CONNECTOR APPEALS UNIT

FINAL APPEAL DECISION

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

Hearing Issue: Appeal of the 2015 Tax Year Penalty

Hearing Date:   November 16, 2016    Decision Date: January 25, 2017

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 16,
2016. Testimony was recorded electronically. The hearing record was left open until
November 30, 2016, for the submission of additional documentation by the Appellant
and by the Massachusetts Health Connector (Connector). The Connector submitted
additional documents which were admitted into evidence as Exhibits 7 - 19. As of the
date of this decision, the Appellant has not submitted additional documents.

The Hearing Record consists of the Appellant’s testimony and the following
documents, which were admitted into evidence:

- Exhibit 1: Computer Printout from the Department of Revenue (DOR) with appeal
case information from Appellant’s’ Schedule HC
- Exhibit 2: Appellant’s Health Care Appeal Form dated 5/20/2016
- Exhibit 4: Written Statement from the Appellant describing basis of Appeal
- Exhibit 5: Open Enrollment Brochure
- Exhibit 6: Notice of Hearing dated 10/19/2016
- Exhibit 7: Letter to the Appellant from the Connector dated 2/13/2015 with notice of
  Eligibility Approval
- Exhibit 8: Letter to the Appellant from the Connector dated 2/13/2015 with notice of
  Request for Information
Exhibit 9: Letter to the Appellant from the Connector dated 8/12/2015 with notice of Eligibility Approval
Exhibit 10: Letter to the Appellant from the Connector dated 9/23/2015 with notice of Special Enrollment Period, Request for Information
Exhibit 11: Health Insurance Quote with bill for premium due on 2/23/2015
Exhibit 12: Health Insurance Quote with bill for premium due on 3/23/2015
Exhibit 13: Health Insurance Quote with bill for premium due on 9/23/2015
Exhibit 14: Health Insurance Quote with bill for premium due on 10/23/2015
Exhibit 15: Health Connector Insurance Bills (2) dated 11/1/2015 for premium due on 11/23/2015
Exhibit 16: Health Connector Insurance Bill for premium due on 12/23/2015
Exhibit 17: Health Connector Insurance Bill for premium due on 1/23/2016
Exhibit 18: Letter to the Appellant from the Connector dated 1/14/2016 with notice of Termination Warning
Exhibit 19: Appellant’s 2015 Form 1095A with cover letter

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

1. In 2015, the Appellant was twenty-nine (29) years old and he resided in Suffolk County. (Exhibit 1)
2. In 2015, the Appellant’s Massachusetts tax filing status was single, with a family size of one (1) and no dependents. (Exhibit 1)
3. The Appellant had a Federal Adjusted Gross Income of $151,858 in 2015. (Exhibit 1)
4. The Appellant had health insurance that met Massachusetts Minimum Creditable Coverage standards in October, November and December 2015. He had no health insurance from January through September 2015. He was assessed a six (6) month penalty. (Exhibit 1)
5. The Appellant filed a Health Care Appeal Form (Appeal Form) dated May 20, 2016, appealing the assessment of the penalty for failure to have health insurance from January through September 2015. (Exhibit 2)
6. The Appellant indicated that the basis of his appeal was that the Connector had problems processing his application for health insurance and he did not have insurance until October, when his application which had been “messed up” was “fixed”. (Exhibit 4)
7. The Health Connector sent a letter dated February 13, 2015 to the Appellant informing him that he was eligible for Health Connector Plans and that his eligibility start date was March 1, 2015. (Exhibit 7)
8. In this letter the Appellant was informed that if he had a change of address, he should report the change to the Connector within 30 days. (Exhibit 7)
9. In the ‘eligibility approval’ notice and in a ‘request for information’ notice both dated February 13, 2015, the Connector informed the Appellant that he needed to provide proof of residency and proof of immigration status by May
14, 2015, to confirm that he qualified for coverage through the Connector. (Exhibits 7 and 8)

10. The Appellant was sent ‘Insurance Quotes’ by the Connector on February 14, 2015 and on March 2, 2015. Each was for a monthly premium of $478.90. (Exhibits 11 and 12)

11. The Appellant chose a health plan and submitted his monthly premium of $478.90. The premium payment was processed by his bank on March 26, 2015. (Appellant testimony and Exhibits 3 and 4)

12. The Appellant did not receive a notice of coverage following his initial payment. (Appellant testimony and Exhibit 4)

13. In a letter dated August 12, 2015, the Connector informed the Appellant that he was eligible to enroll in Health Connector Plans but could not enroll in coverage at that time. (Exhibit 9)

14. The Appellant was notified by the Connector, in a letter dated September 23, 2015, that he needed to send proof of loss of insurance to the Connector by December 22, 2015, to confirm his eligibility to enroll in a health plan during a Special Enrollment Period. (Exhibit 10)

15. The $478.90 that the Appellant previously submitted to the Connector was applied to his insurance coverage in October 2015. (Appellant testimony)

16. The Appellant was sent ‘Insurance Quotes’ by the Connector on September 23, 2015 and on September 30, 2015. Each was for a monthly premium of $473.38. (Exhibits 13 and 14)

17. The Appellant paid the Connector $952.28, and had a credit balance of $5.52 after payment for November and December 2015. (Exhibit 15)

18. The Appellant received a 2015 Form 1095-A from the Connector showing that he had health insurance from October 1, 2015 through December 31, 2015. (Exhibit 19)

19. The Appellant did not receive notice that his 2014 insurance had been canceled until he received a letter at his work address regarding a 2014 penalty for failure to have health insurance. The address that the Department of Revenue (Mass Tax) had on file for him was no longer his address. (Exhibit 4)

20. The Appellant is a Canadian citizen working in the United States on a TN-1 Visa. (Exhibit 4)

21. The Appellant’s employer reimburses him for his health insurance payments. (Exhibit 4)

ANALYSIS AND CONCLUSIONS OF LAW

G.L. c. 111M, § 2 also called the “individual mandate”, requires every adult resident of Massachusetts to obtain and maintain creditable insurance coverage, “(s)o long as it is deemed affordable.” Residents who do not obtain creditable coverage are subject to a tax penalty. The Appellant had no health insurance from January through September 2015. He had health insurance from October through December 2015. Although he did not have health insurance for nine (9) months in 2015, since there is a three (3) month grace period prior to obtaining health insurance pursuant to M.G.L. c. 111M, s.
2, and Administrative Bulletin 03-10: Guidance Regarding M.G.L. c. 111M and c. 176Q, as implemented by 956 CMR 6.00, he was assessed a six (6) month penalty, which he is appealing.

In order to avoid a penalty for failure to have health insurance from January through June 2015, the Appellant needs to show that there was no affordable health insurance available to the him during this period; or that he suffered a hardship pursuant to 956 CMR 6.08 (1) (a) - (e); or that there were other grounds that made purchasing health insurance unaffordable during this period, pursuant to 956 CMR 6.08 (3).

Private health insurance was affordable for the Appellant in 2015. Based on the Appellant’s adjusted gross income of $151,858 for 2015, the Appellant could afford to pay $1,075 monthly for health insurance, according to the 2015 Affordability Table included in the 2015 Schedule HC Instructions. Based on the 2015 Premium Table included in the 2015 Schedule HC Instructions, health insurance would have cost the Appellant $144 monthly since he was 29 years old in 2015 and resided in Suffolk County.

Employer-sponsored health insurance was not available to the Appellant in 2015, and he was not eligible for the Advance Premium Tax Credit (APTC) and ConnectorCare since his Modified Adjusted Gross Income was more than 400% of the Federal Poverty Level.

Although private insurance was affordable for the Appellant, he should not be fined for failure to have health insurance from January through June 2015. The Appellant had no affordable insurance available to him during that period. The Appellant applied for health insurance through the Connector in 2015. The Connector found him eligible to enroll in Health Connector plans in February 2015. The Appellant chose a health plan and submitted his first month’s payment, which cleared his bank account on March 26, 2015. The Appellant did not receive notice of enrollment. The Connector issued another eligibility approval letter to the Appellant on August 12, 2015. He was enrolled in a Health Connector plan beginning October 1, 2015, and his previously submitted payment was credited to his October bill.

**PENALTY ASSESSED**

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

If the number of months assessed is zero (0), your penalty has been overturned, the Connector has notified the Department of Revenue that you should NOT be assessed a penalty for Tax Year 2015.

**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