



Massachusetts Provides Guidance on Form 1099-HC for Proof of Coverage

Under the new Massachusetts health law, employers are required to provide each employee who resides in Massachusetts with a Form MA 1099-HC by January 31, 2008. A sample form is now available.

Background

Massachusetts' sweeping health care reform law took effect on July 1, 2007. The law mandates that all Massachusetts residents aged 18 and older obtain health insurance coverage by December 31, 2007 or be subject to tax penalties. For 2007, the penalty is loss of the personal state income tax exemption of \$219; for 2008 and later years, the penalty will be an amount equal to one-half of the lowest cost premium available to the individual through a plan certified by the Connector (an agency set up by the law). The penalty will be assessed for each month in which the individual does not have coverage that meets minimum state standards. (The Massachusetts Department of Revenue has recently released [draft guidance](#) that caps the 2008 penalty at \$912.) To substantiate their health coverage, individuals will complete a new Schedule HC, which will be submitted with their Massachusetts resident state income tax filing.

Form MA 1099-HC

While the health care coverage requirement and penalties for failure to have coverage apply to individuals and not employers, employers do have obligations under the law. One of these obligations is to provide each employee who resides in Massachusetts with a Form MA 1099-HC by January 31 of each year. The first MA 1099-HC must be provided by January 31, 2008. Individuals will use the information on this form to complete the Schedule HC.

There is no standardized format for the MA 1099-HC, but a [sample form](#) is available. The sample includes the following information –

- name of health insurance carrier or administrator
- name of covered individual
- address
- names of covered dependents
- dates of birth

- dates of coverage
- subscriber number.

Employers are also required to submit the MA 1099-HC forms to the Massachusetts Department of Revenue. Draft guidance for submitting the forms electronically is available on the Department's [website](#).

In most cases, the insurer or administrator is likely to issue MA 1099-HC forms and report that information to the Department of Revenue. However, since the obligation to provide the MA 1099-HC falls on the employer, employers should contact the carrier(s) providing coverage to their Massachusetts employees, particularly those carriers not domiciled in Massachusetts, to confirm that they are doing so. Failure to provide the MA 1099-HC forms could result in an employer penalty of \$50 per employee, up to \$50,000 per year.

Other Employer Requirements

Providing MA 1099-HC forms to employees and filing a report with the Department of Revenue is the last of several employer requirements under Massachusetts' health care reform law. Employers are also required to –

- **Establish a Section 125 plan (by July 1, 2007)** to enable Massachusetts employees to pay for coverage through the group health plan or through the Connector on a pre-tax basis. While virtually all employers provide a Section 125 plan to benefit eligible employees, Massachusetts requires that a Section 125 plan also be made available to many non-benefit eligible employees. Failure to offer a Section 125 plan to all employees required under the law will subject the employer to a free-rider surcharge. (See our February 15, 2007 [For Your Information](#).)
- **Offer employees a group health plan to which they make a fair and reasonable premium contribution** or pay an annual fair share contribution of up to \$295.
- **File an employer HIRD form annually by November 15** with the Massachusetts Division of Unemployment Assistance. Failure to file this form will subject the employer to the fair share assessment and interest. (See our October 18, 2007 [For Your Information](#).)
- **Collect and store employee HIRD forms** for all employees who decline coverage in the employer health plan or Section 125 plan. There are penalties of \$1,000 to \$5,000 for failure to collect these forms.

Issues for 2009

Starting in 2009, an individual will avoid tax penalties only if he or she has health coverage that meets the creditable coverage requirements under Massachusetts regulations. While there is no direct employer coverage mandate, employees enrolled in the employer's plan will be subject to the tax penalties if the employer's plan

does not meet the creditable coverage requirements in 2009. Employers should review these requirements when designing their 2009 health plan offerings.

Conclusion

Employers must provide MA 1099-HC forms to their employees by January 31, 2008 and file a report with the Massachusetts Department of Revenue later this year. Employers should contact their carriers to confirm that they are providing these forms, and take appropriate action if they are not. Employers should also review compliance with the other employer requirements under Massachusetts' health care reform law.

Buck's consultants are available to discuss these requirements and to assist you in your compliance efforts.

This FYI is intended to provide general information. It does not offer legal advice or purport to treat all the issues surrounding any one topic.