12 month penalty for 2018. The basis for the penalty was that the Appellant was not insured at any time in 2018. Exhibits 1 and 2. Based on Exhibit 1 and the Appellant’s hearing testimony, I find that the penalty assessment is accurate.

2. The Appellant filed a Massachusetts personal income tax return for 2018 as a single person with no dependents. The Appellant’s federal adjusted gross income (AGI) for 2018 was $26,311. Exhibit 1.

3. The Appellant was 44 years old at the beginning of 2018 and resided in [name of city or town omitted] in Hampshire County, Massachusetts. Exhibit 1.

4. The Appellant’s AGI was more than 150% of the federal poverty level. On this basis I conclude that the Appellant was not automatically exempt from the assessment of a tax penalty in 2018. DOR Table 1.

5. The Appellant’s 2018 AGI ($26,311) was less than 300% of the federal poverty level ($36,180 for a one person household). DOR Table 2. On this basis I infer that it is likely that the Appellant would satisfy the financial eligibility requirements for government-subsidized health insurance.

6. Based on DOR Table 3 the Appellant could afford to pay 4.20% of her income -- or $92 per month -- for health insurance coverage in 2018. (The calculation is 4.20% multiplied by $26,311 AGI = $1,105.06 per year divided by 12 months = $92.08 per month.)

7. Based on DOR Table 4 (Region 1) the Appellant could obtain individual health insurance coverage at her age and location for $278 per month in 2018.

8. For the past several years the Appellant has been employed by the same small business (5 employees). The employer did not offer the Appellant health insurance coverage as a job benefit in 2018. Testimony.

9. The Appellant was paid $14.50 per hour in 2018. Her hourly schedule was not consistent, but she typically worked 35 hours per week. Testimony.
10. The Appellant had government-sponsored health insurance in the recent past. During a medical appointment the Appellant learned that she was no longer insured. Her understanding is that her earnings were too great after she received a 3% raise. Testimony.

11. The Appellant has done some online investigation of health insurance availability and has sought unsuccessfully to obtain assistance from a hospital in her geographic region. Her understanding is that she could not afford to pay the monthly premium for government-subsidized insurance. Testimony.

12. The Appellant initiated an appeal from the 2017 penalty assessed by the DOR. Her appeal was dismissed because she did not appear for the appeal hearing. Exhibit 1. The Appellant subsequently paid the penalty amount to the DOR using money that she borrowed from her employer. Testimony.

13. The Appellant provided a written summary of her living expenses in Exhibit 3 that I credit, especially since the expenses are quite low (e.g., $535 per month for rent and $30 per month for heat – she used a pellet stove). Her list of expenses totals $1,367 per month. Exhibit 3 and Testimony.

14. The Appellant now has one credit card that has a $500 maximum limit. Her current balance is $140 and she pays $28 per month – an expense that is not listed in Exhibit 3. The Appellant defaulted on two other credit cards with a total outstanding balance of approximately $10,000. Testimony.

15. The Appellant has a personal loan from her employer because she did not have credit to pay for a car, which is necessary to commute to work. Testimony. She pays $150 per month for this loan. Exhibit 3.

16. Except as set forth in the foregoing findings of fact, I adopt the facts set forth in Exhibit 1 as my own findings of fact. Exhibit 1 is a computer printout prepared by the Massachusetts Department of Revenue (DOR) that extracts information submitted by the Appellant on Schedule HC as part of the Appellant’s 2018 Massachusetts income tax return.

17. I take administrative notice of the financial information set forth in Tables 1 through 6 of the DOR 2017 Massachusetts Schedule HC Health Care Instructions.
Tables 3 and 4 incorporate the affordability schedules adopted by the board of directors for the Commonwealth Health Insurance Connector Authority (Health Connector or Connector) for 2018. See 956 Code Mass. Regs. 6.05. Table 1 sets forth income levels less than 150% of the federal poverty level that are exempt from the assessment of a state tax penalty. Table 2 sets forth income eligibility standards for various family sizes at 300% of the federal poverty level, which is the income eligibility standard for the ConnectorCare government subsidized health insurance program. Tables 5 and 6 set forth the tax penalties in effect for 2018. (The DOR instructions are published online at http://www.mass.gov/dor/2018ScheduleHCInstructions and are also available in the state income tax forms supplied to taxpayers. See also DOR Technical Information Release (TIR) 12-7: Individual Mandate Penalties for Tax Year 2018.)

ANALYSIS AND CONCLUSIONS OF LAW

The case is before me on the Appellant’s appeal from the state Department of Revenue’s (DOR) assessment of a tax penalty because the Appellant did not have health insurance coverage in 2018. See Exhibits 1 and 2. The issue to be decided is whether the penalty should be waived, either in whole or in part.

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

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

The Health Connector’s regulations also provide for a “hardship” appeal from the assessment of a penalty. 956 Code Mass. Regs. 6.07 and 6.08. The grounds for a hardship appeal are summarized in the Statement of Grounds for Appeal – 2017 that the Appellant signed and filed in this case. See Exhibit 2.

The Appellant in this case is demonstrably a low income person who nonetheless has a steady job. What is unclear on this hearing record is why she no longer has government subsidized health insurance. See, e.g., Findings of Fact, Nos. 5 and 8 - 10, above. The only way to obtain a reliable resolution of that question is for the Appellant to file a new application for health insurance during the current open enrollment period and obtain an eligibility determination from the Health Connector. See my RECOMMENDATION below.

From the evidence that is available on the hearing record the Appellant cannot afford unsubsidized health insurance, and her employer does not offer health insurance as a job benefit. Under the objective standards set forth in DOR Table 3 the Appellant can afford to pay $92 per month for health insurance. However, DOR Table 2 indicates that she would have to pay $278 per month for individual coverage based on her age and her location in western Massachusetts (Region 1). See, e.g., Findings of Fact, Nos. 6 and 7, above.

After considering all the circumstances, I conclude that it is appropriate to waive the entire penalty assessed against the Appellant for 2018. See, e.g., 956 Code Mass. Regs. 6.08 (1) (e) ([The Appellant] experienced financial circumstances such that the expense of purchasing health insurance that met minimum creditable coverage standards would have caused [her] to experience a serious deprivation of food, shelter, clothing or other necessities.”). The Appellant should not, however, assume that penalties will be waived or reduced in the future if she does not promptly apply for government-subsidized health insurance and obtain an eligibility decision from the Health Connector.

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 2018 for the amount equal to one half of the lowest cost health insurance plan available to you for each month you have been assessed the penalty, as listed above, plus applicable interest back to the due date of the return without regard to extension.

OR

If the number of months assessed is zero (0) because your penalty has been overturned, the Connector has notified the Department of Revenue that you should NOT be assessed a penalty for Tax Year 2018.

NOTIFICATION OF YOUR RIGHT TO APPEAL TO COURT

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

Hearing Officer

Cc: Connector Appeals Unit

RECOMMENDATION. The Health Connector’s open enrollment period for health insurance coverage next year (2020) started on November 1. I urge you to file an application for government subsidized health insurance promptly after you receive this Decision in the mail.

You can apply online at www.mahealthconnector.org, or call Customer Service at 1-8770623-6765. The website also lists places that will help you with an application. In addition, most local hospitals or community health clinics will help you.
Massachusetts Health Connector Appeals Unit

Tax Penalty Appeal Decision—Docket No. PA18-793

**Appeal Decision:** Appeal Approved -- 2018 tax penalty overturned.

**Hearing Issue:** Appeal of the 2018 Tax Year Penalty  
**Hearing Date:** November 6, 2019  
**Decision Date:** November 13, 2019

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

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

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

1. DOR Appeal Case Information from Schedule HC (1 page);  
2. Appellant’s Statement of Grounds for Appeal – 2018;  
3. Appellant’s Letter in Support of Appeal (1 page, undated);  
4. Appellant’s Apartment Lease (Massachusetts 9/1/17 – 8/31/18);  
5. Appellant’s New Apartment Lease (effective 9/1/18); and  

**FINDINGS OF FACT**  
I make the following findings of fact based on the testimony at the hearing and the exhibits and reasonable inferences from the evidence, applying the preponderance of the evidence standard.
1. The Appellant appealed from the Department of Revenue’s assessment of a 12 month penalty for 2018. The basis for the penalty was that the Appellant was not insured at any time in 2018. Exhibits 1 and 2. Based on Exhibit 1 and the Appellant’s hearing testimony, I find that the penalty assessment is accurate. See also Exhibit 3.

2. I find, based on the Appellant’s testimony which I found to be credible, that the Appellant was insured in Rhode Island for 2017, was not insured in 2018, and was insured early in 2019 as a dependent, as she is under 26 years of age. Testimony and Exhibits 1 and 3.

3. I find that in 2018 the Appellant was employed in both Rhode Island and in Massachusetts and that she paid personal income taxes in both states. The Appellant’s 2018 federal adjusted income (AGI) includes the income that she earned in both states. There is no document in the hearing record that sets forth solely her Massachusetts income as Exhibit 1 prepared by the Massachusetts Department of Revenue reports only federal adjusted gross income. Testimony.

4. I find, based on the Appellant’s testimony and the written lease (Exhibit 4), that the Appellant moved to Massachusetts from Rhode Island in late 2017. She was a Massachusetts resident for all of 2018. Testimony and Exhibits 4 and 5 (two leases).

5. The Appellant filed a Massachusetts personal income tax return for 2018 as a single person with no dependents. The Appellant’s federal adjusted gross income (AGI) for 2018 was $59,078. Exhibit 1.

6. The Appellant was 21 years old at the beginning of 2018 and resided in [name of city or town omitted] in Worcester County, Massachusetts. Exhibit 1.

7. The Appellant’s AGI was more than 150% of the federal poverty level. On this basis I conclude that the Appellant was not automatically exempt from the assessment of a tax penalty in 2018. DOR Table 1.

8. The Appellant’s 2018 AGI ($59,078) was more than 300% of the federal poverty level ($36,180 for a one person household). Her $43,478 adjusted income (see
below) was still more than $36,180. DOR Table 2. On this basis I infer that it is likely that the Appellant would not satisfy the financial eligibility requirements for government-subsidized health insurance.

9. Based on DOR Table 3 the Appellant could afford to pay 8.05% of her income -- or $396 per month -- for health insurance coverage in 2018. (The calculation is 8.05% multiplied by $59,078 AGI = $4,755.77 per year divided by 12 months = $396.31 per month.);

10. Alternatively, the Appellant could afford to pay 7.60% of her $43,478 adjusted gross income -- or $275 per month -- under DOR Table 3. See Findings of Fact, No. 12, below. (The calculation is 7.60% multiplied by $43,478 adjusted income = $3,304.32 per year divided by 12 = $275.36 per month.

11. Based on DOR Table 4 (Region 2) the Appellant could obtain individual health insurance coverage at her age (under 30 years) and location for $249 per month in 2018.

12. The Appellant works in Massachusetts during the standard work week. On weekends she returns to her parents’ home in Rhode Island, where she works as a personal care attendant (PCA) for her chronically disabled, wheelchair-bound brother (the family has a handicap accessible van for her brother). She donates her $200 per week PCA paycheck plus an additional $100 per week from her Massachusetts earnings to her parents to help care for her brother. I have deducted $300 per week from the Appellant’s federal adjusted gross income reported on Exhibit 1 (59,078) to calculate her adjusted income ($43,478). See Findings of Fact, Nos. 8 and 10, above.

13. The Appellant’s parents are unemployed (except for an eight month period for her Father in late 2018 – early 2019 when the Appellant sought to be covered under her Father’s health plan). Her Mother has not worked since the Appellant was fourteen years old. The Appellant’s parents receive a SSI check for her brother.

14. The Appellant has a $4,100 outstanding student loan balance from an earlier attempt to attend college. She is now returning to community college in Rhode
Island taking one course per semester at an out-of-pocket cost of $2,500 (or $5,000 for the academic year). Testimony.

15. The Appellant’s living expenses include $900 per month for rent (reduced to $700 when the Appellant move to a new apartment in late 2018), $350 per month for truck loan ($11,000 balance due), and $106 per month for truck insurance. Exhibit 3 and Testimony.

16. The Appellant dropped her Rhode Island health insurance when she learned that doctors in Massachusetts would not accept her policy. The Appellant paid approximately $3,000 out of pocket for medical treatment in 2018, plus an additional amount for prescription drugs. Testimony.

17. During her Massachusetts employer’s open enrollment period the Appellant declined to enroll in the employer-sponsored health plan due to its cost. The premium that the Appellant would have to pay was $303 per month, which is more than she could afford based on her adjusted income ($276 per month) or less than she could afford based on her federal AGI ($396 per month). See Findings of Fact, Nos. 9 and 10, above. (The premium calculation is $140 biweekly payroll deduction (see Exhibit 3) multiplied by 26 pay periods = $3,640 per year divided by 12 = $303.33 per month).

18. In 2018 the Appellant was paid $19 per hour at her Massachusetts job. Her standard work week was 35 hours per week plus overtime. Testimony.

19. Except as set forth in the foregoing findings of fact, I adopt the facts set forth in Exhibit 1 as my own findings of fact. Exhibit 1 is a computer printout prepared by the Massachusetts Department of Revenue (DOR) that extracts information submitted by the Appellant on Schedule HC as part of the Appellant’s 2018 Massachusetts income tax return.

20. I take administrative notice of the financial information set forth in Tables 1 through 6 of the DOR 2017 Massachusetts Schedule HC Health Care Instructions and Worksheet. Tables 3 and 4 incorporate the affordability schedules adopted by the board of directors for the Commonwealth Health Insurance Connector Authority (Health Connector or Connector) for 2018. See 956 Code Mass. Regs. 6.05. Table 1 sets forth income levels less than 150% of the federal poverty level
that are exempt from the assessment of a state tax penalty. Table 2 sets forth income eligibility standards for various family sizes at 300% of the federal poverty level, which is the income eligibility standard for the ConnectorCare government subsidized health insurance program. Tables 5 and 6 set forth the tax penalties in effect for 2018. (The DOR instructions are published online at http://www.mass.gov/dor/2018ScheduleHCInstructions and are also available in the state income tax forms supplied to taxpayers. See also DOR Technical Information Release (TIR) 12-7: Individual Mandate Penalties for Tax Year 2018.)

ANALYSIS AND CONCLUSIONS OF LAW

The case is before me on the Appellant’s appeal from the state Department of Revenue’s (DOR) assessment of a tax penalty because the Appellant did not have health insurance coverage in 2018. See Exhibits 1 and 2. The issue to be decided is whether the penalty should be waived, either in whole or in part.

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

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

The Health Connector’s regulations also provide for a “hardship” appeal from the assessment of a penalty. 956 Code Mass. Regs. 6.07 and 6.08. The grounds for a
hardship appeal are summarized in the Statement of Grounds for Appeal – 2017 that the Appellant signed and filed in this case. See Exhibit 2.

After considering all the circumstances presented by the evidence in this appeal, I conclude that it is appropriate to waive the entire penalty assessed against the Appellant for 2018 under the Health Connector’s financial hardship regulation. See, e.g., 956 Code Mass. Regs. 6.08 (1) (e) (‘The Appellant’ experienced financial circumstances such that the expense of purchasing health insurance that met minimum creditable coverage standards would have caused him [her] to experience a serious deprivation of food, shelter, clothing or other necessities.”).

As I set forth more fully in my Findings of Fact, my assessment is that it is appropriate to reduce the federal adjusted gross income (AGI) that the DOR reported in Exhibit 1 to reflect the fact that the Appellant returns to her parents’ home in Rhode Island on weekends where she cares for her disabled brother and that she donates both her $200 weekly PCA wages plus $100 from her Massachusetts wages to help support her brother and her parents, who are unemployed. Although the Appellant does not satisfy all the detailed points in another portion of the hardship regulation concerning support of a family member I believe that the regulation lends support to the economic reality that the Appellant’s reported wages on her tax returns are not, in fact, available to her. See 966 Code Mass. Regs. 6.08 (1) (d) (par. 3). See, e.g., Findings of Fact, Nos. 12 and 13, above.

Once her income is adjusted, it becomes a close question whether the Appellant could reasonably afford health insurance in 2018. For 2018, at least, I believe that the Appellant’s young age coupled with her outstanding student loans and her current college expenses plus her out-of-pocket medical expenses tip the balance. See, e.g., Findings of Fact, Nos. 14 - 17, above.

I emphasize, however, that the Appellant needs to do more to satisfy her legal obligation under Massachusetts law to obtain and maintain health insurance coverage. You should not assume that your success in your 2018 appeal means that any tax penalties that are assessed for future years will also be waived or reduced. See my RECOMMENDATION below.

**PENALTY ASSESSED**
Number of Months Appealed: __12_____ Number of Months Assessed: _-0-_______
The Connector has notified the Department of Revenue that, pursuant to its decision, you should be assessed a penalty for Tax Year 2018 for the amount equal to one half of the lowest cost health insurance plan available to you for each month you have been assessed the penalty, as listed above, plus applicable interest back to the due date of the return without regard to extension.

OR

If the number of months assessed is zero (0) because your penalty has been overturned, the Connector has notified the Department of Revenue that you should NOT be assessed a penalty for Tax Year 2018.

NOTIFICATION OF YOUR RIGHT TO APPEAL TO COURT

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

Hearing Officer

Cc: Connector Appeals Unit

RECOMMENDATION. The Health Connector’s open enrollment period for 2020 health insurance began on **November 1, 2019**. You also need to learn when your employer’s open enrollment period begins and ends.

Even though it is unlikely that you would qualify for government-subsidized health insurance it is quite helpful to have an actual eligibility determination to guide you. Also, you can obtain group insurance coverage through the Health Connector at favorable rates that are not subsidized. You can then compare any coverage available through your employer to the Health Connector policies.

You can apply online at [www.mahealthconnector.org](http://www.mahealthconnector.org) or call Customer Relations at 1-877-623-6765. Local hospitals and community health centers may also help you.
Massachusetts Health Connector Appeals Unit

Tax Penalty Appeal Decision—Docket No. PA18-794

**Appeal Decision:** Appeal Approved -- 2018 tax penalty overturned.

**Hearing Issue:** Appeal of the 2018 Tax Year Penalty

**Hearing Date:** November 6, 2019

**Decision Date:** November 9, 2019

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

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

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

1. DOR Appeal Case Information from Schedule HC (1 page);
2. Appellant’s Statement of Grounds for Appeal – 2018;
3. Appellant’s Letter in Support of Appeal (1 page, undated); and

**FINDINGS OF FACT**
I make the following findings of fact based on the testimony at the hearing and the exhibits and reasonable inferences from the evidence, applying the preponderance of the evidence standard.
1. The Appellant appealed from the Department of Revenue’s assessment of a 12 month penalty for 2018. The basis for the penalty was that the Appellant was not insured at any time in 2018. Exhibits 1 and 2. Based on Exhibit 1 and the Appellant’s hearing testimony, I find that the penalty assessment is accurate.

2. The Appellant filed a Massachusetts personal income tax return for 2018 as a single person with no dependents. The Appellant’s federal adjusted gross income (AGI) for 2018 was $27,653. Exhibit 1.

3. The Appellant was 57 years old at the beginning of 2018 and resided in [name of city or town omitted] in Essex County, Massachusetts. Exhibit 1.

4. The Appellant’s AGI was more than 150% of the federal poverty level. On this basis I conclude that the Appellant was not automatically exempt from the assessment of a tax penalty in 2018. DOR Table 1.

5. The Appellant’s 2018 AGI ($27,653) was less than 300% of the federal poverty level ($36,180 for a one person household). DOR Table 2. On this basis I infer that it is likely that the Appellant would satisfy the financial eligibility requirements for government-subsidized health insurance.

6. Based on DOR Table 3 the Appellant could afford to pay 4.20% of his income -- or $97 per month -- for health insurance coverage in 2018. (The calculation is 4.20% multiplied by $27,653 AGI = $1,161.42 per year divided by 12 months = $96.78 per month.)

7. Based on DOR Table 4 (Region 2) the Appellant could obtain individual health insurance coverage at his age and location for $423 per month in 2018 (55+ age bracket).

8. The Appellant has worked for a piano factory for about 5 years. In 2017 the Appellant was employed full-time. Testimony.

9. The employer experienced financial difficulties. One consequence of the employer’s financial difficulty is that in 2016 or 2017 the employer eliminated the employer-sponsored health plan that it formerly offered to its employees as a job benefit. Testimony.
10. A second consequence of the employer’s financial difficulty is that the employer reduced its work force in 2018. For the first seven months of 2018 the Appellant worked only 3 days (24 hours) per week. Other employees were reduced to two days or laid off altogether. Testimony and Exhibit 3.

11. The Appellant returned to work full-time for the remainder of 2018 (August – December). He was paid $15.75 per hour as a supervisor. Testimony.

12. In 2019 the Appellant worked full-time as part of a reduced work force. Testimony.

13. The Appellant received three weekly unemployment insurance checks during the seven months that he worked only three days per week in 2018. He exhausted his savings and borrowed approximately $2,500 from family members to pay his living expenses. The Appellant’s $1,400 per month rent payment consumed most of his take home pay. Testimony and Exhibit 3.

14. The Appellant also owes approximately $10,000 on credit cards. Testimony.

15. The Appellant applied for government-subsidized health insurance a few years ago (MassHealth or Health Connector). His application was denied because he earned too much money.

16. Except as set forth in the foregoing findings of fact, I adopt the facts set forth in Exhibit 1 as my own findings of fact. Exhibit 1 is a computer printout prepared by the Massachusetts Department of Revenue (DOR) that extracts information submitted by the Appellant on Schedule HC as part of the Appellant’s 2018 Massachusetts income tax return.

17. I take administrative notice of the financial information set forth in Tables 1 through 6 of the DOR 2017 Massachusetts Schedule HC Health Care Instructions and Worksheet. Tables 3 and 4 incorporate the affordability schedules adopted by the board of directors for the Commonwealth Health Insurance Connector Authority (Health Connector or Connector) for 2018. See 956 Code Mass. Regs. 6.05. Table 1 sets forth income levels less than 150% of the federal poverty level that are exempt from the assessment of a state tax penalty. Table 2 sets forth
income eligibility standards for various family sizes at 300% of the federal poverty level, which is the income eligibility standard for the ConnectorCare government subsidized health insurance program. Tables 5 and 6 set forth the tax penalties in effect for 2018. (The DOR instructions are published online at http://www.mass.gov/dor/2018ScheduleHCInstructions and are also available in the state income tax forms supplied to taxpayers. See also DOR Technical Information Release (TIR) 12-7: Individual Mandate Penalties for Tax Year 2018.)

ANALYSIS AND CONCLUSIONS OF LAW

The case is before me on the Appellant’s appeal from the state Department of Revenue’s (DOR) assessment of a tax penalty because the Appellant did not have health insurance coverage in 2018. See Exhibits 1 and 2. The issue to be decided is whether the penalty should be waived, either in whole or in part.

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

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

The Health Connector’s regulations also provide for a “hardship” appeal from the assessment of a penalty. 956 Code Mass. Regs. 6.07 and 6.08. The grounds for a
hardship appeal are summarized in the Statement of Grounds for Appeal – 2017 that the Appellant signed and filed in this case. See Exhibit 2.

In this case, the Appellant sustained reduced earnings in 2018 because his employer reduced its work force due to its financial difficulties. For seven months (January – July) the Appellant worked only three days (24 hours) per week. For the remainder of 2018 (August – December) and for 2019 the Appellant returned to work full time, as part of a reduced work force. The Appellant was paid $15.75 per hour. The employer did not offer the Appellant employer-sponsored health insurance coverage in 2018, having dropped its health plan in a prior year due to its financial difficulties.

The Appellant’s federal adjusted income (AGI) dropped to $27,653 in 2018 due to the reduced work schedule imposed by his employer. The Appellant exhausted his savings, borrowed money from family members, and incurred credit card debt in order to pay his rent and other living expenses in 2018. In 2019 he returned to work full-time for the same employer, where he had worked for the past five years.

Due to his reduced 2018 federal adjusted gross income the Appellant could not afford health insurance in 2018. Under the objective standards set forth in DOR Tables 3 and 4 the Appellant could afford to pay only $97 per month for health insurance but individual coverage would cost him $423 per month. See, e.g., Findings of Fact, Nos. 6 and 7, above. See Mass. Gen. Laws c. 211M, sec. 2 (a), above.

In 2018 the Appellant was not able to sustain his monthly living expenses without borrowing money and using his savings. Consequently, I conclude that it is appropriate to waive the entire 12 month penalty assessed by the DOR under the Health Connector’s financial hardship regulation. See 956 Code Mass. Regs. 6.08 (1) (e) ([The Appellant] experienced financial circumstances such that the expense of purchasing health insurance that met minimum creditable coverage standards would have caused him to experience a serious deprivation of food, shelter, clothing or other necessities.”).

The evidence indicates that the Appellant’s financial situation improved in 2019. Thus, the Appellant should not assume that my decision to waive the 2018 tax penalty in this appeal means that any penalty that might be assessed for 2019 or 2020 will also be waived or reduced. See my RECOMMENDATION below.
PENALTY ASSESSED
Number of Months Appealed: ___12___ Number of Months Assessed: _-0-_____

The Connector has notified the Department of Revenue that, pursuant to its decision, you should be assessed a penalty for Tax Year 2018 for the amount equal to one half of the lowest cost health insurance plan available to you for each month you have been assessed the penalty, as listed above, plus applicable interest back to the due date of the return without regard to extension.
OR
If the number of months assessed is zero (0) because your penalty has been overturned, the Connector has notified the Department of Revenue that you should NOT be assessed a penalty for Tax Year 2018.

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

Hearing Officer

Cc: Connector Appeals Unit

RECOMMENDATION. Since financial circumstances commonly vary from year-to-year you cannot continue to rely on a past denial of government-subsidized health insurance to fulfill your legal obligation under state law to obtain and maintain health insurance.

The Health Connector’s annual open enrollment period for insurance next year (2020) began on NOVEMBER 1, 2019. I urge you to file an application promptly after you receive this Decision in the mail. Even if you are not eligible for a monthly government subsidy you will learn about other group insurance plans that are available through the Health Connector and how much they cost. You can compare this to other insurance options that might be available to you and enroll in the health plan that works best for you.
You can apply online at www.mahealthconnector.org or call Customer Service at 1-877-623-6765. Most local hospitals or community health centers will also help with an application.
Massachusetts Health Connector Appeals Unit

Tax Penalty Appeal Decision—Docket No. PA18-797

**Appeal Decision:** Appeal Approved -- 2018 tax penalty overturned.

**Hearing Issue:** Appeal of the 2018 Tax Year Penalty

**Hearing Date:** November 6, 2019

**Decision Date:** November 11, 2019

**AUTHORITY**

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

**JURISDICTION**

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

**HEARING RECORD**

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

1. DOR Appeal Case Information from Schedule HC (1 page);
2. Appellant’s Statement of Grounds for Appeal – 2018 (dated 5/16/19);
3. Appellant’s Letter in Support of Appeal (2 pages, undated);
4. Confirmation of Appellant’s 1/3/19 Appointment at YAW Financial Counseling Basement (1 page, dated 12/17/18);
5. Appellant’s YAW Financial Consulting Information Summary for 1/16/10 Appointment (1 page, dated 1/16/19); and

**FINDINGS OF FACT**

1
I make the following findings of fact based on the testimony at the hearing and the exhibits and reasonable inferences from the evidence, applying the preponderance of the evidence standard.

1. The Appellant appealed from the Department of Revenue’s assessment of a 3 month penalty for 2018. The basis for the penalty was that the Appellant was insured for the months of January – June (6 months) but was not insured for the months of July – December 2018 (6 months). Exhibits 1 and 2. As set forth in more detail below, I find that the Appellant was insured for 6 months, as set forth in Exhibit 1, but that a penalty should not have been imposed for 2018. See, e.g., Exhibit 3. (The penalty calculation under Exhibit 1 is 12 months minus 6 months insured = 6 months uninsured minus 3-month administrative grace period =3 penalty months.)

2. The Appellant filed a Massachusetts personal income tax return for 2018 as a single person with no dependents. The Appellant’s federal adjusted gross income (AGI) for 2018 was $22,808. Exhibit 1.

3. The Appellant was 20 years old at the beginning of 2018 and resided in [name of city or town omitted] in Bristol County, Massachusetts. Exhibit 1.

4. The Appellant’s AGI was more than 150% of the federal poverty level. On this basis I conclude that the Appellant was not automatically exempt from the assessment of a tax penalty in 2018. DOR Table 1.

5. The Appellant’s 2018 AGI ($22,808) was less than 300% of the federal poverty level ($36,180 for a one person household). DOR Table 2. On this basis I infer that it is likely that the Appellant would satisfy the financial eligibility requirements for government-subsidized health insurance.

6. Based on DOR Table 3 the Appellant could afford to pay 2.90% of her income -- or $55 per month -- for health insurance coverage in 2018. (The calculation is 2.90% multiplied by $22,808 AGI = $661.43 per year divided by 12 months = $55.11 per month.)

7. Based on DOR Table 4 (Region 2) the Appellant could obtain individual health insurance coverage at her age and location for $249 per month in 2018.
8. In 2018, the Appellant was insured as a dependent under her Father’s health plan, as she was less than 26 years old. Testimony and Exhibit 3. The Appellant’s evidence is supported by Exhibit 1 prepared by the DOR that shows she was insured January – June and provides her date of birth. See also Findings of Fact, No. 3, above (20 years old at beginning of 2018).

9. The Appellant scheduled a medical appointment sometime after June 2018. Before the appointment she received a telephone call from the doctor’s office inquiring about her health insurance coverage. The Appellant contacted the insurer, as requested by the doctor’s office. The insurer informed her that she no longer had health insurance coverage because her Father’s health plan had been revoked. Exhibit 3 and Testimony.

10. The Appellant then sought to remove her name from her Father’s health plan, as recommended by the insurer. Her Father called the insurer to approve removing his daughter from his health plan. The Appellant thought that her 2018 health insurance problem had been resolved. Exhibit 3 and Testimony.

11. The Appellant was enrolled as a student at a local community college. The Friday before classes were scheduled to resume for the fall 2018 semester the college informed her that she did not have health insurance, as required by her college. Classes started the Tuesday after Labor Day so there was no opportunity to resolve the health insurance problem, and the Appellant could not afford to pay the $2,000 premium for the college health plan.

12. The Appellant was not allowed to enroll in college classes for the fall 2018 semester due to her lack of health insurance coverage and her inability to pay the college’s health insurance premium on demand. Subsequently, the Appellant was not allowed to enroll in classes for the Winter/Spring 2019 semester due to her lack of health insurance. Testimony and Exhibit 2.

13. The Appellant continued to try to resolve her health insurance problem created by the fact that her name had not been removed from her Father’s health plan, as both the Appellant and her Father had requested. The Appellant’s understanding is that she was dealing with MassHealth and/or the Health Connector. Testimony and Exhibit 3. (I note that no information was presented by MassHealth or the
Health Connector on the hearing record, apart from the DOR penalty assessment in Exhibit 1 that is under review in this appeal.)

14. The Appellant scheduled and attended two appointments at the BMC [Boston Medical Center] YAW [Yaw key] Financial Counselling Basement in a further attempt to resolve her health insurance situation. Her first appointment was on January 3, 2019. Exhibit 4 (appointment reminder letter dated 12/17/2018 from Patient Service Representative with instructions to bring identified documents to the appointment). The second appointment was on January 16, 2019. The appointment information form describes the purpose of the visit as “Renewal ACA APPL” or renewing the Appellant’s government subsidized health insurance under the federal Affordable Care Act. Exhibit 5.

15. The Appellant represents that her health insurance problem was resolved with new coverage from Always Health Partners beginning in July 2019, which was after she filed her 2018 tax penalty appeal on May 16, 2019. Testimony and Exhibit 2, page 2.

16. I found that Appellant to be a highly credible witness even though some details – including her Father’s underlying insurance problem – are still unclear. (I note that neither MassHealth nor the Health Connector participated in the appeal hearing so no records of the steps taken (or not taken) are part of the hearing record of this appeal.

17. Except as set forth in the foregoing findings of fact, I adopt the facts set forth in Exhibit 1 as my own findings of fact. Exhibit 1 is a computer printout prepared by the Massachusetts Department of Revenue (DOR) that extracts information submitted by the Appellant on Schedule HC as part of the Appellant’s 2018 Massachusetts income tax return.

18. I take administrative notice of the financial information set forth in Tables 1 through 6 of the DOR 2017 Massachusetts Schedule HC Health Care Instructions and Worksheet. Tables 3 and 4 incorporate the affordability schedules adopted by the board of directors for the Commonwealth Health Insurance Connector Authority (Health Connector or Connector) for 2018. See 956 Code Mass. Regs. 6.05. Table 1 sets forth income levels less than 150% of the federal poverty level that are exempt from the assessment of a state tax penalty. Table 2 sets forth
income eligibility standards for various family sizes at 300% of the federal poverty level, which is the income eligibility standard for the ConnectorCare government subsidized health insurance program. Tables 5 and 6 set forth the tax penalties in effect for 2018. (The DOR instructions are published online at http://www.mass.gov/dor/2018ScheduleHInstructions and are also available in the state income tax forms supplied to taxpayers. See also DOR Technical Information Release (TIR) 12-7: Individual Mandate Penalties for Tax Year 2018.)

ANALYSIS AND CONCLUSIONS OF LAW

The case is before me on the Appellant’s appeal from the state Department of Revenue’s (DOR) assessment of a tax penalty because the Appellant did not have health insurance coverage for the final six months in 2018. See Exhibits 1 and 2. The issue to be decided is whether the penalty should be waived, either in whole or in part.

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

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

The Health Connector’s regulations also provide for a “hardship” appeal from the assessment of a penalty. 956 Code Mass. Regs. 6.07 and 6.08. The grounds for a
hardship appeal are summarized in the Statement of Grounds for Appeal – 2017 that the Appellant signed and filed in this case. See Exhibit 2.

The appeal in this case stands apart from the issues that typically arise in tax penalty appeals. Implicit in the operation of the legal rules that I have summarized above is that health insurance was readily available to the Appellant. In this appeal, however, the Appellant started 2018 with health insurance as a dependent on her Father’s health plan, as allowed under the federal Affordable Care Act (ACA). The evidence presented on appeal makes clear that the Appellant could not afford health insurance coverage on her own without a government subsidy. See, e.g., Findings of Fact, Nos. 5 – 7, above.

It is undisputed that the Appellant had health insurance coverage for January – June 2018. See Exhibit 1. For some unknown reason a problem then arose with her Father’s health insurance that resulted in the loss of the Appellant’s coverage as his dependent. The Appellant earnestly sought to resolve the problem by removing her name from her Father’s policy – as she was advised to do – and replacing her Father’s health plan with her own government subsidized health insurance. For other unknown reasons these efforts were not successful, and the Appellant had no health insurance for the remainder of 2018 and the beginning of 2019. Finally, beginning in July 2019 the Appellant was again enrolled in health insurance coverage (and she was also able to return to college).

For the foregoing reasons I waive the entire penalty that the DOR assessed for 2018.

Since it appears that the Appellant will have to go through the penalty appeal process again for 2019 I recommend that you keep a copy of this Decision and any other correspondence and records you may have for 2018 and 2019 so that you can present them as part of your 2019 appeal. You should also receive documents in connection with the preparation of your 2019 income tax return that will verify your health insurance coverage for 2019 (Form MA 1099-HC is the most useful form).

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 2018 for the amount equal to one half of the
lowest cost health insurance plan available to you for each month you have been assessed the penalty, as listed above, plus applicable interest back to the due date of the return without regard to extension.

OR

If the number of months assessed is zero (0) because your penalty has been overturned, the Connector has notified the Department of Revenue that you should NOT be assessed a penalty for Tax Year 2018.

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

Hearing Officer

Cc: Connector Appeals Unit
Massachusetts Health Connector Appeals Unit

FINAL APPEAL DECISION: PA18-799

 Appeal Decision: The penalty is overturned in full.
Hearing Issue: Appeal of the 2018 Tax Year Penalty
Hearing Date: November 7, 2019
Decision Date: November 29, 2019

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

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

HEARING RECORD
The Appellants appeared at the hearing, which was held by telephone on November 7, 2019. The procedures to be followed during the hearing were reviewed with the appellant who was then sworn in. Exhibits were marked and admitted in evidence with no objection from the appellant. Appellant testified.

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

Exhibit 1: Appeal Case Information from Schedule HC 2018.1(1P)
Exhibit 2(a) Appellant’s Supplemental Statement of Appeal. (1P).

FINDINGS OF FACT
The record shows, and I so find:

1. Appellants, who filed a 2018 Massachusetts tax return reported they were married, were ages 33 and 26 respectively, lived in Middlesex County in 2018, and did not have any dependents. (Exhibit 1, Testimony of Appellant).

2. Appellants were each penalized for 12 months in 2018. (Exhibit 1).

3. Appellants’ Federal Adjusted Gross Income for 2018 was $93,216 (Exhibit 1).

Ex. 1 is a computer printout that extracts information submitted by the appellant on Schedule HC as part of her 2018 Massachusetts income tax return. It also contains information about prior appeals, if any.
4. Appellant was laid off from employment on January 31, 2018 and did not find new employment until June 11, 2018. (Testimony of Appellant, Exhibit 2(a)).

5. Appellant Spouse worked part time at a Supermarket at a lower hourly rate and was not eligible for employer health insurance. (Testimony of Appellant, Exhibit 2(a)).

6. Appellant Spouse also became employed as a contractor in February 2018 but had to wait 90 days to enroll in health care. She was laid off from her contract employment on May 14, 2018. (Testimony of Appellant, Exhibit 2(a)).

7. Appellant moved to a new full-time contract hourly position under a three (3) month contract position in June 2018. (Testimony of Appellant, Exhibit 2(a)).

8. Appellant inquired about signing up for an employer health plan but discovered the cost of $800 per month would be unaffordable. (Testimony of Appellant, Exhibit 2(a)).

10. Appellant’s had to borrow money from credit card companies to survive and pay their basic necessities during the period from January 2018 until October 2018. (Testimony of Appellant, Exhibit 2(a)).

11. Appellants obtained employer health insurance coverage in October 2018 after Appellant became full time.

12. Appellant Spouse had employer health insurance for May 2018 (Testimony of Appellant).

13. Appellant had the following monthly expenses totaling $4,570/month for basic necessities in 2018 including: Rent $1,500, Phone/Internet $80, Cell Phone $140, Food/Incidentals $500, Car Insurance $180, Credit Card $800, Student Loans $685, Gas for vehicles $200, Car payments (2) $485.81. (Testimony of Appellant).

14. According to Table 3 Appellant could have afforded $625.33 per month for health insurance in 2018. According to Table 4 Appellant could have purchased insurance for $564.00 per month.

15. In addition to the foregoing, I take administrative notice of the 2018 Schedule HC Instructions and Worksheets, available at http://www.mass.gov.dor/docs/dor/health-care/2018, and in particular, Tables 1-6 which, as discussed below, include the Affordability Schedule and other financial information used in making 2018 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 2018 should be waived, either in whole or in part. Appellants have each been penalized for twelve (12) months in 2018. Appellant has appealed the penalty. See Exhibits 1 and 2.

The appellant submitted a statement of grounds for appeal (Ex. 2) wherein they indicated indicated “Hardship”.


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

To determine if Appellants’ 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 Appellants because the Appellants experienced a financial hardship as defined in 956 CMR 6.08.

Appellants testified credibly that they did not have access to Employer Sponsored Insurance until June 2018 but could not afford the cost until October 2018 when they obtained same. (Testimony of Appellant).

According to Table 3, Appellants could have afforded $625.33 per month for health insurance in 2018. According to Table 4, Appellants could have purchased insurance for $564.00 per month. Individual coverage was affordable through the individual market for the Appellants in 2018 (Schedule HC for 2018). Employer-sponsored health insurance would have been unaffordable at $800 monthly. Since Appellants did not obtain affordable private health insurance, they are subject to the HCRA’s tax penalty unless they demonstrate a qualifying hardship. See 956 CMR 6.08 et. seq.

The Appellants may not be subject to a penalty for failing to get health insurance for the months in question if they can show that they experienced a hardship during 2018. Examples of hardships include being homeless or overdue in rent or mortgage payments, receiving a shut-off notice for utilities, or incurring unexpected increases in basic living expenses due to domestic violence, death of a family member, sudden responsibility for providing care for a family member or fire, flood or natural disaster. In addition, the appellants’ tax penalty for 2018 could be waived if they experienced financial circumstances such that the expense of purchasing health insurance would have caused them to experience a serious deprivation of food, shelter, clothing or other necessities. See 956 CMR 6.08.

While the affordability and premium tables in the 2018 Schedule HC instructions indicate the Appellants could have afforded the premiums to pay for private health insurance, Appellants testified credibly they were attempting to pay down the significant debt they incurred when the Appellant was unemployed. Appellant’s testified they had to borrow money from credit card companies to survive and pay their basic necessities during the period from January 2018 until October 2018. (Testimony of Appellant, Exhibit 2(a)).
Appellants testified credibly that they had the following monthly expenses totaling $4,570/month for basic necessities in 2018 including: Rent $1,500, Phone/Internet $80, Cell Phone $ 140, Food/Incidentals $500, Car Insurance $180, Credit Card $800, Student Loans $685, Gas for vehicles $200, Car payments (2) $ 485.81. (Testimony of Appellant). Accordingly, it is concluded that the appellant established through substantial and credible evidence that they experienced a financial hardship within the meaning of 956 CMR 6.08(1)(b), (e) as a result of which they should not be subject to a penalty.

Given the Appellants demonstrated that a qualifying hardship prevented the purchasing of health insurance during the time one of the Appellant’s was unemployed, I find that the Appellant’s cost of basic monthly expenses for necessities forced them to make choices to pay for living expenses rather than purchasing health insurance. Accordingly, I determine that pursuant to 956 CMR 6.08(1)(e), (3) the cost of purchasing health insurance would have caused the appellant to experience a serious deprivation of basic necessities.

The Appellants’ penalty is, therefore, waived.

Appellant should note that any waiver granted here is for 2018 only and is based upon the specific facts I have found to be true and should not assume that the same determination will be made should Appellant be assessed a penalty in the future.

**PENALTY ASSESSED**

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

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

If the number of months assessed is zero (0) because your penalty has been overturned, the Connector has notified the Department of Revenue that you should NOT be assessed a penalty for Tax Year 2018.

**NOTIFICATION OF YOUR RIGHT TO APPEAL TO COURT**

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

Cc: Connector Appeals Unit Hearing Officer

**ADDENDUM**

If the appellants still do not have health insurance, and if their income and employment have not changed, they are advised to investigate their eligibility for subsidized health insurance through the Health Connector at www.mahealthconnector.org or by contacting customer service at 1-877-623-6765. The open enrollment period runs from November 1, 2018-January 23, 2019.
Massachusetts Health Connector Appeals Unit

FINAL APPEAL DECISION: PA18-800

**Appeal Decision:** The penalty is overturned in full.

**Hearing Issue:** Appeal of the 2018 Tax Year Penalty

**Hearing Date:** November 7, 2019

**Decision Date:** November 22, 2019

**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 November 7, 2019. The Appellant Spouse was not present. The procedures to be followed during the hearing were reviewed with the appellant who was then sworn in. Exhibits were marked and admitted in evidence with no objection from the appellant. Appellant testified.

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

- **Exhibit 1:** Appeal Case Information from Schedule HC 2018.1(1P)
- **Exhibit 2:** Statement of Grounds for Appeal 2018 signed by Appellant on May 16, 2019. (2PP).
- **Exhibit 3:** Notice of Hearing dated October 3, 2019. (3PP).

**FINDINGS OF FACT**
The record shows, and I so find:

1. Appellants, who filed a 2018 Massachusetts tax return reported they were married, were ages 62 and 61 respectively, lived in Plymouth County in 2018, and did not have any dependents. (Exhibit 1, Testimony of Appellant).

2. Appellants were each penalized for 12 months in 2018. (Exhibit 1).

3. Appellants’ Federal Adjusted Gross Income for 2018 was $60,839 (Exhibit 1).

Ex. 1 is a computer printout that extracts information submitted by the appellant on Schedule HC as part of her 2018 Massachusetts income tax return. It also contains information about prior appeals, if any.
4. Appellant worked full time as a painter and earned $26 an hour. Appellant spouse worked part time in 2 jobs, one as a hair dresser. (Testimony of Appellant).

5. Appellant estimated they took home approximately $1,100 a week.

6. Appellant’s employer did not offer health insurance. Appellant’s spouse did not qualify for employer sponsored health insurance because of her part time employment. (Testimony of Appellant).

7. Appellant inquired about signing up for a health insurance but discovered the cost would be unaffordable. (Testimony of Appellant).

8. Appellants had put their two (2) daughter’s ages 22 and 24 through college. Their younger daughter lived at home.

9. Appellant had the following monthly expenses totaling $3,255/month for basic necessities in 2018 including: Mortgage $1,680, Insurance $300, Cell Phones $75, Phone/Internet $200, Oil $300, Food $400, Daughter $200, Credit Card $100. (Testimony of Appellant).

10. According to Table 3 Appellants could have afforded $385.31 per month for health insurance in 2018. According to Table 4 Appellant could have purchased insurance for $846.00 per month.

11. In addition to the foregoing, I take administrative notice of the 2018 Schedule HC Instructions and Worksheets, available at http://www.mass.gov.dor/docs/dor/health-care/2018, and in particular, Tables 1-6 which, as discussed below, include the Affordability Schedule and other financial information used in making 2018 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 2018 should be waived, either in whole or in part. Appellants have each been penalized for twelve (12) months in 2018. Appellants have appealed the penalty. See Exhibits 1 and 2.

The Appellants submitted a statement of grounds for appeal (Ex. 2) wherein they indicated they indicated “Hardship”.

G.L c. 111M, § 2, also called the “individual mandate,” requires every adult resident of Massachusetts to obtain insurance coverage “[s]o long as it is deemed affordable” under the schedule set by the board of directors for the Commonwealth Health Insurance Connector Authority. Residents who do not obtain insurance are subject to a tax penalty for “each of the months” that the individual did not have health insurance as required by the individual mandate. There is a three-month grace period to allow the taxpayer to obtain health insurance coverage or to make the transition between health insurance policies. See G. L. c. 111M, sec. 2(b) and for Tax Year 2010, Administrative Bulletin 03-10: Guidance Regarding M.G.L. c. 111M and M.G.L. c. 176Q, as implemented by 956 CMR 6.00, which interprets the 63-day gap in coverage to be three months. The Connector’s regulations provide for a waiver of the tax penalty in the case of a financial hardship. See 956 CMR 6.08.
To determine if Appellants’ penalty should be waived in whole or in part, we must consider whether affordable insurance which met minimum creditable coverage standards was available to the appellant through employment, through the private market, or through a government-sponsored program. If affordable insurance was available, we must determine if such insurance was, in fact, not affordable to the appellant because Appellant experienced a financial hardship as defined in 956 CMR 6.08.

Appellants testified credibly that they did not have access to Employer Sponsored Insurance in 2018. (Testimony of Appellant).

According to Table 3, Appellants could have afforded $385.31 per month for health insurance in 2018. According to Table 4, Appellants could have purchased insurance for $846.00 per month. Individual coverage was not affordable through the individual market for the Appellants in 2018 (Schedule HC for 2018). The Appellants did not have access to health insurance through the ConnectorCare program. See Table 2 of Schedule HC. Accordingly, the Appellants did not have access to affordable coverage insurance.

Given the totality of the circumstances where Appellant’s did not have access to affordable coverage, I determine that pursuant to 956 CMR 6.08 (3) the Appellant could not afford to purchase health insurance.

The Appellants’ penalty is, therefore, waived.

Appellant should note that any waiver granted here is for 2018 only and is based upon the specific facts I have found to be true and should not assume that the same determination will be made should Appellant be assessed a penalty in the future.

**PENALTY ASSESSED**

Number of Months Appealed: ___12____ Number of Months Assessed: ____0___

Number of Months Appealed: ___12____ Number of Months Assessed: ____0___

If the number of months assessed is zero (0) because your penalty has been overturned, the Connector has notified the Department of Revenue that you should NOT be assessed a penalty for Tax Year 2018.

**NOTIFICATION OF YOUR RIGHT TO APPEAL TO COURT**

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

Cc: Connector Appeals Unit Hearing Officer

**ADDENDUM**

If the appellants still does no have health insurance, and if their income and employment have not changed, they are advised to investigate their eligibility for subsidized health insurance through the Health
Massachusetts Health Connector Appeals Unit

FINAL APPEAL DECISION: PA18-802

Appeal Decision: The penalty is overturned in part.
Hearing Issue: Appeal of the 2018 Tax Year Penalty
Hearing Date: November 7, 2019
Decision Date: November 29, 2019

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 Husband appeared at the hearing, which was held by telephone on November 7, 2019. The Appellant’s Spouse was not present. The procedures to be followed during the hearing were reviewed with the appellant who was then sworn in. Exhibits were marked and admitted in evidence with no objection from the appellant. Appellant testified.

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

Exhibit 1: Appeal Case Information from Schedule HC 2018.¹(1P)
Exhibit 2(a): Appellants’ Supporting Documentation (15PP).

FINDINGS OF FACT
The record shows, and I so find:

1. Appellants, who filed a 2018 Massachusetts tax return reported they were married, were ages 58 (Husband) and 49 (Spouse) respectively, lived in Hampshire County in 2018, and did not have any dependents. (Exhibit 1, Testimony of Appellant).

2. Appellant Husband was penalized for 12 months in 2018. (Exhibit 1).

Ex. 1 is a computer printout that extracts information submitted by the appellant on Schedule HC as part of her 2018 Massachusetts income tax return. It also contains information about prior appeals, if any.
3. Appellant Spouse was employed as a teacher and had employer health insurance. (Exhibit 1, Testimony).

4. Appellants’ Federal Adjusted Gross Income for 2018 was $44,258 (Exhibit 1).

5. Appellant Husband worked two (2) part time jobs and earned approximately $20,000 in 2018. (Testimony of Appellant).

6. Appellant did not qualify for employer sponsored health insurance because of his part time employment. (Testimony of Appellant).

7. Appellant inquired about signing up under his Spouse’s health insurance plan but discovered the cost would be approximately an additional $490 Dollars a month and would be unaffordable. (Testimony of Appellant).

8. Appellant inquired about purchasing health insurance through the Connector but determined it would be unaffordable. (Testimony).

9. Appellant referenced the following monthly expenses totaling $986 per month for basic necessities in 2018 including: Real Estate Taxes: $320, Car Insurance $150, Food “a few hundred dollars” approximately $300, Utilities $105, Phone $11, Excise Tax Vehicle. (Testimony of Appellant).

10. According to Table 3 Appellants could have afforded $276.44 per month for health insurance in 2018. According to Table 4 Appellants could have purchased insurance for $758.00 per month. Where the Appellant’s Spouse was covered under her Employer’s health insurance plan, an individual plan would have cost the Appellant Husband $379.00 per month.

11. In addition to the foregoing, I take administrative notice of the 2018 Schedule HC Instructions and Worksheets, available at http://www.mass.gov.dor/docs/dor/health-care/2018, and in particular, Tables 1-6 which, as discussed below, include the Affordability Schedule and other financial information used in making 2018 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 2018 should be waived, either in whole or in part. Appellant Husband has been penalized for twelve (12) months in 2018. Appellants have appealed the penalty. See Exhibits 1 and 2.

The Appellants submitted a statement of grounds for appeal (Ex. 2) wherein they indicated they indicated “Hardship.”

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

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

Appellant testified credibly that he did not have access to Employer Sponsored Insurance in 2018 and that the cost to join his Spouse’s plan was unaffordable. (Testimony of Appellant).

According to Table 3, Appellants could have afforded $276.44 per month for health insurance in 2018. According to Table 4, Appellants could have purchased insurance for $758.00 per month. Individual coverage was not affordable through the individual market for the Appellant in 2018 (Schedule HC for 2018). Where the Appellant’s Spouse was covered under her Employer’s health insurance plan, an individual plan would have cost the Appellant Husband $379.00 per month. Individual coverage was not affordable through the individual market for the Appellant in 2018 (Schedule HC for 2018). Appellant did have access to health insurance through the ConnectorCare program. See Table 2 of Schedule HC. Since Appellant did have access to insurance through the ConnectorCare program, we need to determine if they experienced a financial hardship such the coverage would have been unaffordable for them. See 956 CMR 6.08. et. seq.

The Appellants may not be subject to a penalty for failing to get health insurance for the months in question if they can show that they experienced a hardship during 2018. Examples of hardships include being homeless or overdue in rent or mortgage payments, receiving a shut-off notice for utilities, or incurring unexpected increases in basic living expenses due to domestic violence, death of a family member, sudden responsibility for providing care for a family member or fire, flood or natural disaster. In addition, the appellants’ tax penalty for 2018 could be waived if they experienced financial circumstances such that the expense of purchasing health insurance would have caused them to experience a serious deprivation of food, shelter, clothing or other necessities. See 956 CMR 6.08.

The evidence presented by the Appellant in this case is insufficient to establish that he experienced a financial hardship as defined by law so as to completely waive his penalty for the months in question. The Appellant testified credibly that he contributed to and he had the following monthly expenses totaling approximately $986/month for basic necessities in 2018 including: Real Estate Taxes: $320, Car Insurance $150, Food “a few hundred dollars” approximately $300, Utilities $105, Phone $11, Excise Tax Vehicle. (Testimony of Appellant, Exhibit 2(a)).

While it is recognized that an approximate difference between pretax income of approximately $1,666.00 and expenses of $986.00 per month is not a panacea, it does not appear on its face that the payment of $379/month for health insurance would not have caused an undue hardship. Accordingly, it is concluded
that the Appellant did not establish through substantial and credible evidence that he experienced a financial hardship within the meaning of 956 CMR 6.08(1)(e), (3).

Notwithstanding the foregoing analysis, the penalty will be reduced to three months in order to mitigate the harshness of a full twelve-month assessment. Therefore, based upon the totality of the evidence, the appellant’s penalty of twelve months will be reduced to three months. The determination that the appellant is eligible for a reduction is with respect to 2018, only and is based upon the extent of information submitted by her in this appeal.

**PENALTY ASSESSED**

Number of Months Appealed: ___12____ Number of Months Assessed: ____3____

If the number of months assessed is zero (0) because your penalty has been overturned, the Connector has notified the Department of Revenue that you should NOT be assessed a penalty for Tax Year 2018.

**NOTIFICATION OF YOUR RIGHT TO APPEAL TO COURT**

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

Cc: Connector Appeals Unit Hearing Officer

**ADDENDUM**

If the appellant still does not have health insurance, and if his income and employment have not changed, he is advised to investigate his eligibility for subsidized health insurance through the Health Connector at [www.mahealthconnector.org](http://www.mahealthconnector.org) or by contacting customer service at 1-877-623-6765. The open enrollment period runs from November 1, 2018-January 23, 2019.
Massachusetts Health Connector Appeals Unit

FINAL APPEAL DECISION: PA18-821

Appeal Decision: Appeal Approved

Hearing Issue: Appeal of the 2018 Tax Year Penalty
Hearing Date: November 13, 2019
Decision Date: November 18, 2019

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 November 13, 2019.

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

Exhibit 1: Notice of Hearing dated October 4, 2019
Exhibit 2: Appeal Case Information from form Schedule HC
Exhibit 3: Statement of Grounds for Appeal dated May 13, 2019

FINDINGS OF FACT

The record shows, and I so find:
1. The appellant is sixty four years old and is single. He lives in Middlesex County, Massachusetts.

2. Appellant has a pension and receives Social Security. Appellant has been seeing a psychiatrist for the past twenty years. He has been diagnosed as bipolar and has PTSD.

3. Appellant state he can’t afford health insurance.

4. Appellant does not have health insurance in 2019.

5. The Appellant’s monthly expenses totaled $2,481.00, consisting of rent $1,495.00, cable $130.00, transportation $18.00, food $400.00, credit card $300.00, clothing $60.00, toiletries $50.00.

6. The Appellant did submit a Statement of Grounds for Appeal-2018 under the grounds for Appeal, “During 2019, you were homeless, more than thirty days in arrears in rent or mortgage payments; or received an eviction or foreclosure notice: but also should have appealed under “During 2018, the expense of purchasing health insurance would have caused a serious deprivation of food, shelter, clothing or other necessities.” I will hear the appeal under both grounds.

7. I take administrative notice of the information set forth in tables 1 through 6 in the Department of Revenue Schedule HC Health Care Instructions and Worksheets (Schedule HC Instructions). Tables 3 & 4 incorporate the affordability schedules adopted by the board of directors of the Commonwealth Health Insurance Connector Authority for 2018. Table 1 sets forth the income eligibility standards for various family sizes at 150% of the federal poverty level and Table 2 sets forth the income eligibility standards for various family sizes at 300 per cent of the federal poverty level, which is the income eligibility standard for the government-subsidized health insurance program. See Mass. G.L. c. 118H, s.3(a)(1). Tables 5 and 6 set forth the tax penalties for 2018.

8. Based on the appellant’s federal adjusted gross income and the above referenced tables, I find the appellant may have been eligible for subsidized health insurance, even though Appellant’s income of $47,784.00 was more than $36,180.00. The monthly premium for health insurance available on the private market in Middlesex County for a 63 year old single person was $423.00. The tables reflect that Appellant could afford $302.63. This is more than what the appellant is deemed to afford. (Tables 2, 3 & 4 of the Schedule HC Instructions)

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

The Appellant did submit a Statement of Grounds for Appeal-2018 under the grounds for Appeal, “During 2019, you were homeless, more than thirty days in arrears in rent or mortgage payments; or received an eviction or foreclosure notice: but also should have appealed under “During 2018, the expense of purchasing health insurance would have caused a serious deprivation of food, shelter, clothing or other necessities.” I will hear the appeal under both grounds.

The Health Care Reform Act of 2006 requires every adult resident of Massachusetts to obtain and maintain creditable insurance coverage “so long as it is deemed affordable” under the schedule established by the board of the Connector. Mass. Gen. Laws ch. 111M, § 2(a). Massachusetts residents who fail to indicate on their state tax returns that they obtained the mandated creditable coverage are subject to a tax penalty for each month in which that the individual did not have creditable health insurance. Id. at § 2(b). However, individuals with incomes up to 150 percent of the Federal Poverty Level (“FPL”) are not subject to any penalty for non-compliance with the individual mandate. See Massachusetts Department of Revenue Technical Information Release (“TIR”) 13-1, available at http://www.mass.gov/dor/businesses/help-and-resources/legal-library/tirs/tirs-by-years/2013-releases/tir-13-1.html. For 2018, 150 percent of the FPL was $18,090.00 for a single person with zero dependents. Id. In addition, a lapse in coverage of 63 days or less is not subject to the section 2(b) penalty. See Administrative Bulletin 03-10 (Dec. 7, 2010), available at https://www.mahealthconnector.org/portal/binary/com.epicentric.contentmanagement.servlet.ContentDeliveryServlet/Health%2520Care%2520Reform/Regulations/documents/Administrative%20Information%20Bulletin%2003-10.pdf; see also 830 Mass. Code Regs. 111M.2.1(5)(c) (2008). Thus, no penalty is imposed for lapses in coverage consisting of three or fewer consecutive calendar months. Id.

Since Appellant’s 2018 income was more than 150 percent of the FPL, making 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 2018. In determining affordability, consideration is given first to the amount Appellant is deemed able to afford for health insurance premiums under the Affordability Schedule and second to the cost of health insurance that was available through employer-sponsored plans, government-subsidized programs or on the private insurance market. See 2018 Schedule HC Instructions and Worksheets, supra.

Appellant reported a federal AGI of $47,784.00 in 2018, 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 2018 Massachusetts Schedule HC, Appellant could afford to pay $302.63 monthly for health insurance. See 2018 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 $423.00 monthly for coverage with zero dependents Id. at Table 4.

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

Appellant has been seeing a psychiatrist for the past twenty years. He has a diagnosis of bipolar and PTSD. These illnesses have greatly impacted his ability to obtain health insurance.

Appellant is deemed to afford $302.63 for health insurance coverage because of his income. Private insurance in the market place was $423.00 per month, which is more than he could afford. On these facts, I find that Appellant has shown that he was precluded from purchasing affordable health insurance during 2018. 956 Mass. Code Regs. 6.08(3) (2008). Accordingly, I conclude that he is exempt from a tax penalty for his non-compliance with the individual mandate.

Accordingly, Appellant’s appeal is ALLOWED, and the 2018 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 2018 for the amount equal to one half of the lowest cost health insurance plan available to you for each month you have been assessed the penalty, as listed above, plus applicable interest back to the due date of the return without regard to extension.

OR

If the number of months assessed is zero (0) because your penalty has been overturned, the Connector has notified the Department of Revenue that you should NOT be assessed a penalty for Tax Year 2018.

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

Hearing Officer

Cc: Connector Appeals Unit
Massachusetts Health Connector Appeals Unit

FINAL APPEAL DECISION: PA18-839

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

Hearing Issue: Appeal of the 2018 Tax Year Penalty
Hearing Date: November 13, 2019
Decision Date: November 25, 2019

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 November 13, 2019. The hearing record consists of Appellant’s testimony and the following documents which were admitted into evidence:

Exhibit 1: The Connector’s Hearing Notice (4 pages)
Exhibit 2: An Appeal Case Information sheet containing information from Appellant’s Schedule HC (1 page)
Exhibit 3: Statement of Grounds (3 pages)

FINDINGS OF FACT
The record shows, and I so find:

1. Appellant was 26 at the end of 2018.
2. In 2018, Appellant resided in Middlesex County in the Commonwealth of Massachusetts.
3. Appellant filed his 2018 Massachusetts state taxes with a filing status of single with no dependents.
4. Appellant reported on his Massachusetts tax return, and further confirmed in his testimony at the hearing, that he had adjusted gross income in 2018 of $37,235. This income consisted of earnings from employment.
5. Appellant reported on the Schedule HC that he filed with his Massachusetts tax return, and further confirmed in his testimony at the hearing, that he did not health insurance that met minimum creditable coverage (MCC) standards from January through September 2018.
However, he had such insurance from October through December 2018, and continued to have insurance at the time of the hearing.

6. Appellant was offered insurance through his employment in 2018, but it cost about $220 a month, which he considered too expensive.

7. In the first part of 2018, Appellant was paying off a car loan at an amount of $300 a month. It was paid off in June of 2018.

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.

Further, according to M.G.L. c. 111M, § 2, residents are permitted a 63-day gap between periods of coverage without facing a penalty. Administrative Bulletin 03-10: Guidance Regarding M.G.L. c. 111M and M.G.L. c. 176Q, as implemented by 956 CMR 6.00, interpret the 63-day gap in coverage to be three months. As a result, gaps of three months are not subject to penalty. In Appellant’s case, he was without insurance for only nine months in 2018. Because he is entitled to a three-month gap without penalty, he has only been assessed a penalty for six months.

First, I must determine whether Appellant had affordable insurance available to him in 2018. Appellant was offered insurance through his employer, a temporary agency, at a cost of $220 a month. This would have been affordable. Based on Table 3, Affordability, which is included in the instructions to Schedule HC and of which I take administrative notice, a person at Appellant’s income level was deemed able to afford 7.45% of income for health insurance; in Appellant’s case, this amounted to $2,774 annually or $231 a month. This is slightly over the amount that Appellant is deemed able to afford.

Other than this employer insurance, Appellant had no other affordable option. He would not have been eligible for government-subsidized insurance, because his income of $37,235 is above $36,180, which is 300% of the federal poverty limit for a household of one person. I obtained the figure of $36,180 from Table 2 of the instructions to the Schedule HC governing the individual mandate penalty calculation, of which I take administrative notice. Persons with incomes below 300% of the federal poverty limit are not eligible for ConnectorCare, which is government assisted insurance. Moreover, Appellant had affordable employer-subsidized insurance, and so did not satisfy another eligibility requirement which is lack of access to affordable employer insurance, which Appellant does. See 956 CMR 12.04 (ConnectorCare eligibility requirements).

Further, Appellant would not have been able to afford unsubsidized insurance in 2018. As stated above, he is deemed able to afford $231 a month. Based on the Premium Table, Table 4 in the instructions to Schedule HC, of which I take administrative notice, a person of Appellant’s age in Middlesex County would have had to pay $249 a month for insurance. Thus, this would have been unaffordable.
Because Appellant had affordable insurance available to him in 2018 through his employer, but did not sign up for it, I must consider whether he has established grounds for a waiver of the tax penalty assessed against him. In 2018, Appellant had considerable expenses supporting himself. These included rent, utilities, car insurance, and a car loan, which he eventually succeeded in paying off. Given these factors, I find that Appellant has established that the cost of obtaining insurance through his employer would have caused him a serious deprivation of the necessities of life, which constitutes a ground for waiver under 956 CMR 6.08(1)(e). Moreover, I note that Appellant obtained insurance effective October 2018. He explained that, by that point, he was able to reduce his monthly expenses by sharing them with another person and the cost of employer-subsidized insurance had gone down somewhat. This further indicates that Appellant’s period without insurance was a temporary condition caused by his difficult financial circumstances.

PENALTY ASSESSED
Number of Months Appealed: ___12____ Number of Months Assessed: __0_____

If the number of months assessed is zero (0) because your penalty has been overturned, the Connector has notified the Department of Revenue that you should NOT be assessed a penalty for Tax Year 2018.

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

Hearing Officer

Cc: Connector Appeals Unit