



## **Massachusetts Repeals Fair Share Contribution, HIRD Form Requirements**

In July 2013, Massachusetts Governor Deval Patrick approved legislation repealing provisions of the state's 2006 Health Care Reform Law requiring employers with 10 or more employees to provide health care coverage for their full-time workers. Effective July 1, 2013, employers are no longer required to make a "fair share" contribution (FSC) to employees' health insurance (M.G.L. chap. 188) or collect employee Health Insurance Responsibility Disclosure (HIRD) forms (M.G.L. chap. 176Q, § 17). As a result, Massachusetts employers are no longer obligated by state law to provide health insurance to their employees or pay a penalty.

### **What is the Fair Share Employer Contribution?**

The Fair Share Employer Contribution provisions of the Massachusetts health care reform law served as the model for the Federal Patient Protection and Affordable Care Act (PPACA).

Under the "fair share" component of the Massachusetts health care reform law, Massachusetts employers with 11 or more employees were required to make a "fair and reasonable premium contribution" to employees' health insurance costs, or pay an annual "fair share" contribution of up to \$295-per full-time equivalent employee. Separately, the law required employers to collect HIRD forms from employees who declined their employer's offer of health insurance coverage or declined to use their employer's cafeteria plan to pay for the cost of coverage obtained through the Massachusetts Health Connector. The Connector is Massachusetts' version of the Health Insurance Marketplace, which the Affordable Care Act (ACA) requires each state to establish by 2014 (the federal government is required to establish a Marketplace in states that decline to do so).

### **Why was the Fair Share Employer Contribution Provision Repealed?**

The repeal of the FSC and HIRD requirements was proposed by Governor Patrick in January 2013 as part of the effort to ensure that Massachusetts employers will not be subject to two separate "fair share" regimes when the Federal ACA "Play or Pay" requirements become effective. Because, however, the Obama Administration recently postponed the effective date of the ACA employer mandate until January 1, 2015, Massachusetts employers are temporarily not required to provide health insurance under either law. Governor Patrick addressed this year delay by saying:

"As long as the federal mandate isn't delayed beyond that one year, we'll be fine. The intent was to smooth out some of the differences between the national healthcare reform law and our own. Experience has taught us, at least here in the Commonwealth, that employers aren't deciding to offer their employees' health insurance on account of the mandate, it's because the programs make sense, they work, and the work we've done to contain costs for both employees and employers has helped as well."

### **What Should Employers Do?**

The repeal does not affect the individual mandate or market reform components of the Massachusetts health care reform law, including the non-discrimination requirement. In addition, Massachusetts employers are still required to file their reports of Fair Share Contributions through June 30, 2013.



### **Next Steps for Employers**

- File their reports of Fair Share Contributions through June 30, 2013
- Effective July 1, 2013, no longer require employees to complete the HIRD form if they are declining health insurance
- Monitor future developments in this area, including further details as to the eventual implementation of the ACA employer mandate

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