

January 9, 2013

## **MA Fair Share Responsibility to be Repealed**

Governor Deval Patrick filed legislation (Bill number not yet available) that will help align state health programs with the Affordable Care Act (ACA). This includes eliminating the Fair Share Contribution Program and the Unemployment Assistance Medical Security Program. However, if the bill is enacted in its current form, a new employer payroll tax will be created beginning in 2014 to help finance the cost of subsidized care for low-income residents.

### **ELIMINATION OF THE FAIR SHARE CONTRIBUTION PROGRAM**

- Effective June 30, 2013, the legislation will eliminate the Fair Share Contribution Program. The Fair Share Contribution program was established under the Commonwealth's 2006 health care reform law and mandates that employers with 11 or more full-time equivalent employees (FTE) make a "fair and reasonable" contribution toward the health care costs of its full-time workers, or pay a \$295 per FTE assessment. The ACA has a similar policy for employers with over 50 employees, effective in 2014, that could result in double-penalties if the two policies were to coexist.
- By eliminating the Fair Share Program, this bill will save significant administrative costs for Massachusetts employers; allow time to prepare for the implementation of the ACA provision; and ensure the state is streamlining possibly duplicative programs and assessments.

### **ELIMINATION OF THE MEDICAL SECURITY PROGRAM**

- The legislation will also eliminate the Medical Security Program (MSP) by the end of this calendar year. MSP provides qualifying individuals receiving unemployment insurance benefits health care coverage. Like the Fair Share Program, MSP will no longer be necessary under the ACA.
- Through the ACA, individuals currently enrolled under MSP will be able to access subsidized health coverage through existing state insurance programs like MassHealth and those offered at the Health Connector.

HOWEVER, A NEW MASSACHUSETTS EMPLOYER RESPONSIBILITY CONTRIBUTION (AT \$50.40 PER EMPLOYEE PER YEAR PAYROLL TAX) WILL BE CREATED AND PAID BY ALL EMPLOYERS

- In order to ensure employers are contributing their share to maintain quality, affordable health care for all residents, the legislation creates an “employer responsibility contribution” for employers which will, starting in 2014, help finance the cost of subsidized care for low-income residents.
- This contribution will be lower than the current employer assessment funding level for the MSP. The rate is set at .36 of 1% of UI wages, which is \$50.40 per employee per year for employers with 5 or more employees.
- The new employer responsibility contribution program:
  - Provides that DUA will collect the funds, which will then be transferred to MassHealth and the Health Connector for the purpose of providing subsidized health care for low-income Massachusetts residents.
  - Allows DUA to charge administrative costs of collecting these funds. Also mandates that \$1 per employee per year be paid to the Catastrophic Illness in Children Relief Fund (a fund previously funded this same way as part of the MSP Trust Fund)
  - Ensures that wages for employer responsibility charges are treated the same as for Unemployment Insurance
  - Allows for new employers to start year 1 and year 2 by paying less than the full amount. New employers would pay \$16.80 per employee per year and \$33.60 per employee per year during the second year.
  - Applies all the provisions of Chapter 151A (Unemployment Insurance collections) to the collection of this new contribution
  - Creates a rate review board that meets once a year to determine whether the rate should increase and caps that increase to no more than a 5% increase
  - Requires an annual report to be published about how the funds are spent
  - Allows employers to appeal the amount determined by DUA that is owed for this new contribution

Stay tuned for future developments.

Please contact me if you have any questions.

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