

Massachusetts Healthcare Reform: Employer Reporting Obligations

This past summer, many Massachusetts employers raced to comply with the Massachusetts Health Care Reform Act by its July 1 effective date. They adjusted health coverage, launched cafeteria plans, and undertook any number of other measures in hopes of complying with this complex set of new employer mandates. Now, employers must prepare for the extensive recordkeeping and reporting required under the law. These duties include the items listed below.

- An annual report to the Division of Unemployment Assistance (DUA) in connection with Massachusetts' "fair share" contribution requirement.
- An employer Health Insurance Responsibility Disclosure (HIRD), which must be submitted to the DUA as part of the fair share contribution filing.
- Collection and retention of a HIRD form from each employee who declines to enroll in the employer's health plan or who declines to use the employer's cafeteria plan to purchase insurance on a pre-tax basis.
- Provision of an annual MA 1099 HC form to each employee who resides in Massachusetts and is covered under the employer's health plan.
- Provision of an employer's cafeteria plan to the state upon request.

Fair Share Contribution Reporting

Under Massachusetts' "fair share" contribution requirement, employers of at least 11 full-time equivalent employees must either make a "fair and reasonable" contribution toward the cost of employees' health coverage or pay an annual assessment of up to \$295 per employee into the Commonwealth Care Trust Fund. Whether or not an employer is liable for the annual assessment will be determined by an annual report that Massachusetts employers must file with the DUA. The report must include (and the assessment determination will be based on) payroll, employment and health insurance coverage data for the 12-month period ending on September 30.

The first annual report will cover the period from October 1, 2006 through September 30, 2007, and it must be filed with the DUA by November 15, 2007. The DUA is



developing a web-based, online application that employers must use to file the reports. The application is currently under construction but the DUA promises that it will be accessible at its [web site](#) October 1.

Employers will need to be registered with the DUA in order to file the report as required, but if they are subject to the state's unemployment insurance requirements, they should already be registered and have a DUA number.

Details about this reporting requirement can be found on the [Massachusetts Labor and Workforce Development web site](#). Information on how to determine if an employer has made a fair and reasonable contribution towards the cost of employees' health coverage according to Massachusetts' law can be found in Willis' *Employee Benefits Alert, Issue 110*.

Employer HIRD Form

The HIRD reporting mandate does not require a separate form – the HIRD items are included in the fair share contribution filing. Information gathered on the fair share contribution form is automatically passed along to the authorities keeping track of the HIRD documents.

The employer HIRD report will include the following information.

- Employer legal name
- Employer DBA name
- Employer federal EIN and Massachusetts DUA account number
- Whether or not the employer maintains a Section 125 cafeteria plan in accordance with the requirements of Massachusetts law
- Whether or not the employer contributes to the premium cost of a group health plan for its employees
- If the employer contributes to the premium cost of a group health plan for its employees, the HIRD will include:
 - The employer contribution for each employee category (if the percentage varies by category)
 - The total monthly premium costs for the lowest priced individual plan and family plan offered
 - The total monthly premium costs for the highest priced individual plan and family plan offered
- The open enrollment period of the employer-sponsored plan, if offered

Employee HIRD Form

Another mandate relates to the employee HIRD form. Massachusetts law makes employers responsible for distributing the form, collecting the signed form, and retaining a copy for a period of three years.

Who

Massachusetts employees who waive group health coverage or decline to participate in an employer's Section 125 cafeteria plan must sign a HIRD form. Even those employees who are waiving coverage because they have coverage through another source must sign the form. Employees who choose to drop coverage, during the year or at open enrollment, and newly hired employees who decline coverage, also need to sign the HIRD form. Employees participating in an employer's group health plan, or who are ineligible for both the employer's group health plan and its Section 125 plan do not sign the HIRD form.

When

The employer must collect the signed employee HIRD form within 30 days after the close of the applicable open enrollment

period for the employer's health insurance or cafeteria plan, or by September 30 of the reporting year, whichever is earlier. Employees who drop coverage at any point during the year must sign the form within 30 days of dropping coverage. For new hires, the form must be signed within 30 days following the end of the initial enrollment period.

If an employer's open enrollment period for 2007 ended prior to July 1, 2007, the deadline for collecting the employee HIRD forms is generally September 30, 2007. If an employee signed a form before July 1, 2007 acknowledging that he or she was offered and declined employer-sponsored insurance, the HIRD form is not required for that employee until the next applicable open enrollment period. If an employer's open enrollment ended between July 1 and August 31, 2007, then the regular deadline described above applies.

Ongoing Administration

Once the employer collects the signed HIRD form, it must provide a copy to the employee and retain the form for three years. There is no requirement to submit the forms to the state, but the employer must be able to produce them on demand if the state makes a request. If an employer has difficulty getting a signed form from an employee, it should document its "diligent efforts" to get the form signed and returned. The employer also needs to retain documentation for three years on employees who were not required to sign the form.

Another reporting obligation for employers is the MA 1099 HC form, a tax form that Massachusetts taxpayers will need in order to complete their state income tax returns. Massachusetts mandates that almost every Massachusetts resident age 18 or older must obtain health insurance. Compliance is monitored through self-reporting on tax returns.

A copy of the employee HIRD form can be found at the Commonwealth of Massachusetts Division of Health Care Finance and Policy in either [English](#) or [Spanish](#). An employer may use an alternative form as long as it includes all of the required information.

MA 1099 HC

Another reporting obligation for employers is the MA 1099 HC form, a tax form that Massachusetts taxpayers will need in order to complete their state income tax returns. Massachusetts mandates that almost every Massachusetts resident age 18 or older must obtain health insurance. Compliance is monitored through self-reporting on tax returns.

Employers, regardless of size, generally must provide the MA 1099 HC form to employees who reside in Massachusetts and are covered under the employer's health plan. The form must be delivered by January 31 each year. The form for 2007 is required by January 31, 2008. For insured plans written in Massachusetts, the carriers will prepare and provide the form. For insured plans written outside of Massachusetts, as well as self-insured plans, the responsibility falls on the employer.



A draft of the proposed MA 1099 HC form can be found on the [Massachusetts Department of Revenue web site](#).

Cafeteria Plan Document

While Massachusetts law originally required employers to file a copy of their Section 125 cafeteria plan document(s) with the state, a recently released Administrative Bulletin revises this obligation. The new rule requires employers to submit their plan document(s) within seven days of a request from the state.

Conclusion

Employers may be relieved that they no longer must document cafeteria plans with the state unless asked to do so. Other than that, the new reporting rules represent a burden on employers, and the filing deadlines are quickly approaching. Employers should be preparing to comply with the new requirements by incorporating them into their current administrative practices. A suggested place to start: employers should be sure they are able to obtain the payroll and health coverage records necessary to complete the fair share contribution online filing, due this November.

Key Contacts

US Benefits Office Locations

Atlanta, GA 404 224 5000	Farmington, CT 860 284 6147	Mobile, AL 251 433 0441	San Francisco, CA 415 981 0600
Austin, TX 800 861 9851	Florham Park, NJ 973 410 1022	Naples, FL 239 659 4500	San Jose, CA 408 436 7000
Baltimore, MD 410 527 1200	Ft. Worth, TX 817 335 2115	Nashville, TN 615 872 3700	San Juan, PR 787 725 5880
Birmingham, AL 205 871 3871	Grand Rapids, MI 616 954 7829	New Orleans, LA 504 581 6151	Seattle, WA 206 386 7400
Boston, MA 617 437 6900	Greenville, SC 864 232 9999	New York, NY 212 915 5422	Tampa, FL 813 281 2095
Cary, NC 919 459 3000	Houston, TX 713 961 3800	Omaha, NE 402 391 1044	Washington, DC 301 530 5050
Charlotte, NC 704 376 9161	Jacksonville, FL 904 355 4600	Orange County, CA 949 885 1200	Wilmington, DE 302 477 9640
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