

## Massachusetts Health Care Reform: Employer Obligations

November 2023

### Background

In 2006 Massachusetts became the first state to enact comprehensive healthcare reform legislation. Requirements included an individual mandate, employer fair share contribution, and a health insurance responsibility disclosure (HIRD) form. In 2013, in response to passage and implementation of the Affordable Care Act (ACA), Massachusetts repealed all of these requirements except the individual mandate. In 2017, however, Massachusetts reinstituted much of what it had repealed and added new employer assessments. The summary below provides a high-level overview of existing employer healthcare obligations in Massachusetts.

### Massachusetts Individual Mandate - Minimum Creditable Coverage Requirement

Massachusetts residents who are 18 and older must have health coverage that meets specific standards or they will be subject to a tax penalty. Plans that qualify are called Minimum Creditable Coverage (MCC). MCC standards include:

- Coverage for a comprehensive set of services (e.g. doctors' visits, hospital admissions, day surgery, emergency services, mental health and substance abuse, and prescription drug coverage).
- Doctor visits for preventive care, without a deductible.
- A cap on annual deductibles of \$2,000 for an individual and \$4,000 for a family.\*
- For plans with up-front deductibles or co-insurance on core services, an annual maximum on out-of-pocket spending of no more than the annual limit set by the IRS for high deductible health plans. Note that these numbers are indexed annually.
- No caps on total benefits for a particular illness or for a single year.
- No policy that covers only a fixed dollar amount per day or stay in the hospital, with the patient responsible for all other charges.
- For policies that have a separate prescription drug deductible, it cannot exceed \$250 for an individual or \$500 for a family.<sup>1</sup>

Importantly, beginning January 1, 2020, deductibles receive annual adjustments tied to federal indexing. Indexing for deductibles and out-of-pocket limits is released annually through Administrative Information Bulletins.<sup>2</sup> Employers are not required to offer health plans that meet MCC standards but most structure their health plans to meet MCC standards so that their Massachusetts resident employees do not face a tax penalty. Employers with plans that do not meet all MCC

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<sup>1</sup> [https://www.mass.gov/info-details/health-care-reform-for-individuals#minimum-creditable-coverage-\(mcc\)-](https://www.mass.gov/info-details/health-care-reform-for-individuals#minimum-creditable-coverage-(mcc)-)

<sup>2</sup> <https://www.mahealthconnector.org/wp-content/uploads/rules-and-regulations/AdminBulletin05-20.pdf>  
(see above\*)

requirements can apply for MCC certification through the state. That certification process evaluates HRA and HSA funding that offsets higher deductibles. Plans that meet all MCC requirements do not need state certification, but can self-certify compliance. Generally, an HSA-compatible HDHP that is consistent with federal requirements under 26 U.S.C. § 223, deviates only from the requirements of MCC with regard to its deductibles and its maximum out-of-pocket limits, and either the carrier or plan sponsor facilitates access to an HSA or the plan sponsor establishes and maintains an HRA can self-certify that the HDHP meets MCC.

### **Form MA 1099-HC**

Employers that provide benefits to Massachusetts residents (or their vendors) must distribute Form MA 1099-HC to employees who reside in Massachusetts by January 31<sup>st</sup> of each year. Form 1099-HC discloses whether or not employer coverage qualifies as MCC to satisfy the state's individual mandate, which is important for individual tax filings.<sup>3</sup> This information is also reported to the state Department of Revenue (DOR). For insured plans situated in Massachusetts, insurance carriers will prepare and distribute the forms. For self-funded plans and insured plans situated outside of Massachusetts, the responsibility lies with the employer. Most employers with self-funded plans rely on their vendors to determine MCC status, distribute the forms, and file the DOR report. Not all vendors provide this service, however, and impacted employers should confirm their vendor will provide this service or make other arrangements to comply. This state requirement is in addition to reporting required by the ACA (Form 1095-C).

### **Interaction with Federal Healthcare Reform**

While the state and federal law have some similarities, there are notable distinctions. Since the enactment of the ACA, Massachusetts has retained its individual mandate. Massachusetts structured its mandate so that residents would not be double penalized (under both federal and state law), but the ACA's federal individual mandate penalty was repealed by the 2017 tax Cuts and Jobs Act.

Also under the ACA, an Applicable Large Employer must offer affordable Minimum Essential Coverage (MEC) to substantially all of its full-time employees or risk penalties. MEC is different than Massachusetts MCC in that MCC identifies very specific benefit and coverage levels. MEC, on the other hand, can be almost any non-excepted benefit employer plan and can be very minimal coverage. MEC can also include individual exchange plans, Medicare, Medicaid & CHIP. Plans that meet Massachusetts MCC requirements will also meet federal MEC requirements but not all MEC plans constitute MCC. Note, however, that most employers offer coverage that is more comprehensive than a simple MEC plan and many employer plans will meet the MCC requirement.

### **Employer Medical Assistance Contribution (EMAC)**

In 2014, Massachusetts introduced an Employer Medical Assistance Contribution (EMAC) tax to fund health benefits for uninsured state residents. Employers with more than five employees in Massachusetts were automatically subject to an EMAC assessment of 0.34% (when enacted) of the Massachusetts wage base for unemployment taxation purposes (approximately \$50 per employee per year). This contribution requirement applies whether or not the employer offers health insurance to

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<sup>3</sup> Form 1099-HC is available accessed [here](#).

employees. It is assessed and paid with other unemployment insurance contributions to the Massachusetts' Department of Unemployment Assistance (DUA). The EMAC Supplement tax only applies for employees, including part-time employees, and not for dependents of an employee. The DUA will determine any employer liability for the EMAC Supplemental tax and will assess the tax by adding it to the DUA statement showing the employer's unemployment insurance liability. Employers who want to appeal the tax can request a hearing with the DUA, but the request for a hearing must be filed within 10 days of the employer's receipt of the determination of the EMAC Supplemental tax. More information on the hardship waiver process is available [here](#).

### **Health Insurance Responsibility Disclosure (HIRD) Form**

Employers with 6 or more employees in Massachusetts (determined on an EIN basis and not a controlled group basis) must annually submit the HIRD form to MassHealth and the Department of Revenue (DOR) through the MassTax Connect (MTC) web portal. The submission process generally starts November 15th and must be completed by December 15th. The purpose of the HIRD is to collect employer-level information about employer health coverage offerings to assist MassHealth in administering its Premium Assistance Program. The HIRD form only captures employer-sponsored group health insurance and does not take into account any HRAs, FSAs and HSAs. The HIRD Form collects information including:

- A summary of benefits for all available health plans
- Eligibility criteria for offerings
- Total monthly premiums of all available health plans
- The employer and employee shares of monthly premiums

An individual will be deemed an employee if the employer included them in the quarterly wage report to the Department of Unemployment Assistance (DUA) during the past 12 months. Employers who do not offer health insurance are still required to submit a completed HIRD form.

To submit the HIRD form, an employer will login to their MTC account and select the "File health insurance responsibility disclosure" hyperlink. The instructions on the MTC web page will assist in forgotten passwords/usernames or employers can contact the DOR at 617-466-3940. No penalties or fines will be assessed on completed HIRD forms.

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