

## LAW &amp; POLICY GROUP

**GRIST****MASSACHUSETTS EMPLOYERS' HEALTH  
COVERAGE REPORTS DUE BY DEC. 15**

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Beginning Nov. 15, employers with six or more Massachusetts employees can access the state's Health Insurance Responsibility Disclosure (HIRD) form to complete and submit by Dec. 15. Penalties for failure to comply could total \$1,000–\$5,000 per violation. Many employers recently received a notice from state regulators briefly describing the HIRD requirement. This is the second year of HIRD reporting.

**HIRD'S PURPOSE**

To help administer the MassHealth Premium Assistance Program, the state requires that every employer in Massachusetts with six or more employees annually report whether it has offered to pay or arrange for their health care insurance. Regulators have said that the HIRD report's purpose is to screen residents' eligibility for premium assistance and not to make any determinations about the state's Employer Medical Assistance Contribution (EMAC).

**Covered Employers**

The HIRD requirement applies to any employer with six or more Massachusetts employees in any month of the prior year. The number of employees is determined by the quarterly wage reports submitted to the [Department of Unemployment Assistance](#) (DUA) during the past 12 months. Covered employers must complete the form even if they don't offer health coverage.

**Premium Assistance**

Information in the HIRD report helps to identify residents with access to employer-sponsored health coverage who may [qualify](#) for the [MassHealth Premium Assistance Program](#). State premium assistance options [expanded](#) in 2009 under the federal CHIP Reauthorization Act (CHIPRA). States may use Medicaid and CHIP funds to pay qualified individuals' premiums for employer health plans when doing so is more cost-effective than subsidizing coverage under state-run programs.

Under federal standards, states may only provide this type of premium assistance if:

- The Medicaid or CHIP beneficiary otherwise qualifies for employer-sponsored coverage.
- The employee contributes toward the cost of coverage.
- The employer-sponsored coverage — alone or with supplemental state assistance — meets certain standards making it equivalent to state-provided Medicaid or CHIP coverage.

Massachusetts imposes a fourth requirement: The employer-sponsored health coverage must meet the state's [minimum creditable coverage \(MCC\) rules](#).

**ERISA disclosure mandated but no federal form yet.** Under CHIPRA's amendments to ERISA, group health plans must permit eligible employees or dependents who haven't enrolled to do so after becoming eligible for Medicaid or CHIP premium assistance. On request, group health plans also must disclose sufficient information about plan benefits to help state officials determine an individual's eligibility for premium assistance. The federal government hasn't yet developed a form for this purpose, but Massachusetts has created its own.

## REQUIRED FILING INFORMATION

According to [FAQs](#) from the Massachusetts Department of Revenue (DOR), an employer needs to provide a variety of information about its health plan(s) for the upcoming plan year. If the information for the upcoming year isn't known yet, the FAQs advise employers to report current-year information. Only employers registered with the state DOR can access the form. If the 2019 form is similar to last year's, employers will need to report details related to coverage availability and eligibility, plan terms, contributions, wellness credits, MCC status, and more.

### State-Qualifying MCC

Employers need to affirm whether their plan meets the state's MCC standards. If a plan falls short of those standards, the employer doesn't need to provide data on levels of coverage, plan costs and cost-sharing requirements. Employers that don't know if their plans meet MCC guidelines must electronically submit a summary of benefits for each plan on the message portion of the [MassTaxConnect website](#).

## FORM SUBMISSION

Using the state's online [MassTaxConnect](#) system, employers must file a separate form for each of their entities with its own federal employer identification number (FEIN), even if all other information is the same. Employers may complete the form by logging into their withholding account on MassTaxConnect and selecting the "File health insurance responsibility disclosure" hyperlink under the "I Want To" section.

Employers with multiple plans or substantive variations must report information about each plan offered in Massachusetts and can use an option within the form to add a plan. A payroll vendor can file forms on behalf of client employers, provided it has the relevant information. This year, filers can amend a

submission by logging into their withholding account and selecting the “File Amended Health Insurance Responsibility Disclosure” hyperlink under account alerts.

## PENALTIES

Under the state law authorizing this data collection ([Mass. Gen. Laws ch. 118E, § 78](#)), an employer that knowingly falsifies or fails to file any required information faces a penalty of \$1,000–\$5,000 for each violation. FAQs indicate that completed HIRD forms won't trigger any information-reporting fines or other penalties related to the coverage offered.

## EMPLOYER NEXT STEPS

Employers will need to collect the required information and complete the form before the Dec. 15 due date. Employers should take the following steps in advance of filing:

- Review the past year's unemployment tax submissions by FEIN to determine if the reporting requirement applies.
- Decide who — for example, a payroll vendor or in-house human resources personnel — will file.
- Collect all plan information, including eligibility and costs, for each FEIN.
- Contact state regulators with any questions about completing the form.

## RELATED RESOURCES

### Non-Mercer Resources

- [HIRD FAQs](#) (Massachusetts Department of Revenue)
- [MassTaxConnect](#) (Massachusetts Department of Revenue)
- [Other Health Insurance and the MassHealth Premium Assistance Program](#) (MassHealth)

### Mercer Law & Policy Resource

- [Massachusetts Employers Need To Gear Up for Health Plan Reporting](#) (Oct. 1, 2019)

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