

Massachusetts to (Again) Require Health Care Reporting by Employers

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Massachusetts employers with 6 or more employees will soon be required to prepare and file a new health care reporting form referred to as the “healthcare coverage form.” While reminiscent of the now repealed “Health Insurance Responsibility Disclosure” or “HIRD” form requirement, the new form differs significantly. This post explains this new reporting rule.

Background

The 2006 Massachusetts health care reform law imposed on employers with 11 or more full-time and full-time equivalent employees the obligation to issue a “Health Insurance Responsibility Disclosure” or “HIRD” form that provided information necessary to administer and enforce that law’s individual and employer mandates. As originally enacted, the law called for a single HIRD form, but a later technical correction expanded the requirement to include both an employer HIRD form and an employee HIRD form. The HIRD requirements took effect July 1, 2007. The purpose of the HIRD form was to identify employees who declined coverage under an employer-sponsored group health plan.

The Massachusetts Legislature subsequently repealed the 2006 law’s HIRD form and fair share contribution requirements effective July 1, 2013. These rules were deemed no longer necessary because of the enactment of the Affordable Care Act. But because the Commonwealth needed to replace the revenue generated by the fair share contribution requirements, the Legislature imposed on employers with 6 or more employees in Massachusetts a new assessment referred to as the “Employer Medical Assistance Contribution” or “EMAC,” the purpose of which was to generate additional revenue to fund MassHealth (Massachusetts’ version of Medicaid). In previous posts, we reported [here](#), [here](#) and [here](#) on recent changes to the EMAC contribution rate and the addition of a supplemental EMAC contribution.

The Healthcare Coverage Form

On November 3 of last year, Massachusetts Governor Charles Baker signed into law a supplemental budget bill (Chapter 110 of the Acts of 2017) which included a requirement that employers file a healthcare coverage form commencing in 2018. The form must be completed and submitted under oath *annually* by any employer with 6 or more employees in Massachusetts; and it must disclose

whether the employer has offered to pay or arrange for the purchase of health care insurance. If so, the form must include information about premium costs, benefits offered, cost sharing details, eligibility criteria and other information that is “deemed necessary by the division.”

Information collected through the healthcare coverage form must “not be used to deny or terminate MassHealth eligibility for non-disabled persons who would otherwise qualify for a program of medical benefits pursuant to this chapter who have access to employer sponsored health insurance.” A penalty is imposed of between \$1,000-\$5,000 for an employer who knowingly falsifies or fails to comply.

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