

# IT'S THE LAW

## MASSACHUSETTS

# Healthcare Reform Law

This is Information Provided as a Service by:

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This document is intended to give you an overview of how the Massachusetts Healthcare Reform law will affect you as an individual and you as an employer in the Commonwealth. It is **not a legal interpretation of the law and should not be used as one**. As with any question that pertains to you, your company and the law, you should consult your legal counsel, this is no exception. The utmost care has been given to provide accurate information at the time of publication. As with any newly enacted law, the final regulations and procedure to comply are being clarified and may change at a future date.

# What Employers & Individuals Need to Know

## MASSACHUSETTS HEALTHCARE REFORM

### **Dependent Eligibility Expanded – Effective 1/1/2007**

The definition of dependent eligibility will be updated to reflect that dependents are eligible to stay on the subscriber's health insurance policy until the dependent's 26<sup>th</sup> birthday OR for two (2) calendar years after the dependent is no longer claimed by the eligible subscriber as a federal tax dependent under IRS regulations, **whichever come first**. If the dependent misses this open enrollment he or she will have to wait for another qualifying event.

### **Small Group/Non-group Market Merger – Effective 7/1/2007**

*Pertains to employers with fewer than 51 employees.* This merger will affect groups with fewer than 51 employees. The effect on small groups will be an average rate increase of about 2% and the effect on current non-group enrollees will be an average rate reduction of about 16%. Additionally, all group products will become available to all non-group (individual) applicants.

### **Section 125 Plan Requirement – Effective 7/1/2007**

*Pertains to employers with 11 or more employees.* All employers with 11 or more employees (include both Massachusetts and non-Massachusetts residents) must establish a Section 125 plan that complies with connector regulations. While the regulations state that the Sec 125 documents must be filed with the connector, the connector is not currently requesting them. There isn't an employer premium contribution requirement but if their employees participate the employer must arrange for payroll deductions. Establishment of a section 125 plan allows an employer to avoid the free rider surcharge. The Section 125 must be established for all Full Time employees (35+ hours working 12+ consecutive weeks, unless temporary at 16+ consecutive weeks) and Part Time employees who meet the definition. **The Section 125 MUST be established even if the employer does not offer medical insurance to avoid the free rider surcharge.**

### **Minimum Credible Coverage – Effective 1/1/2009**

*This is the Minimum coverage requirement in order to satisfy the individual mandate.* The connector board has the task of determining the benefits for the MCC plan. The benefit level parameters that are currently part of the draft regulations are as follows: Annual out-of-pocket expenses would be limited to \$5,000 for an individual and \$10,000 for a family. Plans also at a minimum would have to include coverage for some medical visits and prescription drugs. Deductibles will be capped at \$2,000 for an individual and \$4,000 for a family. In addition, health insurers would be prohibited from limiting coverage per sickness or per year and they would be barred from establishing a dollar maximum on coverage for any medical service.

### **Non-discrimination Rules – Effective 4/1/2007**

An employer may not have discriminatory practices with relation to contributions.

### **What is permitted is as follows:**

1. Differences covered by a collective bargaining agreement.
2. Higher contributions for lower paid employees.
3. Fixed dollar amount for each employee regardless of salary.
4. Different contribution levels for PT vs. FT.
5. Different contribution levels for different plans (e.g. ER offers two HMO plans and pays % of lower plan and ee's buy up to higher plan).
6. Higher contribution based on longevity as long as in place prior to January 1, 2007.
7. Higher contribution levels for those ee's who participate in company sponsored wellness programs.
8. Different contribution levels for family vs. individual coverage (but still cannot discriminate in favor of highly paid)

**Connector Certified Health Plans** – Sales and quoting activities begin effective 5/1/2007.

First effective date for coverage will be 7/1/2007

An assortment of carriers and plans will be available to small employers and individuals.

There are 3 types of coverage:

- Commonwealth Choice Plans available to small employers (fewer than 51 employees) and individuals. Most major carriers will be participating and offering plans.
- Commonwealth Care Plans subsidized plans are available to individuals that make within 300% of the federal poverty level. These plans are not available to employers.
- Young Adult Plans available to individuals between 19 and 26 years old who do not have access to employer sponsored plans.

**HIRD (Health Insurance Responsibility Disclosure) Forms** – Effective 7/1/2007

The regulations state there will be 2 HIRD forms: An employer HIRD and an employee HIRD.

The HIRD forms will be used to enforce the individual mandate, the fair share contribution and the free rider assessment. All employers with 11 or more employees will be required to file the HIRD form with the state once a year. The Department of Unemployment Assistance (DUA) will incorporate into the FSA filing process the HIRD form. This allows the employer to satisfy two required reports in one on-line filing. Details for this filing are still being determined. It is the employer's obligation to provide their employees with an employee HIRD form. The employer must collect and keep the signed employee HIRD form for 3 years.

Employers must have their health care eligible employees who are choosing to waive coverage complete the form within: 15 days of date of hire; 15 days after close of the groups' open enrollment period or 15 days after employees' termination of participation in the employers plan

**Free Rider Surcharge** – Effective 7/1/2007.

Pertains to employers with 11 or more employees. Free Rider Surcharge is a surcharge on employers who do not comply with the requirement to establish a Section 125 that meets the regulations of the Commonwealth Connector. The law requires the surcharge to be assessed if more than \$50K per year of free care used and: one ee or dep receives free care more than 3x per year or employer has 5 or more instances of ee's or their dependents receiving free care in a year. Surcharge will vary based on employer size and free care utilization. While the Free Rider Surcharge goes into effect on July 1, 2007, the dates by which the employer will need to pay the Free Rider Surcharge have not yet been determined by the Division of Health Care Finance & Policy (DHCFP)

**Fair Share Contribution** – Effective 10/1/2006.

Pertains to employers with 11 or more employees. Employers with 11 or more FT equivalent ee's employed in MA must make a "fair and reasonable premium contribution" toward health insurance for employees. An Employer makes a "fair & reasonable" contribution if EITHER 1. There is at least 25% of full-time employees in the employer's group health plan OR 2. Employer offers to pay at least 33% of the premium cost of its health plan to all FT ee's employed more than 90 days during the period of October 1, 2006 to September 30, 2007. The penalty for not offering a "fair & reasonable" contribution or not offering health insurance at all will be assessed no more than a \$295 per employee per year. The amount for PT ee's will be pro-rated. X 100

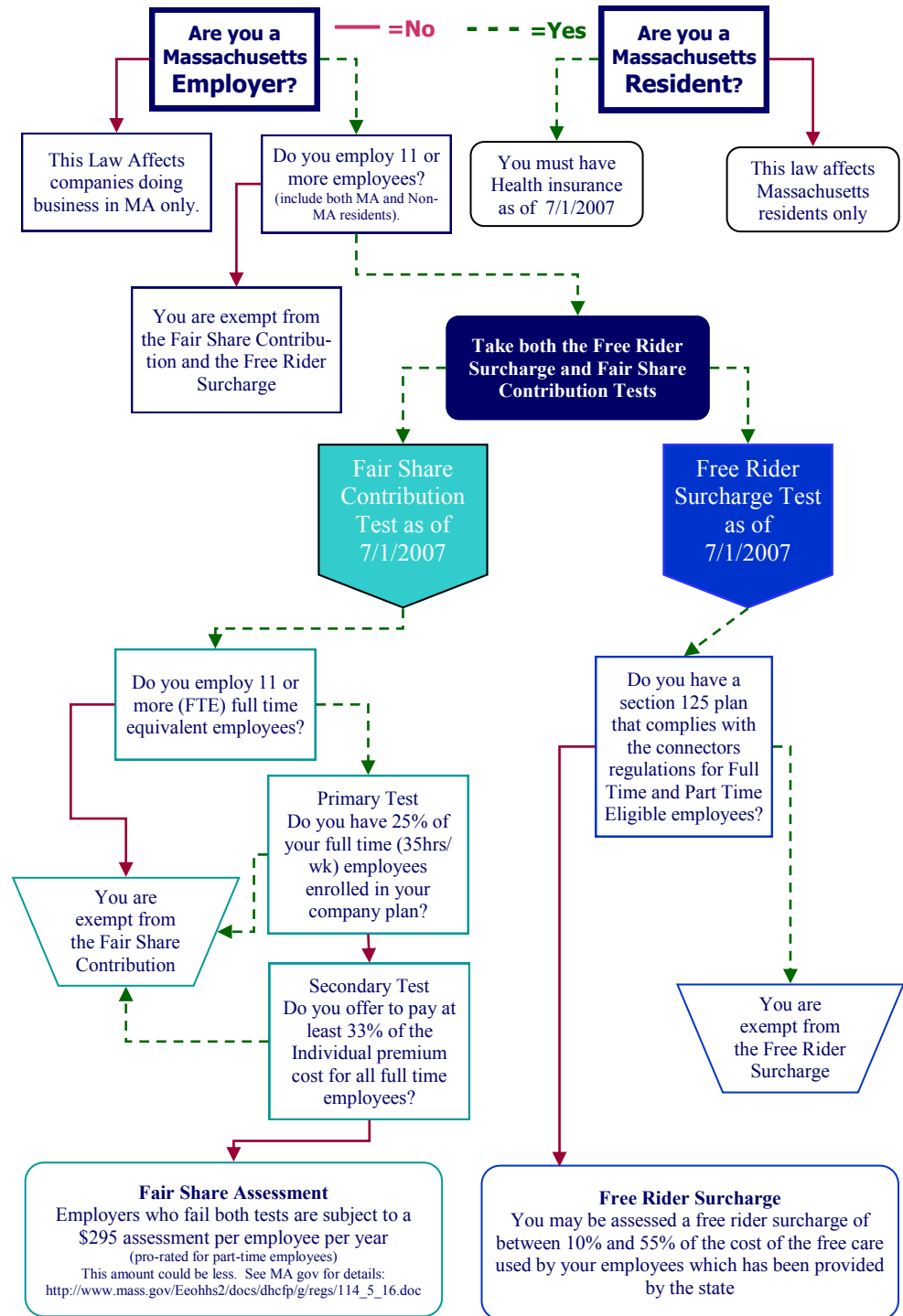
To calculate the Primary test  $\frac{\text{Total Annual Payroll Hours of Enrolled Full Time (FT) employees}}{\text{Total Annual Payroll Hours of all Full Time (FT) employees}}$

A full time (FT) employee is an employee who works 35 hours or more per week. Independent contractors; seasonal ee's (employment does not exceed 16 consecutive weeks), and temporary ee's (employment does not exceed 12 consecutive weeks & employment is explicitly temporary) are NOT considered FT employees; FT employees who do not reside in MA but work at MA locations are included in the number of FT employees.

**Individual Mandate** – Effective 7/1/2007.

The mandate requires that all adult residents of the state obtain health insurance. This will be confirmed on the Massachusetts state tax return. Those who do not obtain coverage will lose their personal exemption (about \$200) for the 2007 tax year. The penalty in year 2008 will be a surcharge of 1/2 of the cost of the least expensive MCC plan that is available in their zip code. Individuals who fail the mandate will have the opportunity to appeal the penalty by maintaining that their personal financial situation was such that they could not find an affordable plan.

# What must I do to Comply with the Law?



## What do I have to do to comply with the new law?

refer to chart on back