

CLIENT ALERT

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Massachusetts Health Care Reform Act Employers Held More Accountable

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Overview

Massachusetts passed significant legislation in 2006 when it enacted in Chapter 58 of the Acts of 2006, "An Act Providing Access to Affordable, Quality, Accountable Health Care (the "Act"). This historic health care reform is intended to provide universal health care, beginning July 1, 2007, to Massachusetts residents. It requires that Massachusetts employers be held more accountable in the provision of health care to their employees.

The Act is generally divided into three parts and mandates change with respect to individuals, employers and health insurance carriers. The Act establishes the "Commonwealth Health Insurance Connector" (the "Connector") to oversee and implement all required changes. Among other things, the Connector will administer its own health insurance program known as "Commonwealth Care", which will provide subsidies for the

purchase of health insurance for low income individuals. The Act also establishes the "Commonwealth Care Trust Fund", which will be funded by employer contributions and surcharges, assessed penalties on employers and individuals, and matching Medicaid revenue and other federal grants.

Massachusetts Individual Residents

With respect to individuals, the Massachusetts Department of Revenue will enforce provisions that require residents to demonstrate on their 2007 state income tax return that they maintain, at a minimum, what is referred to as "creditable coverage" for health insurance. Failure to do so will result in loss of the personal exemption for individual tax reporting purposes and also, beginning in 2008, a penalty of up to 50 percent of the monthly minimum insurance premium for "creditable coverage" for each month that health

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Closer to the issues

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insurance is not in place. Insurance carriers that provide dependent coverage will also be required to make dependent coverage available up to the earlier of two years following the loss of dependent status or age 26. There are exceptions available for hardship, sincerely held religious beliefs and for circumstances when no affordable coverage is available.

Massachusetts Employers

Employers with 11 or more full-time equivalent employees in Massachusetts must either adopt a cafeteria plan memorialized in writing in accordance with Section 125 of the Internal Revenue Code, or in lieu of such plan, pay an annual assessment into the new Commonwealth Care Trust Fund not to exceed \$295 for each full-time equivalent employee. This requirement is also referred to as a "pay or play" provision. Employers that offer health care may still be assessed an annual amount up to \$295 per full-time equivalent employee for failure to make a "fair share contribution" to the health coverage premium payments paid by each employee.

Once in place, the cafeteria plan will allow for health benefit premiums to be withheld from salary on a pre-tax basis, enabling employees to realize federal and state income tax savings.

Effective Dates

The Connector issued an emergency regulation on March 20, 2007 to implement the cafeteria plan requirement. The regulation provides for an initial "determination period" April 1, 2006 through March 31, 2007 to assess whether an employer has 11 or more full-time equivalent employees. Compliance with the cafeteria plan requirement of the Act is extended by the regulation to September 1, 2007.

We welcome the opportunity to assist you in complying with this significant Massachusetts legislation. If you have questions about this Client Alert, please contact David C. Morganelli for more information.

Mr. Morganelli is Of Counsel of the Firm and Chair of the Tax Practice Group. He advises clients concerning federal and state tax issues and in the development of state and local tax strategies to enhance tax filing positions and satisfy compliance obligations.

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