

Massachusetts completes repeal of employer coverage requirements; Individual mandate remains in place

The board of directors of the Massachusetts Health Connector has voted to repeal the regulations that enforced certain employer provisions of the Massachusetts health reform law, which had been repealed earlier. However, the requirement that Massachusetts residents either have health coverage that satisfies Massachusetts' minimum creditable coverage requirements or pay a penalty remains in effect. Employers with employees or retirees in Massachusetts need to consider the impact of this coverage requirement on those individuals.

Background

In 2007 Massachusetts enacted its health care reform law that served as the model for the federal Affordable Care Act (ACA). Two important elements of the Massachusetts law — the employer Fair Share Contribution and the Employee Health Insurance Responsibility Disclosure (Employee HIRD) form — were repealed in July 2013.

Citing guidance issued under the ACA, last October the board of the Massachusetts Health Connector, which has regulatory responsibility for the Massachusetts reform law, announced that the administration would pursue legislation to repeal the other employer provisions — offering a section 125 plan to employees, the Free Rider Surcharge, and the Employer Health Insurance Responsibility Disclosure (Employer HIRD) form. (See our [December 20, 2013 For Your Information](#).) At the same time the board stated it would “pursue a path of non-enforcement” with respect to those requirements.



Repeal of additional employer requirements

On March 17, 2014, the section 125, Free Rider Surcharge, and Employer HIRD provisions elements of Massachusetts' health reform were repealed as part of the Fiscal Year 2014 Supplemental Appropriations Act.

Noting that the regulations had no force, given the repeal of the underlying statutes, on [June 12, 2014](#) the board of directors of the Health Connector voted to repeal the regulations that enforced the various employer provisions.

Employer Medical Assistance Contribution

The July 2013 legislation also included a new “Employer Medical Assistance Contribution” that will be used to fund a state benefit for uninsured residents. Effective January 1, 2014, employers with more than five employees are subject to an assessment of 0.36% of the Massachusetts wage base for unemployment taxation purposes. (Lower rates apply to employers newly subject to the assessment.) The unemployment wage base is currently \$14,000, resulting in an annual assessment per employee of approximately \$50. This contribution requirement applies whether or not the employer offers health insurance to employees.

Individual MCC requirement

Importantly, even with the repeal of the employer provisions, the requirement that residents of Massachusetts either have coverage that satisfies the minimum creditable coverage (MCC) standards or pay a penalty will continue. (See our [March 21, 2013 For Your Information](#).) The maximum individual penalty in 2014 is \$1,104. Employees, retirees, and dependents enrolled in an employer-sponsored plan that does not meet the MCC requirements may be subject to the tax penalties. In December 2013 the Health Connector provided an updated MCC Certification Application that can be used by plan sponsors to request certification of the satisfaction of the 2014 MCC requirement.

MCC standards still in effect

Repeal of the employer provisions did not eliminate the mandate for individuals to maintain MCC.

Buck comment. Employers should determine whether plans offered to Massachusetts residents satisfy the 2014 MCC standards. Satisfaction of the ACA requirements does not ensure compliance with Massachusetts’ MCC requirements.

In closing

The repeal of the employer requirements under the Massachusetts health care reform law is welcome news for employers. But employers must still consider the impact of the MCC requirements on employees and retirees.

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