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Helpful Changes to the Massachusetts Health Care Reform Act

Recent amendments to the Massachusetts Health Care Reform Act ("MHCRA") make important changes effective **July 1, 2013**.

Employers Subject to the MHCRA. Currently, an employer is subject to the MHCRA if it employs 11 or more "full-time equivalent" employees in Massachusetts. Beginning in July 2013, the threshold for becoming subject to the MHCRA will be raised from 11 full-time equivalent employees to **21 full-time equivalent** employees.

Fair Share Contribution ("FSC") Requirement. Under the FSC requirement, employers who are subject to the MHCRA are required to make a "fair and reasonable contribution" toward the cost of medical coverage for all full-time Massachusetts employees or pay an FSC assessment of up to \$295 per Massachusetts employee per year.

One way an employer can show that it makes a fair and reasonable contribution is by establishing that a specific percentage (25% or 75% depending on the size of the employer) of its full-time Massachusetts employees are enrolled in its group health plan. Beginning in July 2013, an employer may **exclude** employees who have "qualifying health insurance coverage" when determining whether this percentage is satisfied. Qualifying health insurance coverage includes coverage from a spouse, parent, veteran's plan, Medicare, or a plan due to disability or retirement.

This change will make it easier for employers to satisfy the fair and reasonable contribution requirement. However, employers who choose to take advantage of this exclusion will be required to collect and maintain proof of the other health insurance coverage for *each* excluded employee. Failure to provide proof of other coverage for each excluded employee to the Massachusetts Department of Unemployment Assistance (DUA), upon request, could result in an FSC assessment and penalties. The DUA is expected to issue future guidance regarding standards for such documentation maintenance.

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